

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2009 No. 196**

Issued by the authority of the Minister for Human Services

*Commonwealth Services Delivery Agency Act 1997*

*Commonwealth Services Delivery Agency Amendment Regulations 2009 (No. 1)*

#### **Authority**

1. Section 6 of the *Commonwealth Services Delivery Agency Act 1997* (the Act) establishes the Commonwealth Services Delivery Agency (Centrelink). Section 29 of the Act provides for the appointment of a Chief Executive Officer (CEO) of Centrelink.
2. The functions of the CEO under section 8 of the Act include providing 'Commonwealth services' in accordance with 'service arrangements' (as defined in the Act) entered into in accordance with section 7 of the Act.
3. Under subsection 7 (1) of the Act, the CEO of Centrelink is authorised to enter into 'service arrangements' with the 'principal officers' of 'Commonwealth authorities'. These terms are defined in the Act.
4. Under the Act, the 'principal officer' of a Commonwealth authority which is a Department is the Secretary of the Department. The principal officer of a Commonwealth authority that is not a Department is the person identified as the principal officer of the authority by regulations made under section 41 of the Act.
5. Paragraph (b) of the definition of 'principal officer' in the Act provides that the regulations may identify the person who is the principal officer of a Commonwealth authority.

#### **Background**

6. The Amendment Regulations amend the Commonwealth Services Delivery Agency Regulations (the Principal Regulations) to identify the principal officers of some Commonwealth authorities which are not Departments. This amendment enables Centrelink's CEO to enter into 'service arrangements for the provision of Commonwealth services', under subsection 7 (1) of the Act, with the principal officers of some Commonwealth authorities that are not Departments of State.
7. For Commonwealth authorities that are prescribed agencies within the meaning of the *Financial Management and Accountability Act 1997* (the FMA Act), the Amendment Regulations insert a regulation identifying the 'principal officer' as the person who is the 'Chief Executive' of the agency within the meaning of the FMA Act.

8. For Commonwealth authorities that are ‘Commonwealth authorities’ within the meaning of the *Commonwealth Authorities and Companies Act 1997* (the CAC Act), the Amendment Regulations insert a regulation identifying the ‘principal officer’ as the person who performs the functions of ‘chief executive’ within the ordinary meaning of that term.

### **Commencement**

9. The Amendment Regulations commence on the day after they are registered.

### **Consultation**

10. Because the amendments deal with internal machinery matters and will not have any direct, or a substantial indirect, effect on business or on competition, there has not been any consultation regarding the Amendment Regulations outside of Government.
11. Details of the Amendment Regulations are set out below.

**Details of the Commonwealth Services Delivery Agency Amendment Regulations 2009 (No. 1)**

**Regulation 1 — Name of Regulations**

1. This regulation provides that the Regulations are the *Commonwealth Services Delivery Agency Amendment Regulations 2009 (No. 1)*.

**Regulation 2 — Commencement**

2. This regulation provides that the Regulations commence on the day after they are registered.

**Regulation 3 — Amendment of the Commonwealth Service Delivery Regulations**

3. This regulation provides that Schedule 1 amends the Commonwealth Services Delivery Agency Regulations.

**Schedule 1 — Amendments**

**Item [1] — Regulation 1**

4. Item [1] substitutes the name of the Regulations so that they are consistent with the current drafting practice of italicising the names of Regulations and inserting the year in which they were originally made at the end of the title.

**Item [2] — Regulation 5**

5. Item [2] inserts new regulation 6 which provides that a person is a principal officer for paragraph (b) of the definition of ‘principal officer’ in the Act if:
  - (a) the person is the Chief Executive of a prescribed Agency that is a Commonwealth authority; or
  - (b) the person performs the functions of a chief executive of a Commonwealth authority that is a Commonwealth authority (as defined in the *Commonwealth Authorities and Companies Act 1997* (the CAC Act)).
6. In relation to paragraph (a), the terms ‘Chief Executive’ and ‘prescribed Agency’ apply the meanings of those terms that are found in section 5 of the *Financial Management and Accountability Act 1997* (the FMA Act).
7. The FMA Act defines the term ‘prescribed Agency’ to mean, ‘a body, organisation or group of persons prescribed by the Regulations...’ The FMA Act also defines ‘Chief Executive’ for a ‘prescribed Agency’ as ‘the person identified by the regulations as the Chief Executive of the Agency’.
8. Schedule 1 to the *Financial Management and Accountability Regulations 1997* lists the Chief Executive positions of the prescribed Agencies that only handle public money.
9. Proposed paragraph 6 (b) enables the CEO to enter into service agreements with persons who are chief executives – within the ordinary meaning of that term – of Commonwealth authorities that are ‘Commonwealth authorities’ within the meaning of the CAC Act.