



Public Service Commissioner's Amendment Directions 2000 (No. °1)

I, HELEN WILLIAMS, Public Service Commissioner, make these Directions under subsection 11 (1) and section 36 of the *Public Service Act 1999*.

Dated 2000

Public Service Commissioner

1 Name of Directions

These Directions are the *Public Service Commissioner's Amendment Directions 2000 (No. °1)*.

2 Commencement

These Directions commence on gazettal.

3 Amendment of *Public Service Commissioner's Directions 1999*

Schedule 1 amends the *Public Service Commissioner's Directions 1999*.

Schedule 1 Amendments

(section 3)

[1] Subparagraph 2.12°(1)°(e)°(ii)

omit

links performance to remuneration and rewards

insert

guides salary movement

[2] Subparagraph 2.12°(2)°(b)°(ii)

omit

clearly links performance to remuneration and rewards

insert

guides salary movement

[3] Subclause 4.1°(3), note

substitute

Note°°Regulation 3.12 of the *Public Service Regulations 1999* provides for certain decisions relating to the engagement and promotion of APS employees to be notified in the *Gazette*.

[4] Subclause 4.2°(1)

substitute

- (1) An Agency Head must put in place measures to ensure that if:
- (a) a person is to be engaged as an ongoing APS employee at a training classification or an APS Group 1 classification; or
 - (b) an ongoing APS employee (other than an employee whose current classification is a training classification) is to be assigned duties at a training classification°

the opportunity to apply for the relevant employment, or similar employment in the Agency, was open to all eligible members of the community, whether or not they were APS employees.

[5] Subclause 4.2°(2)

omit

subclause (1)

insert

paragraph (1)°(a)

[6] Subclause 4.2°(3)

substitute

- (3) Subject to subclauses (4) and (4B):
- (a) an opportunity mentioned in subclause (1) or (2) must have been notified in the *Gazette*:
 - (i) during the period of 12 months before the decision to engage the person is made; and
 - (ii) as open to all eligible members of the community, whether or not they were APS employees; and
 - (b) if the opportunity was also advertised externally, as open to all eligible members of the community, whether or not they were APS employees, it must have been advertised before, or not later than 4 weeks after, the opportunity was notified in the *Gazette*.

[7] After subclause 4.2°(4)

insert

- (4A) However subclause (4B) applies if:
- (a) an opportunity mentioned in subclause (4) was notified in the *Gazette*:
 - (i) during the period of 12 months before the decision to engage the person is made; and
 - (ii) as open to all APS employees; and
 - (b) after the notification, the Agency Head decided to provide the opportunity to all eligible members of the community, whether or not they were APS employees; and
 - (c) the opportunity was advertised externally as open to all eligible members of the community, whether or not they were APS employees.
- (4B) The opportunity must have been advertised not later than 4 weeks after the opportunity was notified in the *Gazette*.

[8] Subclause 4.2°(5)

omit

subclause (4),

insert

subclauses (4) and (4A),

[9] Subclause 4.2°(6)

omit

However, the

insert

Despite subclauses (1), (2), (3), (4) and (4A), the

[10] After subclause 4.3°(2)

insert

(2A) In addition, if the opportunity was also advertised externally, as open to all eligible members of the community, whether or not they were APS employees, it must have been advertised before, or not later than 4 weeks after, the opportunity was notified in the *Gazette*.

[11] Subclause 4.3°(3)

omit

However, the

insert

Despite subclauses (1), (2) and (2A), the

[12] Subclause 4.5°(1)

omit

that is less than 12 months.

insert

of 12 months or less.

[13] Clause 4.6

substitute

4.6 What is a promotion

- (1) The assignment to an ongoing APS employee (other than a trainee) of duties at a higher classification than the employee's current classification is a *promotion* unless:
 - (a) the assignment is temporary; or
 - (b) the assignment of duties at the current classification was temporary and, immediately before that assignment, the employee had been assigned duties at the higher classification; or
 - (c) the employee's current classification is included in a broadband and, as a result of being assigned duties at the

higher classification, the employee is allocated a higher classification in that broadband.

