



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

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I, Dr Gordon de Brouwer PSM, Australian Public Service Commissioner, make the following directions.

Dated 27 March 2025

Dr Gordon de Brouwer PSM  
Australian Public Service Commissioner

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## 1 Name

This instrument is the *Australian Public Service Commissioner's Amendment (Consequential Amendments) Directions 2025*.

## 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	1 April 2025.	1 April 2025

Note: This table relates only to the provisions of this instrument as originally made.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 *Public Service Act 1999*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

### Part 1—Amendments

#### *Australian Public Service Commissioner’s Directions 2022*

##### 1 Section 5

Insert:

*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.

*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.

##### 2 Section 5 (definition of *PRC review*)

Repeal the definition.

##### 3 Section 5

Insert:

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

##### 4 Section 5 (definition of *Promotion Review Committee*)

Repeal the definition.

##### 5 Section 5

Insert:

*ranked merit list* has the same meaning as in the Regulations.

*ranked merit pool* has the same meaning as in the Regulations.

##### 6 Paragraph 40(1)(b)

Repeal the paragraph.

##### 7 Subsection 40(7)

Omit “by a Promotion Review Committee”.

##### 8 After section 40

Insert:

## 40A Late notification in Public Service Gazette

If a group A decision is not notified in accordance with section 40 by the Agency Head concerned 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.

## 9 Paragraph 41(1)(b)

Repeal the paragraph.

## 10 Division 2A of Part 4 (heading)

Repeal the heading, substitute:

### Division 2A—When promotion or engagement decisions take effect

## 11 Section 42

Repeal the section, substitute:

## 42 When group A decisions take effect—general rule

- (1) A group A decision (the *relevant decision*) takes effect on the day covered by column 2 of an item in the following table in the circumstances mentioned in column 1 of the item.

When relevant decision takes effect		
Item	Column 1 In these circumstances:	Column 2 the relevant decision takes effect on:
1	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	<ul style="list-style-type: none"> <li>(a) the 28th day after the day the group A decision is notified in the Public Service Gazette, unless paragraph (b) or (c) applies; or</li> <li>(b) if the group A decision has been notified under section 40 and, before the end of the 28th day after the day the group A decision is notified in the Public Service Gazette, 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</li> <li>(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—the agreed day</li> </ul>
2	(a) no application for a promotion/engagement review of the relevant decision is made by the time	(a) the 14th day after the day on which the initial time occurs, unless paragraph (b) or (c) applies; or

Schedule 1 Amendments  
Part 1 Amendments

<b>When relevant decision takes effect</b>		
<b>Item</b>	<b>Column 1 In these circumstances:</b>	<b>Column 2 the relevant decision takes effect on:</b>
	<p>(the <i>initial time</i>) covered by paragraph 21(2)(c) of the Regulations for the relevant decision; and</p> <p>(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</p> <p>(c) item 1 does not apply in relation to the relevant decision</p>	<p>(b) if the relevant decision has been notified 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</p> <p>(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</p>
3	<p>(a) either or both of the following apply:</p> <p>(i) an application for a promotion/engagement review of the relevant decision is made by the time (the <i>initial time</i>) covered by paragraph 21(2)(c) of the Regulations for the relevant decision;</p> <p>(ii) 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</p> <p>(b) the Merit Protection Commissioner makes a decision under subsection 21(4) of the Regulations in relation to each of the applicants concerned</p>	<p>(a) the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the last of the decisions under subsection 21(4) of the Regulations, unless paragraph (b) or (c) applies; or</p> <p>(b) if the relevant decision has been notified under section 40 and, before the end of the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner 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 Merit Protection Commissioner—the agreed day; or</p> <p>(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</p>
4	<p>(a) either or both of the following apply:</p> <p>(i) an application for a promotion/engagement review of the relevant decision is made by the time (the <i>initial time</i>) covered by paragraph 21(2)(c) of the Regulations for the relevant decision;</p> <p>(ii) 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</p>	<p>(a) the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the last of those withdrawals, unless paragraph (b) or (c) applies; or</p> <p>(b) if the relevant decision has been notified under section 40 and, before the end of the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner 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</p>

<b>When relevant decision takes effect</b>		
<b>Item</b>	<b>Column 1 In these circumstances:</b>	<b>Column 2 the relevant decision takes effect on:</b>
	(b) each application covered by paragraph (a) is withdrawn before the Merit Protection Commissioner has made a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the relevant decision	after the day of the notification by the Merit Protection Commissioner—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
5	(a) the Merit Protection Commissioner 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 Merit Protection Commissioner 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	(a) the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the making of that determination, unless paragraph (b) or (c) applies; or (b) if the relevant decision has been notified under section 40 and, before the end of the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner 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 by the Merit Protection Commissioner—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
6	(a) the Merit Protection Commissioner 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 Merit Protection Commissioner 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	(a) the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the making of that determination, unless paragraph (b) applies; or (b) if, before the end of the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner 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

