

EXPLANATORY STATEMENT

Issued by the authority of the Australian Public Service Commissioner

Public Service Act 1999

Australian Public Service Commissioner's Amendment (Consequential Amendments) Directions 2025

Purpose

The *Australian Public Service Commissioner's Directions 2022* (the Directions) are made under the *Public Service Act 1999* (the PS Act) and are necessary for its effective operation.

The Directions are a legislative instrument for the purposes of the *Legislation Act 2003*. They prescribe standards with which Agency Heads and Australian Public Service (APS) employees must comply with in order to meet their obligations under the PS Act and support Agency Heads to fulfil their responsibilities in respect of their employer powers. The *Australian Public Service Commissioner's Amendment (Consequential Amendments) Directions 2025* (the Amendment Directions) amend the Directions. The amendments to the Directions made by the Amendment Directions are consequential to amendments made to the *Public Service Regulations 2023* (the Regulations) in the *Public Service Amendment (2024 Measures No.2) Regulations 2024* (the Amendment Regulations).

On 1 April 2025, the Amendment Regulations amend the Regulations to repeal and replace provisions in Part 4 of the Regulations, which relate to the review of promotion and engagement decisions by the Merit Protection Commissioner (MPC), to:

- improve the MPC review mechanism by expanding the regulatory model to consider the merits of the entire process;
- incorporate audit and investigation strategies through the inclusion of own motion powers for the MPC; and
- reduce the timeframe within which specified APS actions are reviewable actions.

The Amendment Directions make consequential amendments to the Directions to ensure consistency with these amendments to the Regulations.

Legislative framework

Subsections 11(1), 11A(1), 11A(2), and 15(6) of the PS Act give the Commissioner power to issue directions in writing about specified matters.

Subsection 11A(1) of the PS Act provides that the Commissioner may issue directions about employment matters relating to APS employees, including engagement, promotion, redeployment, mobility, training schemes and termination.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Commencement

The Amendment Directions commence on 1 April 2025, the same time as the Amendment Regulations.

Consultation

The Amendment Regulations were released as an Exposure Draft to all APS agencies and the APS Consultative Committee for a three-week period. As the Amendment Directions make amendments to the Directions that are consequential to the Amendment Regulations, further consultation was not necessary, nor appropriate.

Impact Analysis

The amendments to the Directions do not require Impact Analysis (OIA24-07537) as they have minor regulatory impact and do not substantially alter existing arrangements for people, businesses, or community organisations.

Explanation of the Provisions

An explanation of the provisions is set out at [Attachment A](#).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is at [Attachment B](#).

EXPLANATION OF THE PROVISIONS

Section 1 – Name

Section 1 sets out the name of the instrument, being the *Australian Public Service Commissioner’s Amendment (Consequential Amendments) Directions 2025* (the Amendment Directions).

Section 2 – Commencement

Section 2 provides that the whole of the Amendment Directions commence on 1 April 2025.

Section 3 – Authority

Section 3 provides that the Amendment Directions are made under the *Public Service Act 1999*.

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in that Schedule, and any other item in a Schedule to the instrument has effect according to its terms.

Schedule 1-Amendments

Part 1-Amendments

Australian Public Service Commissioner’s Directions 2022

Item 1 – Section 5

Item 1 inserts definitions of ‘group A decision’, ‘group B decision’, and ‘merit pool’ in section 5 of the Directions.

A group A decision means a decision to:

- a) promote an ongoing APS employee; or
- b) engage an ongoing Parliamentary Service employee as an ongoing APS employee at a classification that is higher than the employee’s Parliamentary Service classification.

A group B decision means a decision to engage a person from a merit pool, a ranked merit pool or a ranked merit list if:

- a) the engagement of the person is stayed because of the operation of paragraph 21(3)(b) of the Regulations; and
- b) the decision is not a group A decision.

Merit pool has the same meaning as in the Regulations.

These definitions ensure consistency with the Amendment Regulations and that the terms are consistently applied, which will support the outcome of the review process.

Paragraph 21(3)(b) of the Regulations provides that the making of an application for review of a decision under Subdivision A of Part 4 of the Regulations operates to stay a decision to engage or promote from a merit pool, ranked merit pool or a ranked merit list until it takes effect in accordance with Part 4 of the Directions.

