



Public Service Commissioner's Amendment Directions 2007 (No. 1)

Public Service Act 1999

I, LYNELLE BRIGGS, Public Service Commissioner, make these Directions under subsection 11 (1) of the *Public Service Act 1999*.

Dated 2007

Public Service Commissioner

1 Name of Direction

These Directions are the *Public Service Commissioner's Amendment Directions 2007 (No. 1)*.

2 Commencement

These Directions commence on 8 August 2007.

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] Subclause 4.1 (3), note

substitute

Note Regulation 3.12 of the Regulations provides for certain decisions relating to the engagement and promotion of APS employees to be notified in the electronic APS Employment *Gazette*.

[2] Paragraph 4.2 (3) (a)

substitute

- (a) an opportunity mentioned in subclause (1) or (2) must have been notified:
- (i) as open to all members of the community, whether or not they were APS employees; and
 - (ii) during the period of 12 months before the decision to engage the person is made; and
 - (iii) either:
 - (A) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (B) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*; and

[3] Paragraph 4.2 (3) (b)

after

in the *Gazette*

insert

or in the electronic APS Employment *Gazette* (as applicable)

[4] Subclause 4.2 (4)

substitute

- (4) If, because of considerations of cost or operational efficiency, an Agency Head decides not to provide an opportunity mentioned in subclause (2) to all eligible members of the community, as a minimum, the opportunity must have been notified:
- (a) as open to all APS employees; and

-
- (b) during the period of 12 months before the decision to engage the person is made; and
 - (c) either:
 - (i) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (ii) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*.

[5] Paragraph 4.2 (4A) (a)

substitute

- (a) an opportunity mentioned in subclause (4) was notified:
 - (i) as open to all APS employees; and
 - (ii) during the period of 12 months before the decision to engage the person is made; and
 - (iii) either:
 - (A) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (B) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*; and

[6] Subclause 4.2 (4B)

after

in the *Gazette*

insert

or in the electronic APS Employment *Gazette* (as applicable)

[7] Subclause 4.2 (4C)

omit

it is not necessary for the relevant employment opportunity to be notified in the *Gazette*.

insert

it is not necessary for the relevant employment opportunity to be notified.

[8] Subclause 4.2 (5)

after

in the *Gazette*

insert

or in the electronic APS Employment *Gazette* (as applicable)

[9] Subclause 4.3 (2)

substitute

- (2) The opportunity must have been notified:
- (a) as open to all eligible members of the community, whether or not they were APS employees; and
 - (b) during the period of 12 months before the decision to engage the person is made; and
 - (c) either:
 - (i) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (ii) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*.

[10] Subclause 4.3 (2A)

after

in the *Gazette*

insert

or in the electronic APS Employment *Gazette* (as applicable)

[11] Paragraphs 4.5 (2) (a) and (b)

substitute

- (a) the opportunity to apply for the initial employment had been notified:
- (i) as open to all eligible members of the community, whether or not they were APS employees; and
 - (ii) either:
 - (A) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (B) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*; or
- (b) the opportunity to apply for the extended period of the engagement was notified:
- (i) as open to all eligible members of the community, whether or not they were APS employees; and
 - (ii) either:
 - (A) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (B) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*.

[12] Paragraph 4.6A (2) (a)

substitute

- (a) the opportunity must have been notified:
- (i) as open to all eligible members of the community, whether or not they were APS employees; and
 - (ii) during the period of 12 months before the decision to promote the person is made; and
 - (iii) either:
 - (A) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (B) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*; and

[13] Paragraph 4.6A (2) (b)

after

in the *Gazette*

insert

or in the electronic APS Employment *Gazette* (as applicable)

[14] Subclause 4.6A (3)

substitute

- (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:
- (a) as open to all APS employees; and
 - (b) during the period of 12 months before the decision to promote the person is made; and
 - (c) either:
 - (i) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
 - (ii) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*.

