



Parliamentary Service Determination 2013

made under the

Parliamentary Service Act 1999

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About this compilation

This compilation

This is a compilation of the *Parliamentary Service Determination 2013* that shows the text of the law as amended and in force on 24 September 2021 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name of determination

This determination is the *Parliamentary Service Determination 2013*.

3 Authority

This determination is made under the *Parliamentary Service Act 1999*.

Note: See section 71 of the Act.

4 Dictionary

The Dictionary in Schedule 1 to this determination defines certain terms used in this determination.

Note: A number of terms used in this determination are defined in the Act, including:

- (a) APS employee;
- (b) Classification Rules;
- (c) Code of Conduct;
- (d) Commissioner;
- (e) Department;
- (f) ongoing Parliamentary Service employee;
- (g) Presiding Officers.

Part 2—Parliamentary Service Values

6 Parliamentary Service Value 1—Committed to Service

Having regard to an individual's duties and responsibilities, upholding the Parliamentary Service Value in subsection 10(1) of the Act requires the following:

- (a) engaging effectively and providing responsive, client-focussed service delivery;
- (b) ensuring that decisions and interactions are objective and impartial;
- (c) encouraging innovative thought and supporting innovative solutions;
- (d) supporting collaboration and teamwork, both within a Department and with other Departments and APS agencies and the wider community;
- (e) promoting continuous improvement and managing change effectively;
- (f) identifying and managing areas of potential risk;
- (g) pursuing and supporting training and development to improve capability;
- (h) being responsive to the needs of the Parliament and understanding the environment in which it operates.

7 Parliamentary Service Value 2—Ethical

Having regard to an individual's duties and responsibilities, upholding the Parliamentary Service Value in subsection 10(2) of the Act requires the following:

- (a) acting in a way that models and promotes the highest standard of ethical behaviour;
- (b) following through on commitments made;
- (c) having the courage to address difficult issues;
- (d) complying with all relevant laws, appropriate professional standards and the Code of Conduct;
- (e) acting in a way that is right and proper, as well as technically and legally correct or preferable;
- (f) reporting and addressing misconduct and other unacceptable behaviour by Parliamentary Service employees in a fair, timely and effective way;
- (h) providing leadership in supporting the Parliament;
- (i) supporting systems that give Parliamentary Service employees appropriate opportunities to develop and demonstrate leadership qualities.

8 Parliamentary Service Value 3—Respectful

Having regard to an individual's duties and responsibilities, upholding the Parliamentary Service Value in subsection 10(3) of the Act requires the following:

- (a) treating all people with dignity and recognising that all people have value;

- (b) dealing with all people honestly and with integrity;
- (c) recognising the importance of human rights and understanding Australia's human rights obligations;
- (d) recognising and fostering diversity;
- (e) collaborating and being open to ideas in supporting the Parliament;
- (f) complying with all relevant anti-discrimination laws.

9 Parliamentary Service Value 4—Accountable

Having regard to an individual's duties and responsibilities, upholding the Parliamentary Service Value in subsection 10(4) of the Act requires the following:

- (a) being answerable to the Presiding Officers and to the Parliament;
- (b) being open to scrutiny and being transparent in decision making;
- (c) being able to demonstrate that actions and decisions have been made with appropriate consideration;
- (d) being able to explain actions and decisions to the people affected by them;
- (e) being accountable for actions and decisions through statutory and administrative reporting systems;
- (f) being able to demonstrate clearly that resources have been used efficiently, effectively, economically and ethically;
- (g) being answerable for individual performance.

10 Parliamentary Service Value 5—Impartial

Having regard to an individual's duties and responsibilities, upholding the Parliamentary Service Value in subsection 10(5) of the Act requires the following:

- (a) providing the same standard of high quality professional support to the Parliament, irrespective of which political party is in power and of personal political beliefs;
- (b) ensuring that the individual's actions do not provide grounds for a reasonable person to conclude that the individual could not serve the Parliament impartially;
- (c) ensuring that management and staffing decisions are made on a basis that is independent of the political party system, free from political bias and not influenced by the individual's political beliefs;
- (d) understanding the needs of the Parliament and providing it with the best objective, non-partisan advice based on the best evidence available;
- (e) providing advice that is relevant and comprehensive, is not affected by fear of consequences, and does not withhold important facts or bad news;
- (f) providing advice that takes account of the context in which policy needs to be implemented, the broader needs of the Parliament and, where appropriate, implications for the longer term;
- (g) implementing policies in a way that is free from bias and in accordance with the law.