Item 2 – Section 5 (definition of PRC review)

Item 2 repeals the definition of PRC review in the Directions as it is not required following amendments made by the Amendment Regulations which repealed the Promotion Review Committee process.

Item 3 – Section 5 (definition of promotion/engagement review)

Item 3 inserts the definition of ‘promotion/engagement review’ in section 5.

Promotion/engagement review means a review under Subdivision A of Division 2 of Part 4 of the Regulations.

This definition provides clarity of the meaning of the term.

Item 4 – Section 5 (definition of Promotion Review Committee)

Item 4 repeals the definition of ‘Promotion Review Committee’ in the Directions as it is not required following the amendments made by the Amendment Regulations which repealed the Promotion Review Committee process.

Item 5 – Section 5

Item 5 inserts definitions of ‘ranked merit list’ and ‘ranked merit pool’ in section 5.

Both definitions have the same meaning as in the Regulations.

Item 6 – Repeal of paragraph 40(1)(b)

Item 6 repeals paragraph 40(1)(b) of the Directions.

This paragraph is repealed as it provides an example of the promotion of an ongoing APS employee, which is already provided in paragraph 40(1)(a) of the Directions, therefore the paragraph is not necessary. Further, there is no longer a Promotion Review Committee process following the amendments made by the Amendment Regulations.

Item 7 – Subsection 40(7)

Item 7 omits the phrase “by a Promotion Review Committee” in subsection 40(7) of the Directions.

This amendment reflects the substantive amendments to Part 4 by the Amendment Regulations, which includes the repealing provisions relating to the Promotion Review Committee. The intent of repealing the requirement for a Promotion Review Committee in the review of certain APS actions and other engagement or promotion decisions is to allow greater flexibility and efficiency for the MPC to decide how a review may be undertaken. A review will determine whether a selection process was based on merit rather than comparing one applicant against another to determine which candidate is most meritorious.

Item 8 – After section 40

Item 8 inserts new section 40A, after section 40 in Division 2 of Part 4 of the Directions.

New section 40A ‘Late notification in Public Service Gazette’ replaces in similar terms the provisions from the repealed subsections 42B(1) and (2), and provides that if a group A decision is not notified in accordance with section 40 of the Directions by the concerned Agency Head because of an error or omission, the Agency Head must as soon as practicable after identifying the error or omission:

- a) notify the decision in the Public Service Gazette in accordance with section 40 (disregarding

subsections 40(2) and (3)); and

- b) if the group A decision is subject to review under Part 4 of the Regulations—notify all parties eligible to seek that review of their right of review.

The remaining provisions from repealed section 42B, which set out the date of effect of promotion decisions when a decision is taken to promote an ongoing APS employee and the promotion decision had not been notified in accordance with section 40 of the Directions by the relevant Agency Head because of an error or omission, are now included in section 42. Item 12 provides for the repeal of section 42B of the Directions (see below).

Item 9 – repeal paragraph 41(1)(b)

Item 9 repeals paragraph 41(1)(b) of the Directions and is consequential to the repeal of paragraph 40(1)(b), described at Item 5.

Item 10 – Division 2A of Part 4 (heading)

Item 10 repeals the Division 2A heading and substitutes the heading with ‘Division 2A – When promotion or engagement decisions take effect’. This amendment is consequential to the Amendment Regulations and consistent with the substantive amendments to Part 4 of the Regulations described below.

Item 11 – Section 42

Item 11 repeals section 42 in Part 4 of the Directions, and substitutes it with a new section 42 – When group A decisions take effect—general rule.

The table in subsection 42(1) of the Directions provides the day of effect for a group A decision (defined as the ‘relevant decision’ for the purposes of subsection 42(1)), for a person who is entitled to a promotion/engagement review. Column 2 of the table specifies when a relevant decision takes effect, if the circumstances set out in column 1 of the table occur.

Item 1 in the table in subsection 42(1) provides that if no person is entitled to a promotion/engagement review of the relevant decision because of the effect of any provision of section 20 of the Regulations, the relevant decision takes effect on:

- a) the 28th day after the day group A decision is notified in the Public Service Gazette, unless paragraph (b) or (c) below applies; or
- b) if the group A decision has been notified in the Public Service Gazette under section 40 and, before the end of the 28th day after the day the group A decision is notified, the relevant parties have agreed on a day of effect for the group A decision and the agreed day is after the day of the notification—the agreed day; or
- c) if the group A decision has been notified under section 40A and, before that notification, the relevant parties have agreed on a day of effect for the group A decision—on the agreed day.