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**When relevant decision takes effect**

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<b>Item</b>	<b>Column 1 In these circumstances:</b>	<b>Column 2 the relevant decision takes effect on:</b>
	recommendation under paragraph 24(2)(c) or (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	

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Note 1: For the definition of *group A decision*, see section 5.

Note 2: For the definition of *connected decision*, see subsection (3) of this section.

Note 3: Item 6 of the table applies whether the notification of the relevant decision occurs under section 40 or 40A.

*Relationship with section 42A*

- (2) This section has effect subject to section 42A (about when promotion decisions take effect because of suspected breaches of the Code of Conduct).

*Definitions*

- (3) If:
- (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;
- then the other decision is a *connected decision* in relation to the relevant decision.

**42AA When group B decisions take effect**

A group B decision takes effect:

- (a) if:
  - (i) 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 Merit Protection Commissioner 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
  - (ii) that person accepts the offer;  
on a day agreed by the relevant parties; or
- (b) if:
  - (i) 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 Merit Protection Commissioner 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
  - (ii) that person accepts the offer;

on the day covered by column 2 of an item in the following table in the circumstances mentioned in column 1 of the item.

<b>When group B decision takes effect</b>		
<b>Item</b>	<b>Column 1 In these circumstances:</b>	<b>Column 2 the group B decision takes effect on:</b>
1	Each application for review of a group A decision, made as part of the selection process that resulted in the group B decision, is withdrawn before the Merit Protection Commissioner has made a determination under subsection 24(1) of the Regulations in relation to the selection process	<p>(a) the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the last of those withdrawals, unless paragraph (b) applies; or</p> <p>(b) if, before the end of the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner 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</p>
2	<p>(a) the Merit Protection Commissioner makes a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the group B decision; and</p> <p>(b) either:</p> <p>(i) the determination is that the selection process met the requirements in subsection 23(1) of the Regulations; or</p> <p>(ii) the determination is that the selection process did not meet the requirements in subsection 23(1) of the Regulations but the Merit Protection Commissioner is satisfied of the matter in subsection 24(3) of the Regulations; and</p> <p>(c) item 1 has not applied in relation to the group B decision</p>	<p>(a) the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the making of that determination, unless paragraph (b) applies; or</p> <p>(b) if, before the end of the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner 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</p>
3	<p>(a) the Merit Protection Commissioner makes a determination under subsection 24(1) of the Regulations in relation to the selection process that resulted in the group B decision; and</p> <p>(b) the determination is that the selection process did not meet the requirements in subsection 23(1) of the Regulations and the Merit Protection Commissioner is not satisfied of the matter in subsection 24(3) of the Regulations; and</p> <p>(c) in relation to the selection process, there is a recommendation under</p>	<p>(a) the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the making of that determination, unless paragraph (b) applies; or</p> <p>(b) if, before the end of the 14th day after the day on which the Agency Head concerned is notified by the Merit Protection Commissioner of the making of that determination, the relevant parties have agreed on a day of effect for the group B decision and</p>

Schedule 1 Amendments  
Part 1 Amendments

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<b>When group B decision takes effect</b>		
<b>Item</b>	<b>Column 1 In these circumstances:</b>	<b>Column 2 the group B decision takes effect on:</b>
	paragraph 24(2)(c) or (5)(b) of the Regulations and the Agency Head concerned does not accept the recommendation; and  (d) item 1 has not applied in relation to the group B decision	the agreed day is after the day of the notification—the agreed day

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Note: For the definitions of *group A decision* and *group B decision*, see section 5.

## 12 Section 42B

Repeal the section.

## **Part 2—Application provisions**

### *Australian Public Service Commissioner's Directions 2022*

#### **13 In the appropriate position in Part 10**

Insert:

### **Division 5—Amendments made by the Australian Public Service Commissioner's Amendment (Consequential Amendments) Directions 2025**

#### **80 Application provision**

The amendments of this instrument made by Part 1 of Schedule 1 to the *Australian Public Service Commissioner's Amendment (Consequential Amendments) Directions 2025* apply in relation to a decision made in respect of a vacancy notified in the Public Service Gazette on or after 1 April 2025.