



Determination under subsection 24(3) – SES employees moved between APS agencies to give effect to the Administrative Arrangements Orders made by the Governor-General in Council on 18 September 2013

as amended

made under section 24(3) of the

Public Service Act 1999

Compilation start date:

31 October 2013

Includes amendments up to:

Determination under subsection 24(3) – SES employees - amendment of determination of 18 September 2013 (No. 1)

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Determination under subsection 24(3) – SES employees moved between APS agencies to give effect to the Administrative Arrangements Orders made by the Governor-General in Council on 18 September 2013* as in force on 31 October 2013. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 14 November 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

Determination under subsection 24(3) – SES employees moved between APS agencies to give effect to the Administrative Arrangements Orders made by the Governor-General in Council on 18 September 2013

I, Eric Abetz, Minister Assisting the Prime Minister for the Public Service, being of the opinion that it is desirable to do so because of exceptional circumstances, hereby determine pursuant to section 24(3) of the *Public Service Act 1999* the terms and conditions of employment of employees to whom this Determination applies.

Application of Determination

1. This Determination applies to a Senior Executive Service employee who has been, or will be, moved from an APS Agency (**Losing Agency**) to another APS Agency (**Gaining Agency**) by determination in writing under section 72(1)(a) of the *Public Service Act 1999* in order to give effect to the Administrative Arrangements Orders made by the Governor-General in Council on 18 September 2013 as amended on 3 October 2013 (**Moving Employee**).
- 1A. This Determination applies to a Senior Executive Service employee who will be moved from the Australian Agency for International Development (**AusAID**) to the Department of Foreign Affairs and Trade (**DFAT**) by determination in writing under section 72(1)(a) of the *Public Service Act 1999* to give effect to the order made by the Administrator of the Commonwealth of Australia acting with the advice of the Federal Executive Council on 17 October 2013, pursuant to section 65 of the *Public Service Act 1999*, which has the effect of abolishing AusAID as an Executive Agency on 1 November 2013 (**Moving Aid Employee**).
- 1B. For the purpose of this Determination, in relation to a Moving Aid Employee:
 - (a) AusAID is the employee's Losing Agency; and
 - (b) DFAT is the employee's Gaining Agency.

Period of operation

2. This Determination takes effect on and from 18 September 2013.
3. This Determination will continue in force until:
 - (a) it is replaced in its entirety by another determination made under section 24(3) of the *Public Service Act 1999*; or
 - (b) it is revoked.
4. This Determination ceases to apply to an employee if:
 - (a) an Agency Head makes a determination pursuant to section 24(1) of the *Public Service Act 1999* setting out the terms and conditions of employment that apply to the employee, and that determination is expressed to replace this Determination in its entirety; or

- (b) an Agency Head and the employee enter into a written common law agreement which sets out the terms and conditions of employment that apply to the employee, and that common law agreement is expressed to replace this Determination in its entirety; or
- (c) an enterprise agreement that covers the employee commences operation; or
- (d) the employee commences employment in an APS agency that is not a Gaining Agency to which the employee was moved by determination in writing under section 72(1)(a) of the *Public Service Act 1999* (whether by engagement as an APS employee pursuant to section 22(1) of the *Public Service Act 1999* or by movement from another APS agency pursuant to section 26 or 27 of the *Public Service Act 1999*).

Operation of other instruments

- 5. Employees to whom this Determination applies will not be covered by:
 - (a) any enterprise agreement (other than an enterprise agreement that commences operation after the date on which this Determination takes effect).

Terms and conditions applying to employees

- 6. The terms and conditions of employment (including remuneration) of:
 - (a) a Moving Employee shall be the same as they would have been if the Governor-General in Council had not made the Administrative Arrangements Orders on 18 September 2013;
 - (b) a Moving Aid Employee shall be the same as they would have been if the Administrator of the Commonwealth of Australia had not made the order on 17 October 2013 abolishing AusAID as an Executive Agency,except that any reference in the terms and conditions to the relevant Losing Agency is substituted with a reference to the relevant Gaining Agency.
- 7. It is not inconsistent with this Determination for an Agency Head to make a determination pursuant to section 24(1) of the *Public Service Act 1999* supplementing the terms and conditions of employment that apply to an employee by operation of this Determination.

Policies, guidelines and procedures that applied to the employee in the Losing Agency

- 8. This clause 8 applies where the terms and conditions of employment preserved by operation of clause 6 refer to various policies, guidelines and procedures (however described) which applied to the employee's employment in the Losing Agency. Any such policies, guidelines and procedures:
 - (a) will continue to apply to the employee in their current form, except to the extent that a policy, guideline or procedure is not capable of meaningful operation because of the movement of the employee to the Gaining Agency; and

- (b) do not form part of this Determination and this Determination prevails over any policies, guidelines or procedures to the extent of any inconsistency.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

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Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

Endnotes

Endnote 3—Legislation history

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Name	FRLI registration	Commencement	Application, saving and transitional provisions
Determination under subsection 24(3) – SES employees moved between APS agencies to give effect to the Administrative Arrangements Orders made by the Governor-General in Council on 18 September 2013	20 Sept 2013 (<i>see</i> F2013L01727)	18 Sept 2013	
Determination under subsection 24(3) – SES employees - amendment of determination of 18 September 2013 (No. 1)	31 Oct 2013 (<i>see</i> F2013L01868)	31 Oct 2013	—

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Endnote 4—Amendment history

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Provision affected	How affected
enabling par	am F2013L01868
c 1	rs F2013L01868
c 1A	ad F2013L01868
c 1B	ad F2013L01868
c 4	am F2013L01868
c 6	rs F2013L01868

Endnotes

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]