

EXPLANATORY STATEMENT

Public Service Act 1999

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

Subsection 11(1) of the *Public Service Act 1999* (the Act) provides that the Public Service Commissioner (the Commissioner) must issue directions in relation to each of the APS Values. Subsection 15(4) of the Act provides that procedures for determining whether an APS employee has breached the Code of Conduct must be set out in the Commissioner's Directions. Section 36 of the Act provides that the Commissioner must issue directions about employment matters relating to SES employees.

Section 20 of the Act provides Agency Heads, on behalf of the Commonwealth, with all the rights, duties and powers of an employer in respect of APS employees in the Agency.

Chapter 2 of the *Public Service Commissioner's Directions 1999* (the Principal Directions) prescribes the minimum requirements that an Agency Head must meet to uphold and promote the APS Values as detailed under section 10 of the Act. Chapter 4 of the Principal Directions relates specifically to merit in employment and includes the requirement to advertise in the *Gazette* employment opportunities which are ongoing, or non-ongoing (temporary) for a period of greater than 12 months.

The purpose of the amending Directions is to enable matters covered by the Principal Directions to be notified only in an electronic version of the *Gazette*, rather than a paper version of the *Gazette* as is currently necessary. While there is no specific legislative requirement for a paper *Gazette*, this has been the historically accepted means of publication. The amending Directions ensure that there is no doubt that publication of the matters required by the Principal Directions in the new electronic *Gazette* satisfies the legal requirement for *Gazette* notification.

Each Thursday, the Australian Public Service Commission publishes the Australian Public Service *Gazette* (APS *Gazette*), which includes the range of matters required to be gazetted, including employment opportunities. The bulk of the APS *Gazette* contains job vacancies and promotions. For some years the APS *Gazette* material has also been available electronically at the www.psgazette.gov.au website. This electronic version of the APS *Gazette* has been redeveloped and the new website will operate from 9 August 2007 as part of the *APStjobs* portal which will also be launched on that day.

There has been a substantial decline in the utilisation of the paper-based APS *Gazette*, with only a very small number of subscribers now (mostly Commonwealth agencies). The electronic version is available on-line and provides better access for individuals, and is the overwhelming form of accessing the information. The publication of the paper-based APS *Gazette* will cease after the 2 August 2007 issue, so as to coincide with the implementation of the new version of the electronic APS *Gazette*, on 9 August 2007. A commencement date of 8 August 2007 ensures it is clear cut that no paper version is needed from 9 August 2007. This will not affect the publication of various other paper *Gazettes* produced by other Australian Government agencies.

There are also provisions in the Act which require gazettal of some matters (such as statutory office holder terms and conditions) and these will continue to be published in a paper *Gazette* administered by the Attorney-General's Department.

In addition to amendments to the Principal Directions, the *Public Service Regulations 1999* have been amended (effective from the same date) to refer to the electronic APS Employment *Gazette* as these prescribe the requirement to notify certain employment decisions in the APS *Gazette*, including engagements, movements, promotions and terminations of employment of employees.

The Directions are disallowable non-legislative instruments for the purposes for the *Legislative Instruments Act 2003*.

Details of the amending Directions are set out in the [Attachment](#).

Consultation: All APS agencies were advised that it was intended to discontinue the paper APS *Gazette*. No agency has raised issues.

ATTACHMENT

Details of the *Public Service Commissioner's Amendment Directions 2007 (No.1)*

Clause 1 names the Directions as the *Public Service Commissioner's Amendment Directions 2007 (No.1)*.

Clause 2 provides that the Directions will commence on 8 August 2007.

Clause 3 provides that Schedule 1 amends the *Public Service Commissioner's Directions 1999* (the Principal Directions).

Items 1 and 18 to 21 of Schedule 1 substitute references to the '*Gazette*' in the Principal Directions with references to the 'electronic APS Employment *Gazette*'.

Items 3, 6, 7, 8, 10, 13, 16 and 17 of Schedule 1 amend the clauses by adding a reference to the 'electronic APS Employment *Gazette*'.

Item 7 of Schedule 1 improves the drafting of the clause; there is no substantive change to the intent of the clause.

Items 2, 4, 5, 9, 11, 12, 14 and 15 of Schedule 1 refer to the arrangements for gazettal of certain employment decisions prior to and after 8 August 2007.

Item 22 of Schedule 1 amends the list of persons included as APS employees for subclauses 4.2(5) and 4.6A(6) of the Principal Directions. Reference to a staff member of the Australian Trade Commission has been deleted, as this organisation now employs staff under the *Public Service Act 1999*. Reference to the 'electronic APS employment *Gazette*' has also been included in the schedule.

Items 23 and 24 of Schedule 1 amend the Dictionary to the Principal Directions by inserting a definition of *electronic APS Employment Gazette*. The definition of *similar employment* is also amended to refer to the change to the electronic APS Employment *Gazette*.