Paragraph 21(2)(c) of the Regulations provides that an application for review of a decision under Subdivision A of Part 4 of the Regulations must be made by:

- a) 5 pm of the 14th day after the day the decision is notified in the Public Service Gazette; or
- b) if, before the end of that period, the MPC agrees to a longer period—5 pm of the last day of that longer period.

This is the ‘initial time’ for the purpose of the table in subsection 42(1).

Item 2 in the table in subsection 42(1) provides that if:

- a) no application for a promotion/engagement of the relevant decision is made by the time specified in paragraph 21(2)(c) of the Regulations (initial time) for the relevant decision; and
- b) no application for a promotion/engagement review of a connected decision (if any), in relation to the relevant decision, has been made by that initial time; and
- c) item 1 does not apply in relation to the relevant decision,

the relevant decision takes effect on:

- a) the 14th day after the day on which the initial time occurs, unless paragraph (b) or (c) applies;
- b) if the relevant decision has been notified in the Public Service Gazette under section 40 and, before the end of the 14th day after the day on which the initial time occurs, the relevant parties have agreed on a day of effect for the relevant decision and the agreed day is after the day on which the initial time occurs—the agreed day; or
- c) if the relevant decision has been notified in the Public Service Gazette under section 40A and, before that notification, the relevant parties have agreed on a day of effect for the relevant decision—the agreed day.

Subsection 21(4) of the Regulations provides that the MPC may determine that an applicant for promotion review is not entitled to review of a decision under Subdivision A of Part 4 of the Regulations if:

- a) the application is misconceived, lacking in substance, frivolous or vexatious; or
- b) the applicant has previously applied for:
 - i. a review of the same decision; or
 - ii. a review of a decision relating to the same selection process; or

the MPC considers that, in all the circumstances, a review of the decision is not justified.

Item 3 in the table in subsection 42(1) provides that if either or both of the following apply:

- a) an application for a promotion/engagement review of the relevant decision is made by the initial time specified in paragraph 21(2)(c) of the Regulations for the relevant decision;
- b) one or more applications for a promotion/engagement review of one or more connected decisions, in relation to the relevant decision, have been made by that initial time;

and the MPC makes a decision under subsection 21(4) of the Regulations in relation to each of the applicants concerned, the relevant decision takes effect on:

- a) the 14th day after the day on which the MPC notifies the concerned Agency Head of the decisions under subsection 21(4) of the Regulations, unless paragraph (b) or (c) applies; or
- b) if the relevant decision has been notified in the Public Service Gazette under section 40 and, before the end of the 14th day after the day on which MPC notifies the relevant Agency Head of the making of the last of the decisions under subsection 21(4) of the Regulations, the relevant parties have agreed on a day of effect for the relevant decision and the agreed day is after the day of the notification by the MPC—the agreed day; or

- c) if the relevant decision has been notified under section 40A and, before that notification, the relevant parties have agreed on a day of effect for the relevant decision—the agreed day.

Under subsection 24(1) of the Regulations, the MPC must determine whether a selection process resulting in a decision reviewed under Subdivision A of Part 4 of the Regulations meets the requirements in subsection 23(1) of the Regulations. Subsection 23(1) of the Regulations requires that a selection process resulted in one or more decisions based on merit (within the meaning of subsection 10A(2) of the Act) and that the process was undertaken in accordance with requirements for conducting merit-based selection processes specified in the Directions.

Item 4 in the table in subsection 42(1) provides that if either or both of the following apply:

- a) an application for a promotion/engagement review of the relevant decision is made by the initial time specified in paragraph 21(2)(c) of the Regulations for the relevant decision;
- b) one or more applications for a promotion/engagement review of one or more connected decisions, in relation to the relevant decision, have been made by that initial time;

and each application specified in paragraph (a) is withdrawn before the MPC has made a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the relevant decision, the relevant decision takes effect on:

- a) the 14th day after the day on which the MPC notifies the concerned Agency Head of the last of those withdrawals, unless paragraph (b) or (c) applies; or
- b) if the relevant decision has been notified in the Public Service Gazette under section 40 and, before the end of the 14th day after the day on which MPC notifies the relevant Agency Head of the making of the last of those withdrawals, the relevant parties have agreed on a day of effect for the relevant decision and the agreed day is after the day of the notification by the MPC—the agreed day; or
- c) if the relevant decision has been notified in the Public Service Gazette under section 40A and, before that notification, the relevant parties have agreed on a day of effect for the relevant decision—the agreed day.

