

Legal Services Amendment (Repeal of Solicitor-General Opinions) Direction 2016

EXPLANATORY STATEMENT

Issued by the Attorney-General
in compliance with section 15G of the *Legislation Act 2003*

INTRODUCTION

Under subsection 55ZF(1)(a) of the *Judiciary Act 1903*, the Attorney-General may issue Legal Services Directions (the Directions) applying generally to Commonwealth legal work (as defined in that section).

The power to issue the Directions was conferred having regard to the Attorney-General's responsibility, as First Law Officer, for matters relating to the performance of Commonwealth legal work by, and on behalf of, the Commonwealth and its agencies.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, the power to issue such Directions includes the power to repeal, rescind, revoke, amend or vary those Directions.

OUTLINE

Section 55ZF of the *Judiciary Act 1903* empowers the Attorney-General to issue the Directions, which are to apply generally to Commonwealth legal work, or that are to apply to Commonwealth legal work being performed, or to be performed, in relation to a particular matter.

Paragraph 12(b) of the *Law Officers Act 1964* provides that the functions of the Solicitor-General, in addition to acting as counsel, include furnishing opinions to the Attorney-General on questions of law referred by the Attorney-General.

The purpose of this legislative instrument is to amend the Directions to repeal paragraph 10B of the *Legal Services Directions 2005*.

PROCESS BEFORE THIS LEGISLATIVE INSTRUMENT WAS MADE

Regulatory impact analysis

The Office of Best Practice Regulation (OBPR) has advised that a Regulation Impact Statement is not required as the Directions are machinery in nature and do not change the regulatory burden placed on businesses or the non-profit sector (OBPR ID 20861).

Statement of compatibility with human rights obligations

Before this instrument was made, its impact on human rights was assessed using tools and guidance published by the Attorney-General's Department. It is fully compatible with human rights as defined in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Consultation before making

Before this instrument was made, the Attorney-General consulted the Acting Solicitor-General.

Statutory preconditions and Parliamentary undertakings relevant to this legislative instrument

There are no other preconditions relevant to the making of this legislative instrument.

PROCESSES FOR REVIEW OF THIS LEGISLATIVE INSTRUMENT

This instrument is subject to tabling and disallowance under Chapter 3 of the Legislation Act.

OTHER ISSUES

Matter incorporated by reference

This instrument does not apply, adopt or incorporate other matter by reference.

More information

A provision by provision explanation of this legislative instrument is provided in [Attachment A](#).

Section 1 Name of the *Legal Services Amendment (Repeal of Solicitor-General Opinions) Direction 2016*

This section provides for the instrument to be named as the *Legal Services Amendment (Repeal of Solicitor-General Opinions) Direction 2016*. The legislative instrument may be cited by that name.

Section 2 Commencement

This section provides for the instrument to commence on the day that it is registered on the Federal Register of Legislation. In accordance with section 3 of the *Acts Interpretation Act 1901* this means that it will commence from the first minute of the day on which it is registered. The instrument will operate from the beginning of the day it was registered. It does not enliven any of the retrospectivity issues that subsection 12(2) of the *Legislation Act 2003* seeks to address.

Section 3 Authority

This section identifies the Act that authorises the making of the legislative instrument as the *Judiciary Act 1903*.

Section 4 Schedule

This section provides that the instrument specified in the Schedule is amended or repealed according to the terms of that Schedule.

Schedule 1

This Schedule repeals paragraph 10B of the Legal Services Directions 2005.