- (2) The assignment (except on a temporary basis) to a trainee of duties at a classification that is in a higher classification group than an operational classification that relates to the employee's training classification is a *promotion*.
- (3) The allocation to a trainee, who has successfully completed a course of training, of an operational classification that relates to the trainee's training classification is not a *promotion*.

Note—See rule 9 of the Classification Rules in relation to the allocation of an operational classification to an employee who is engaged at a training classification.

- (4) This clause applies whether or not the assignment of duties is part of a movement to another Agency.
- (5) In this clause:
trainee means an ongoing APS employee whose classification is a training classification.

4.6A Promotion of ongoing APS employees

- (1) An Agency Head must put in place measures to ensure that, subject to considerations of costs and operational efficiency, if an ongoing APS employee is to be promoted in the Agency, the opportunity to apply for the relevant employment, or similar employment in the Agency, was open to all eligible members of the community, whether or not they were APS employees.
- (2) Subject to subclauses (3) and (4):
 - (a) the opportunity must have been notified in the *Gazette*:
 - (i) during the period of 12 months before the decision to promote the person is made; and
 - (ii) as open to all eligible members of the community, whether or not they were APS employees; and
 - (b) if the opportunity was also advertised externally, as open to all eligible members of the community, whether or not they were APS employees, it must have been advertised before, or not later than 4 weeks after, the opportunity was notified in the *Gazette*.
- (3) If, because of considerations of cost or operational efficiency, an Agency Head decides not to provide the opportunity to all eligible members of the community, as a minimum, the opportunity must have been notified in the *Gazette*:
 - (a) during the period of 12 months before the decision to promote the person is made; and

- (b) as open to all APS employees.
- (4) However, subclause (5) applies if:
 - (a) the opportunity mentioned in subclause (3) was notified in the *Gazette*:
 - (i) during the period of 12 months before the decision to promote the person is made; and
 - (ii) as open to all APS employees; and
 - (b) after the notification, the Agency Head decided to provide the opportunity to all eligible members of the community, whether or not they were APS employees; and
 - (c) the opportunity was advertised externally as open to all eligible members of the community, whether or not they were APS employees.
- (5) The opportunity must have been advertised not later than 4 weeks after the opportunity was notified in the *Gazette*.
- (6) For subclauses (3) and (4), **APS employee** includes a person who, at the time the opportunity for employment is notified in the *Gazette*, is a person mentioned in Schedule 2.
- (7) Despite subclauses (1), (2), (3), (4) and (5), the Agency Head is not taken to have breached this clause only because the Agency Head has put in place measures that:
 - (a) are consistent with Commonwealth law; and
 - (b) identify an opportunity for promotion as open to:
 - (i) an Aboriginal or a Torres Strait Islander within the meaning of the *Racial Discrimination Act 1975*; or
 - (ii) a person with an intellectual disability; and
 - (c) allow the promotion, as an APS employee, of a person of that kind.

[14] After paragraph 6.2°(1)°(d)

insert

- (da) assigning (except on a temporary basis) an SES employee whose classification is a specialist classification to duties at the corresponding non-specialist classification;
- (db) assigning (except on a temporary basis) an employee who is not an SES employee to duties at an SES classification in the same classification group as the employee's current classification;

[15] Paragraph 6.6°(2)°(c)

omit

identified.

insert

identified; and

[16] After paragraph 6.6°(2)°(c)

insert

(d) the Commissioner agrees to the assignment of duties.

[17] After clause 6.6

insert

6.6A Minimum requirements° assignment from specialist SES classification to corresponding non-specialist SES classification

- (1) A decision assigning (except on a temporary basis) an SES employee whose classification is a specialist classification to duties at the corresponding non-specialist classification (whether or not the decision is part of a move to another Agency) meets the minimum requirements if:
- (a) in the case of an employee who is assigned the duties as a result of a competitive selection process° the requirements set out in subclause 6.3°(1) are met; and
 - (b) in any other case:
 - (i) the Agency Head of the Agency in which the employee is to perform the duties is satisfied, on the basis of a formal assessment of the employee conducted by the Agency Head, that the employee has the necessary work-related qualities to perform the duties; and
 - (ii) the formal assessment has been conducted with the participation of the Commissioner s representative; and
 - (iii) the representative has certified that the formal assessment was conducted in accordance with the Act and these Directions; and
 - (iv) the Agency Head has informed the Commissioner of the assignment, the results of the formal assessment of the employee and the certification; and
 - (v) the Commissioner agrees to the assignment of duties.