Subsection 24(3) of the Regulations provides that subsection 24(2), under which the MPC must take certain actions if a selection process does not meet the requirements in subsection 23(1), does not apply if the MPC is satisfied that the decision resulted in outcomes that would not have been materially different had the selection process met the requirements in subsection 23(1) of the Regulations.

As noted above, subsection 23(1) of the Regulations provides that the reviewer must consider whether the selection process that led to one or more decisions was a merit-based decision and met the requirements for conducting merit-based selection processes in the Directions. In accordance with subsection 23(2), the reviewer may conduct the review in any manner the reviewer thinks fit.

Item 5 in the table in subsection 42(1) provides that if:

- a) the MPC makes a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the relevant decision; and
- b) either:
 - i. the determination is that the selection process met the requirements in subsection 23(1) of the Regulations; or
 - ii. the determination is that the selection process did not meet the requirements in

subsection 23(1) of the Regulations but the MPC is satisfied of the matter in subsection 24(3) of the Regulations; and

- c) none of items 2, 3 and 4 has applied in relation to the relevant decision,

the relevant decision takes effect on:

- a) the 14th day after the day on which the MPC notifies the concerned Agency Head of the withdrawal of each application, unless paragraph (b) or (c) applies; or
- b) if the relevant decision has been notified in the Public Service Gazette under section 40 and, before the end of that 14th day, the relevant parties have agreed on a day of effect for the relevant decision and the agreed day is after the day of the notification—the agreed day; or
- c) if the relevant decision has been notified in the Public Service Gazette under section 40A and, before that notification, the relevant parties have agreed on a day of effect for the relevant decision—the agreed day.

Subsection 24(2) of the Regulations sets out what the MPC must do if the selection process did not meet the requirements in subsection 23(1) of the Regulations. Paragraph 24(2)(b) provides that if the applicant is an ongoing Parliamentary Services employee, and the decision that is the subject of the review is a decision to engage or promote a person to the applicable vacancy—the MPC must recommend that that decision should not take effect. Paragraph 24(2)(c) provides the MPC must, subject to paragraph 24(5)(b), recommend that a merit pool, a ranked merit list or a ranked merit pool created as a result of the selection process should not be used to fill a vacancy.

Paragraph 24(5)(b) of the Regulations provides that if the MPC does not have sufficient information to make a recommendation under subsection 24(2) of the Regulations, the MPC must recommend that the selection process should not be used to fill a vacancy, other than a vacancy that has already been filled and for which a determination under paragraph 23(2)(a) has not been made.

Item 6 in the table in subsection 42(1) provides if:

- a) the MPC makes a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the relevant decision; and
- b) the determination is that the selection process did not meet the requirements in subsection 23(1) of the Regulations and the MPC is not satisfied of the matter in subsection 24(3) of the Regulations; and
- c) either:
 - i. the relevant decision is the subject of a recommendation under paragraph 24(2)(b) of the Regulations and the Agency Head concerned does not accept the recommendation; or
 - ii. the relevant decision is stayed because of the operation of paragraph 21(3)(b) of the Regulations and there is a recommendation under paragraph 24(2)(c) or 24(5)(b) of the Regulations that the Agency Head concerned does not accept; and
- d) none of items 2, 3 and 4 has applied in relation to the relevant decision,

the relevant decision takes effect on:

- a) the 14th day after the day on which the MPC notifies the concerned Agency Head of the making of that determination, unless paragraph (b) applies; or

- b) if, before the end of the 14th day after the MPC notifies the concerned Agency Head of the making of that determination, the relevant parties have agreed on a day of effect for the relevant decision and the agreed day is after the day of the notification—the agreed day.

Note 1 under subsection 42(1) confirms that the definition of ‘group A decision’ is in section 5 of the Directions.

Note 2 under subsection 42(1) confirms that the definition of ‘connected decision’ is in subsection 42(3) of the Directions.

