

EXPLANATORY STATEMENT

Issued by the authority of the Prime Minister

*Direction under subsection 21(1) of the Public Service Act 1999 –
COVID 19 – movement of APS employees to functions critical to the continued
delivery of services to the Australian public*

The *Public Service Act 1999* ('the Act') provides for the establishment and management of the Australian Public Service ('APS'). Subsection 21(1) of the Act provides that the Prime Minister may issue general directions in writing to Agency Heads relating to the management and leadership of APS employees.

The purpose of the *Direction under subsection 21(1) of the Public Service Act 1999 – COVID 19 – movement of APS employees to functions critical to the continued delivery of services to the Australian public* (the Direction) is to facilitate the efficient and effective deployment of APS employees and expertise to meet the exceptional challenge posed by COVID 19 to Australian society.

The Direction provides that each Agency Head is required to urgently identify functions performed in the agency that, taking into account the consequences of the COVID 19 pandemic, are currently critical to the continued delivery of services to the Australian public or the operation of the APS as a whole.

The Direction provides that each Agency Head is also required to identify APS employees in their agency whose duties do not involve the performance of those critical functions, and who are capable of undertaking work, as an employee of the agency on a temporary basis:

- for other APS agencies where there is a critical need to the continued delivery of services to the Australian public or the operation of the APS as a whole; or
- to assist State or Territory government agencies or community organisations address the consequences of COVID 19, including to assist them maintain the continued delivery of services to the Australian public.

The Direction require that each Agency Head is to provide details of the critical functions of their agency and groups of employees whose duties do not involve the performance of those critical functions under the Direction to the Australian Public Service Commissioner ('Commissioner') as soon as completed, but no later than 30 March 2020.

The Commissioner will then notify relevant Agency Heads which APS employees or groups of APS employees within their agency are to undertake critical work elsewhere.

The Direction requires that each Agency Head to, as quickly as possible, exercise all their available powers to make available their APS employees to undertake work in the APS agency specified by the Commissioner.

More generally, each Agency Head is required to cooperate with any requests or directions made by the Commissioner in relation to the provision of services by APS employees to sectors of critical need. Those areas of critical need may be in State or Territory government sectors, or in community organisations.

The Commissioner will issue further guidance to Agency Heads about the applicability of the Direction.

The Direction commences on the date it is made.

The Prime Minister has granted an exemption from the need to complete regulatory impact analysis for all Australian Government measures made in response to COVID 19. No regulatory impact statement is therefore required.

APS agencies have been consulted about the Direction.

The Direction is a legislative instrument for the purposes of the *Legislation Act 2003*.

Authority: Subsection 21(1) of the *Public Service Act 1999*