Part 3—Parliamentary Service employment

Division 1—Preliminary

11 Definitions

In this Part:

broadband has the meaning given by subrule 9(4) of the Classification Rules (as in force immediately before 1 July 2013).

12 Meaning of *vacancy*

For this Part, a **vacancy** exists in a Department if a Secretary decides that:

- (a) a specified group of duties needs to be performed; and
- (b) it is appropriate to consider engaging or promoting a person to perform the duties.

13 Meaning of similar *vacancy*

For this part, a vacancy is a **similar vacancy** to a vacancy that is notified under clause 20 (a **notified vacancy**) if:

- (a) one of the following applies:
 - (i) it is in the same Department;
 - (ii) it is an SES vacancy;
 - (iii) it is a vacancy in a centrally coordinated entry-level program;
 - (iv) the Secretary of the Department in which the notified vacancy existed, another Secretary and a candidate who applied for the notified vacancy agree, in writing, that the vacancy is a similar vacancy in relation to the candidate;
 - (v) if the notified vacancy relates to a function that was moved to another Department after the notification—it is in the Department to which the function was moved; and
- (b) all of the following apply:
 - (i) it is the same category of employment (ongoing or non-ongoing);
 - (ii) it comprises similar duties;
 - (iii) it is at the same classification;
 - (iv) it is to be performed in a similar location.

13A Meaning of *Senior Executive Service (SES) vacancy*

In this determination, **SES vacancy** means a vacancy at an SES classification as set out in the Classification Rules.

14 Meaning of *work-related qualities*

For this Part, work-related qualities that may be taken into account in making an assessment of a candidate's suitability to perform duties in accordance with paragraph 10A(2)(c) of the Act include the following:

- (a) skills and abilities;
- (b) qualifications, training and competencies;
- (c) standard of work performance;
- (d) capacity to perform effectively to produce outcomes at the level required by the relevant duties;
- (e) relevant personal qualities, such as honesty and integrity;
- (f) potential for further development;
- (g) ability to contribute to team performance.

Division 2—Engagement of non-ongoing employees

15 Engagement of SES employee for specified term

- (1) This section sets out the circumstances in which a person may be engaged as an SES employee for a specified term.

Note: See subsection 22(4) of the Act.

- (2) The person may be engaged for a specified term if the term does not exceed 5 years.
- (3) The engagement may be extended once or more than once, but the engagement may be extended only to the extent that the total term does not exceed 5 years.

Note: The usual basis for engagement of a Parliamentary Service employee is as an ongoing Parliamentary Service employee: see paragraph 10A(1)(b) of the Act. A Secretary is expected to have regard to that paragraph before engaging a person as a non-ongoing employee.

16 Engagement on non-ongoing basis

- (1) This clause prescribes circumstances in which a Secretary may engage a person as an employee (other than an SES-employee) for a specified term or for the duration of a specified task.

Note 1: See subsection 22(4) of the Act.

Note 2: Paragraph 10A(1)(c) of the Act requires engagement and promotion decisions to be based on merit. Divisions 3 and 4 explain how this Employment Principle is to be applied.

Note 3: The usual basis for engagement of a Parliamentary Service employee is as an ongoing Parliamentary Service employee: see paragraph 10A(1)(b) of the Act. A Secretary is expected to have regard to that paragraph before engaging a person as a non-ongoing employee.

Specified task

- (2) If a Secretary engages a person as a non-ongoing employee for a specified task, the Secretary must, at the time of the engagement:
- be able to reasonably estimate the duration of the task; and
 - be satisfied that the services of the person are unlikely to be required after the task is complete.