[15] Paragraph 4.6A (4) (a)

substitute

- (a) the opportunity mentioned in subclause (3) was notified:
- (i) as open to all APS employees; and
 - (ii) during the period of 12 months before the decision to promote the person is made; and

(iii) either:

- (A) if the opportunity was notified before 8 August 2007 — in the *Gazette*; or
- (B) if the opportunity was notified on or after 8 August 2007 — in the electronic APS Employment *Gazette*; and

[16] Subclause 4.6A (5)

after

in the *Gazette*

insert

or the electronic APS Employment *Gazette* (as applicable)

[17] Subclause 4.6A (6)

after

in the *Gazette*

insert

or in the electronic APS Employment *Gazette* (as applicable)

[18] Subclause 6.3 (2), note

substitute

Note Under regulation 3.12 of the Regulations, a decision to promote or engage an SES employee must be notified in the electronic APS Employment *Gazette*.

[19] Subclause 6.6 (2), note

substitute

Note Under regulation 3.12 of the Regulations, a decision to assign an SES employee to duties at a lower classification without the employee's agreement must be notified in the electronic APS Employment *Gazette*.

[20] Clause 6.7, note 2

substitute

Note 2 Under regulation 3.12 of the Regulations, the retirement of an SES employee within the period specified in a notice given under section 37 of the Act must be notified in the electronic APS Employment *Gazette*.

[21] Clause 6.8, note 3

substitute

Note 3 Under regulation 3.12 of the Regulations, a decision to terminate the employment of an SES employee under section 29 of the Act must be notified in the electronic APS Employment *Gazette*.

[22] Schedule 2

substitute

Schedule 2 Persons included as APS employees

(subclauses 4.2 (5) and 4.6A (6))

1. A person who:
 - (a) immediately before the commencement of the *Public Service Act 1999*, was a person to whom Division 2, 3 or 4 of Part IV of the *Public Service Act 1922* applied; and
 - (b) at the time the opportunity for employment is notified in the *Gazette* or in the electronic APS Employment *Gazette*, is performing duties in the organisation in which the person was performing duties immediately before the commencement of the *Public Service Act 1999*.
2. An employee of the Australian Parliamentary Service.
3. A staff member of the Albury-Wodonga Development Corporation.
4. An officer of the Australian Security Intelligence Organisation.
5. An officer of the Australian Secret Intelligence Service.
6. An officer of the ACT Public Service.
7. A former officer of the APS who resigned on or after 2 August 1990, if:
 - (a) the resignation was for child rearing purposes and the person resigned after taking at least 12 weeks' maternity or parental leave; and
 - (b) the resignation took place within 2 years of the date of birth of the child for which the period of maternity or parental leave was granted; and
 - (c) the opportunity for employment was notified in the *Gazette* or in the electronic APS Employment *Gazette* within 6 years from the date of birth of the child for which the maternity or parental leave was granted.
8. A former officer of the APS who:
 - (a) on 1 April 1987, was on leave without pay to work in the Northern Territory Public Service (*NTPS*); and
 - (b) resigned before 1 April 1988 to continue employment in the NTPS; and
 - (c) has continued to be employed by the NTPS.

9. A former officer of the APS who:
 - (a) accepted an offer of employment by a State Government or the Northern Territory Government; and
 - (b) resigned from the APS in accordance with the agreement between the Commonwealth and the Public Sector Union on staffing issues arising from the Commonwealth-State Disability Agreement; and
 - (c) has continued to be employed by the relevant State Government or the Northern Territory Government.

10. A former officer of the APS who, following the transfer of Repatriation General Hospitals at Hobart, Concord, Heidelberg and Daw Park:
 - (a) accepted an offer of employment by the State Government of Tasmania, New South Wales, Victoria or South Australia; and
 - (b) resigned from the APS in accordance with subsection 15 (2) and section 17 of the *Repatriation Institutions (Transfer) Act 1992*; and
 - (c) has continued to be employed by the State Government from which the offer of employment was accepted.

[23] Dictionary, after definition of *corresponding non-specialist classification*

insert

electronic APS Employment Gazette means the Australian Public Service Employment *Gazette*, published in electronic form.

[24] Dictionary, definition of *similar employment*

substitute

similar employment, in relation to an opportunity for employment that has been notified in the *Gazette* or in the electronic APS Employment *Gazette*, means employment that:

- (a) comprises similar duties to; and
- (b) is at the same classification as; and
- (c) is to be performed in a similar location as;

the employment that has been notified.