- (2) In this clause:

Commissioner's representative means a person who is nominated by the Commissioner to participate in the conduct of the formal assessment.

6.6B Minimum requirements° assignment from non-SES classification to SES classification

- (1) A decision assigning (except on a temporary basis) an employee who is not an SES employee to duties at an SES classification in the same classification group as the employee's current classification (whether or not the decision is part of a move to another Agency) meets the minimum requirements if:
- (a) in the case of an employee who is assigned the duties as a result of a competitive selection process° the requirements set out in subclause 6.3°(1) are met; and
 - (b) in any other case:
 - (i) the Agency Head of the Agency in which the employee is to perform the duties is satisfied, on the basis of a formal assessment of the employee conducted by the Agency Head, that the employee has the necessary work-related qualities to perform the duties; and
 - (ii) the formal assessment has been conducted with the participation of the Commissioner's representative; and
 - (iii) the representative has certified that the formal assessment was conducted in accordance with the Act and these Directions; and
 - (iv) the Agency Head has informed the Commissioner of the assignment, the results of the formal assessment of the employee and the certification; and
 - (v) the Commissioner agrees to the assignment of duties.

- (2) In this clause:

Commissioner's representative means a person who is nominated by the Commissioner to participate in the conduct of the formal assessment.

[18] Before clause 7.1

insert

7.1A Delegation by the Commissioner

- (1) The Commissioner may, in writing, delegate to a senior official any of the Commissioner's powers or functions under these Directions (other than under this clause).

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- (2) A person (the *first delegate*) to whom powers or functions are delegated under subclause (1) may, in writing, delegate any of those powers or functions to another person (the *second delegate*).
 - (3) However, if the first delegate is subject to directions about the exercise of a power or function delegated under subclause (2), the first delegate must give corresponding directions to the second delegate.
 - (4) A power or function that is exercised or performed by a person under a delegation under subclause (2) is taken, for the purposes of these Directions, to have been exercised or performed by the Commissioner.
 - (5) A person exercising powers or functions under a delegation under this clause must comply with any directions given by the Commissioner.
 - (6) For subclause (1):
senior official means:
 - (a) a person who holds any office or appointment under an Act; or
 - (b) an SES employee or acting SES employee.

[19] Clause 7.1, heading

substitute

7.1 Delegation by Agency Head

[20] Schedule 1, item 1

substitute

1. The following circumstances exist in relation to the person:
 - (a) the person has previously been an employee of the Agency; and
 - (b) the person is receiving an invalidity pension from the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme; and
 - (c) the CSS Board or PSS Board has decided that the person is fit to return to work; and
 - (d) the engagement is at the person's former classification (or equivalent) or a lower classification.

[21] Schedule 1, item 7

substitute

7. The person has applied for re-engagement under prescribed conditions in accordance with regulation 3.17 of the *Public Employment (Consequential and Transitional) Regulations 1999*.

[22] Schedule 2, heading

substitute

**Schedule 2 Persons included as
APS° employees**

(subclauses 4.2°(5) and 4.6A°(6))

[23] Dictionary, after definition of *Commissioner*

insert

corresponding non-specialist classification, in relation to a specialist classification, means:

- (a) for the specialist classification Senior Executive (Specialist) Band°1° Senior Executive Band 1; and
- (b) for the specialist classification Senior Executive (Specialist) Band°2° Senior Executive Band 2; and
- (c) for the specialist classification Senior Executive (Specialist) Band°3° Senior Executive Band 3.

[24] Dictionary, definition of *promotion*

omit

subclause 4.6°(1).

insert

clause 4.6.

[25] Dictionary, after definition of *similar employment*

insert

specialist classification, for an SES employee, means any of the following classifications:

- (a) Senior Executive (Specialist) Band 1;
- (b) Senior Executive (Specialist) Band 2;
- (c) Senior Executive (Specialist) Band 3.

[26] **Dictionary, definition of *training classification***

substitute

training classification means a classification mentioned in column 2 of Schedule 2 to the Classification Rules.