Specified term

- (3) A Secretary may engage a person as a non-ongoing employee for a specified term if:
- the duties of the employment are to be performed by the person only for a limited period, and the performance of those duties by that person is unlikely to be required after that period; or

Examples: The Department:

- (a) has a temporary increase in its workload; or
 - (b) has a temporary demand for employees with particular skills; or
 - (c) needs to replace an ongoing employee who is on leave or who is assigned to other duties.
- (b) the particular skills, knowledge or experience required to perform the duties of the employment can best be met by employing a person who has recently worked in the industry that corresponds to the employment for which the person is being engaged; or
- (c) the purpose of the employment is to assist the person to gain:
- (i) skills and experience, by participating in the workforce under a scheme approved by the Secretary or by the Australian Public Service Commissioner; or
 - (ii) a formal occupational qualification, licence, accreditation or registration; or
- (d) the person has received a written offer of ongoing employment, but prefers to be engaged as a non-ongoing employee; or
- (e) the person is an ongoing Parliamentary Service employee.
- (4) If a Secretary engages a person as a non-ongoing employee for a specified term:
- (a) the period of the engagement:
 - (i) must be a period that represents a reasonable estimate of the time required for the performance of the duties; and
 - (ii) for a person engaged in accordance with paragraph (3)(a) or (b)—must not be more than 18 months; and
 - (b) for a person engaged in accordance with paragraph (3)(a) or (b)—any extension of the engagement must be for a period that represents a reasonable estimate of the length of time required for the performance of the duties; and
 - (c) subject to subclause (5), the total period of the engagement, including any extensions of the engagement, must not exceed 3 years.
- (5) The period of 3 years mentioned in paragraph (4)(c) may be extended, for a period of not more than 12 months, only if:
- (a) the Secretary considers that the engagement is necessary for the Department's operations; and
 - (b) the Commissioner:
 - (i) is satisfied that special circumstances exist; and
 - (ii) authorises the Secretary to extend the engagement.
- (6) In addition to subclauses (3), (4) and (5):
- (a) a Secretary may engage a person as a non-ongoing employee for a specified term if:
 - (i) the person is an employee of a State or Territory, or an authority of a State or Territory; and
 - (ii) the Secretary has entered into an agreement with a State or Territory, or an authority of a State or Territory, to engage the person as a non-ongoing employee for a specified term; and

Part 3 Parliamentary Service employment
Division 2 Engagement of non-ongoing employees

Clause 16

- (b) the period of engagement mentioned in paragraph (a) is the period decided by the Secretary.

Division 3—Merit in engagement and promotion

Subdivision 1—Merit-based decision-making: standard provisions

17 Purpose of Subdivision

The purpose of this Subdivision is to determine:

- (a) the scope or application of the Employment Principle mentioned in paragraph 10A(1)(c) of the Act, in relation to most promotions and most ongoing and long-term non-ongoing engagements; and
- (b) the minimum requirements that a Secretary must meet in order to uphold that Employment Principle.

Note: Subdivision 2 provides modifications of and exceptions to the requirements in this Subdivision for certain kinds of engagement and promotion decisions.

18 How a Secretary upholds the principle of merit-based decision-making

A Secretary upholds the Employment Principle mentioned in paragraph 10A(1)(c) of the Act in relation to a decision to engage or promote a person, by ensuring that the decision is based on a selection process that meets the requirements of:

- (a) this Subdivision; or
- (b) for a decision to which Subdivision 2 applies—this Subdivision as modified by that Subdivision.

Note: See sections 26 and 26A of the Act for the engagement of an ongoing APS employee as an ongoing or non-ongoing Parliamentary Service employee.

19 Merit-based selection process for engagement or promotion

- (1) A selection process meets the requirements of this Subdivision if all of the following apply:
 - (a) the aim and purpose of the selection process is determined in advance;
 - (b) information about the selection process is readily available to applicants;
 - (c) the selection process is applied fairly in relation to each eligible applicant;
 - (d) the selection process is appropriately documented.

Note: Clauses 15 and 16 provide for matters regarding the engagement of non-ongoing Parliamentary Service employees.