Note 3 under subsection 42(1) confirms that item 6 of the table in subsection 42(2) applies whether the notification of the relevant decision occurs under section 40 or 40A of the Directions.

Subsection 42(2) provides that the effect of section 42 is subject to section 42A (about when promotion decisions take effect because of suspected breaches of Code of Conduct). This means both provisions, sections 42 and 42A, must be considered when determining the day of effect of a decision to promote an ongoing APS employee or to engage an ongoing Parliamentary Service employee as an ongoing APS employee at a classification that is higher than the employee’s Parliamentary Service classification.

Subsection 42(3) defines a ‘connected decision’ as being where:

- a) the relevant decision involves the engagement or promotion of a person from a merit pool, a ranked merit pool or a ranked merit list; and
- b) as part of the same selection process that resulted in the relevant decision, another decision is made in relation to another person from the merit pool, ranked merit pool or ranked merit list; and
- c) the other decision is a group A decision.

Item 11 also inserts new section 42AA under new section 42. New section 42AA provides for when group B decisions take effect.

Under paragraph 42AA(a), a group B decision takes effect if:

- a) the Agency Head concerned makes a written offer to the person who is the subject of the group B decision, before that Agency Head is first notified by the MPC that an application has been made for review of a group A decision, made as part of the same selection process that resulted in the group B decision; and
- b) that person accepts the offer,

on a day agreed by the parties; or

if:

- a) the Agency Head concerned makes a written offer to the person who is the subject of the group B decision, after that Agency Head is first notified by the MPC that an application has been made for review of a group A decision, made as part of the same selection process that resulted in the group B decision; and
- b) that person accepts the offer,

on a day specified in column 2 and the respective circumstance in column 1, outlined in the table at the end of paragraph 42AA(b).

The table in paragraph 42AA(b) provides the day of effect of a group B decision. Column 2 specifies when a group B decision takes effect in the respective circumstances set out in column 1.

Item 1 in the table in paragraph 42AA(b) provides that if each application for review of a group A decision that is made as part of the selection process that resulted in the group B decision, is withdrawn before the MPC has made a determination under subsection 24(1) of the Regulations in relation to the selection process, the group B decision takes effect on:

- a) the 14th day after the day on which the Agency Head concerned is notified by the MPC of the last of those withdrawals, unless paragraph (b) below applies; or
- b) if, before the end of the 14th day after the day on which the Agency Head concerned is notified by the MPC of the last of those withdrawals, the relevant parties have agreed on a day of effect for the group B decision, and the agreed day is after the day of the notification—the agreed day.

Item 2 in the table in paragraph 42AA(b) provides that if:

- a) the MPC makes a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the group B decision; and
- b) either:
 - i. the determination is that the selection process met the requirements in subsection 23(1) of the Regulations; or
 - ii. the determination is that the selection process did not meet the requirements in subsection 23(1) of the Regulations but the MPC is satisfied of the matter in subsection 24(3) of the Regulations; and

- c) item 1 in the same table has not been applied in relation to the group B decision,

the group B decision takes effect on:

- a) the 14th day after the day on which the Agency Head concerned is notified by the MPC of the making of that determination, unless paragraph (b) below applies; or
- b) if, before the end of the 14th day after the day on which the Agency Head concerned is notified by the MPC of the making of that determination, the relevant parties have agreed on a day of effect for the group B decision, and the agreed day is after the day of the notification—the agreed day.

Item 3 in the table in paragraph 42AA(b) provides that if:

- a) the MPC makes a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the group B decision; and
- b) the determination is that the selection process did not meet the requirements in subsection 23(1) of the Regulations and the MPC not satisfied of the matter in subsection 24(3) of the Regulations; and
- c) in relation to the selection process, there is a recommendation under paragraph 24(2)(c) or 24(5)(b) of the Regulations and the Agency Head concerned does not accept the recommendation; and
- d) item 1 in the same table has not applied in relation to the group B decision,

the group B decision takes effect on:

- a) the 14th day after the day on which the Agency Head concerned is notified by the MPC of the making of that determination, unless paragraph (b) below applies; or
- b) if, before the end of the 14th day after the day on which the Agency Head concerned is notified by the MPC of the making of that determination, the relevant parties have agreed on a day of effect for the group B decision, and the agreed day is after the day of the notification—the agreed day.

