



## **Legal Services Amendment (Solicitor-General Opinions) Direction 2016**

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I, George Brandis QC, Attorney-General, make the following direction.

Dated 4 May 2016

George Brandis QC  
Attorney-General

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## 1 Name

This is the *Legal Services Amendment (Solicitor-General Opinions) Direction 2016*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information        |  |              |
|---------------------------------|--|--------------|
| Column 1                        | Column 2                                     | Column 3     |
| Provisions                      | Commencement                                 | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 5 May 2016   |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Judiciary Act 1903*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Legal Services Directions 2005*

#### **1 After paragraph 10A of the Schedule**

Insert:

#### **10B Opinions on questions of law by the Solicitor-General**

- 10B.1 The Solicitor-General will, in accordance with paragraph 12(b) of the *Law Officers Act 1964* (the *Law Officers Act*), furnish his or her opinion to the Attorney-General on questions of law referred to the Solicitor-General by the Attorney-General or with the consent of the Attorney-General.
- 10B.2 The Solicitor-General will furnish an opinion on a question of law only if the Attorney-General has referred, or consented to a referral of, the question of law to the Solicitor-General.
- 10B.3 No person or body referred to in paragraph 12(a) of the *Law Officers Act*, other than the Attorney-General, may refer a question of law to the Solicitor-General except with the consent of the Attorney-General.
- 10B.4 If a person or body referred to in paragraph 12(a) of the *Law Officers Act* forms the view that a question of law should be referred to the Solicitor-General, that person or body must seek, in writing, the Attorney-General's signed consent to the referral of the question to the Solicitor-General. The letter must be copied to OLSC.
- 10B.5 If the Attorney-General's Department or AGS:
- (a) has consulted the Solicitor-General under paragraph 10A.2 of these Directions about whether advice on a question of law should be given by the Solicitor-General in relation to a constitutional law issue; and
  - (b) forms the view that the Solicitor-General's advice should be sought; the Attorney-General's Department or AGS must seek, in writing, the Attorney-General's signed consent to the referral of the question to the Solicitor-General. The letter must be copied to OLSC.
- 10B.6 If the Attorney-General consents to a referral of a question of law to the Solicitor-General, the brief to the Solicitor-General to advise on the question shall include a copy of the signed consent of the Attorney-General.
- 10B.7 If the Solicitor-General receives a brief to advise on a question of law that does not include a copy of the signed consent of the Attorney-General, then:
- (a) the Solicitor-General shall notify the Attorney-General's Office of the receipt of the brief; and
  - (b) the Attorney-General shall either:
    - (i) consent, in writing, to the referral of the question of law to the Solicitor-General; or
    - (ii) decline to consent to such referral, in which case the Solicitor-General shall return the brief.
- 10B.8 Nothing in these Directions limits the Attorney-General's discretion to seek legal advice from persons other than the Solicitor-General.
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- 10B.9 To avoid doubt, this paragraph does not apply in relation to questions of law that arise in the course of a matter in which the Solicitor-General is acting as counsel under paragraph 12(a) of the Law Officers Act.