

EXPLANATORY STATEMENT

Commonwealth Services Delivery Agency (Functions of Chief Executive Officer — Repeal) Direction 2011

Authority

Under paragraph 8(1)(c) of *Commonwealth Services Delivery Agency Act 1997* (the Act), the Minister may give the Chief Executive Officer of Centrelink (Centrelink CEO) a written direction to perform specified functions. The Centrelink CEO has a number of functions under subsection 8(1) of the Act.

Subsection 8(2) of the Act provides that a direction under paragraph 8(1)(c) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction. This means that the *Centrelink (Functions of Chief Executive Officer — Repeal) Direction 2011* (the Direction) is neither subject to disallowance by Parliament nor automatic sunset after 10 years.

Purpose of the Direction

The *Human Services Legislation Amendment Act 2011* (the HSLA Act) renames the Act as the *Human Services (Centrelink) Act 1997* (Centrelink Act), and substantially amends the Act. In particular, the Centrelink CEO position is abolished and replaced by a position called the Chief Executive Centrelink, to which only an SES officer in the Department of Human Services can be appointed. Centrelink is also abolished, and its functions subsumed into the Department of Human Services.

The HSLA Act received Royal Assent on 25 May 2011, and the relevant amendments to the Act will commence on 1 July 2011.

The HSLA Act amends section 8 of the Act. Item 27 in Part 1 of Schedule 2 to the HSLA Act repeals paragraph 8(1)(c) of the Act.

As a result of this amendment, the Minister for Human Services ceases to be empowered to direct the Centrelink CEO to perform functions. Accordingly, Ministerial Directions that have been made under paragraph 8(1)(c) of the Act will cease to be effective when the HSLA Act commences.

To ensure that there can be no doubt that the Ministerial Directions cease to be in effect, the Direction repeals the Ministerial Directions specified.

New section 8 of the Act, as amended by the HSLA, provides that the Chief Executive Centrelink has ‘any functions that are prescribed by regulations’ (see paragraph 8(1)(ba) of the Act).

A number of the functions that the Centrelink CEO was previously directed to perform are included in the *Commonwealth Services Delivery Agency Regulations 1997* as amended by the *Human Services (Centrelink) Regulations 2011*. However, many of the functions that the Centrelink CEO had been directed to perform are not prescribed as functions of the Chief Executive Centrelink.

This is because:

- the Chief Executive Centrelink’s functions, particularly the service delivery functions in section 8A of the Centrelink Act, are already very broad; and

- the Department of Human Services, which will deliver programs and services for the Chief Executive, has the full powers of the Executive.

Consultation

As the Direction is repealing instruments that would otherwise cease to have effect on 1 July 2011, no public consultation was considered necessary.

The Direction commences at the end of 30 June 2011, immediately before the HSLA Act commences.

No statutory preconditions needed to be satisfied prior to the making of the Direction.