A note at the end of section 42AA confirms that the definitions of a group A decision and a group B decision are in section 5 of the Directions.

Item 12 – Section 42B

Item 12 repeals section 42B. The provisions in section 42B have been incorporated into new sections 40A and 42 described above.

Part 2-Application provision

Australian Public Service Commissioner’s Directions 2022

Item 13 – in the appropriate position in Part 10

Item 13 inserts new Division 5 of Part 10 of the Directions, being ‘Amendments made by the Australian Public Service Commissioner’s Amendment (Consequential Amendments) Directions 2025’.

Item 13 also inserts a new section 80 into the new Division 5 of Part 10 of the Directions. New section 80 provides the amendments made by the instrument apply in relation to a decision made in respect of a vacancy notified in the Public Service Gazette on or before 1 April 2025. This is consistent with the commencement of the Amendment Regulations on 1 April 2025.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Australian Public Service Commissioner's Amendment (Consequential Amendments) Directions 2025

The *Australian Public Service Commissioner's Directions 2022* (the Directions) are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Australian Public Service Commissioner's Directions 2022* (the Directions) are made under the *Public Service Act 1999* (the PS Act), and are necessary for its effective operation.

The Directions are a legislative instrument for the purposes of the *Legislation Act 2003*. They prescribe standards with which Australian Public Service (APS) Agency Heads and employees must comply with in order to meet their obligations under the PS Act, and support Agency Heads to fulfil their responsibilities in respect of their employer powers. The *Australian Public Service Commissioner's Amendment (2025 Measures No.2) Directions 2025* (the Amendment Directions) amend the Directions. The amendments to the Directions made by the Amendment Directions are wholly consequential to amendments made to the *Public Service Regulations 2023* (Regulations) in the *Public Service Amendment (2024 Measures No.2) Regulations 2024* (Amendment Regulations).

On 1 April 2025, the Amendment Regulations amend the Regulations to repeal and replace provisions in Part 4 of the Regulations which relate to the review of promotion and engagement decisions by the Merit Protection Commissioner (MPC), to:

- improve the MPC review mechanism by expanding the regulatory model to consider the merits of the entire process;
- incorporate audit and investigation strategies through the inclusion of own motion powers for the MPC; and
- reduce the timeframe within which specified APS actions are reviewable actions.

The Amendment Directions make consequential amendments to the Directions to ensure consistency with these amendments to the Regulations.

Human rights implications

The Amendment Directions engage the following human rights:

- Right to work and rights at work – general right recognised by Article 6(1) and Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Right to work and rights at work

Article 6(1) of the ICESCR provides that everyone should have the opportunity to gain their living by work which they choose or accept. Article 7 of the ICESCR recognises the right of everyone to just and favourable conditions of work which ensure an equal opportunity for everyone to be promoted in employment to an appropriate higher level subject to no considerations other than seniority and competence.

The general right to work and rights at work are supported by section 42 of the Amendment Directions. Section 42 provides for the day of effect for engagement and promotional review

decisions. This section seeks to provide APS employees with certainty of timeframes for commencing employment, or commencing a new role. In doing so, it promotes the right to work and rights at work.

The provisions of the Amendment Directions refer to timeframes that are provided in Part 4 of the Regulations. This is necessary to determine the day of effect of a promotion or engagement decision, following processes that have been undertaken under Part 4 of the Regulations. In particular, an application for review of a decision under Subdivision A of Part 4 of the Regulations is set out in paragraph 21(2)(c) of the Regulations, and must be made by:

- a) 5 pm of the 14th day after the day the decision is notified in the Public Service Gazette; or
- b) if, before the end of that period, the MPC agrees to a longer period—5 pm of the last day of that longer period.

This timeframe is referred to as the ‘initial time’ in the Amendment Directions.

The timeframe for submitting an application for review as set out in the Regulations was not prescribed prior to 1 April 2025. To the extent that the timeframe limits the rights of an applicant to submit a review it is reasonable and proportionate. The timeframe for submitting an application balances ensuring there is sufficient time for an applicant to submit a review and that a promotion or engagement decision is not unreasonably delayed or impinged.

Conclusion

The instrument is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* because it promotes the protection of human rights. It does not introduce any limitations on human rights. To the extent that a provision operates to limit a right or freedom, those limitations are reasonable, necessary and proportionate.