- (2) When making a decision using such a selection process:
 - (a) merit is the primary consideration; and
 - (b) if any eligible applicants are otherwise equal on merit—secondary considerations may be taken into account if they relate to matters within the control of the applicant.

Note: Paragraph (b)—matters within the control of the applicant include the applicant's ability to start by a particular date, willingness to relocate or to meet other reasonable Departmental requirements.

Clause 20

20 Notification of vacancy in Public Service *Gazette*

Basic requirement for notification of vacancy

- (1) Subject to this clause, a selection process for a decision to fill a vacancy meets the requirements of this Subdivision only if:
 - (a) the vacancy in the Department, or a similar vacancy, was notified in the *Public Service Gazette* within a period of 12 months before the written decision to engage or promote the successful applicant; and
 - (b) the vacancy was notified as open to all eligible members of the community; and
 - (c) the vacancy was notified with a closing date for applications of:
 - (i) at least 7 calendar days after the notification; or
 - (ii) if the Secretary was satisfied that there were special circumstances and the Secretary approved a shorter period—the end of that shorter period.

Restricting applications to Parliamentary Service employees (other than Parliamentary Service Level 1 and training classifications)

- (2) If the Secretary decides that, for reasons of cost or operational efficiency, a vacancy at a non-SES classification should be filled by a person who is already a Parliamentary Service employee, the vacancy may be notified in the *Public Service Gazette* as open only to persons who are Parliamentary Service employees at the time of the notification.
- (3) Subclause (2) does not apply in relation to a vacancy at Parliamentary Service Level 1 classification or a training classification, and these must be notified as open to all eligible members of the community.

Multiple Department notification

- (4) A Department participating in a multiple Department selection process must ensure as far as practicable that a specified vacancy is brought to the notice of the community in a way that gives eligible members of the community a reasonable opportunity to apply for it.

External advertising

- (5) A vacancy notified in the *Public Service Gazette* as open to all eligible members of the community must, if also advertised externally, be advertised within 4 weeks before or 4 weeks after the *Gazette* notification.

Example: A vacancy may be advertised externally on a recruitment website.

- (6) A vacancy notified in the Public Service *Gazette* as open only to persons who are Parliamentary Service employees must, if it is later advertised externally as open to all eligible members of the community, be re-notified in the Public Service *Gazette* as open to all eligible members of the community.

Meaning of Parliamentary Service employee

- (7) In this clause:

Parliamentary Service employee means a person who:

- (a) is a current ongoing Parliamentary Service employee or APS employee; or
- (b) was, at the time of the relevant Public Service *Gazette* notification, a non-ongoing Parliamentary Service employee (within the meaning of the *Parliamentary Service Act 1999*) or non-ongoing APS employee (within the meaning of the *Public Service Act 1999*).

21 Additional requirements for SES engagement or promotion decisions

A selection process for an SES vacancy meets the requirements of this Subdivision if, in addition to the requirements of clauses 19 and 20, the following apply:

- (a) the Commissioner, or a representative of the Commissioner, was a full participant in the selection process;
- (b) if a representative of the Commissioner participated in the selection process—the representative certified that the selection process complied with the Act and this Determination.

Subdivision 2—Merit-based decision-making: exceptions to standard provisions

22 Purpose of Subdivision

The purpose of this Subdivision is to:

- (a) modify the requirements of Subdivision 1; and
- (b) determine the scope or application of the Employment Principle mentioned in paragraph 10A(1)(c) of the Act in relation to engagement and promotion decisions in circumstances where this is appropriate.

23 Engagement on a short-term, irregular or intermittent basis

- (1) A Secretary may engage a person to perform duties as a non-ongoing Parliamentary Service employee if:
 - (a) the engagement is for a specified term or the duration of a specified task and the period of employment is 18 months or less; or
 - (b) the engagement is for duties that are irregular or intermittent.
- (2) A Secretary may extend or further extend an engagement mentioned in paragraph (1)(a) if:

Clause 23

- (a) there is a continuing need for the duties to be performed; and
- (b) the person engaged is performing the duties satisfactorily or better; and
- (c) the Secretary is satisfied that:
 - (i) it is still appropriate for the duties to be performed on a non-ongoing basis; and
 - (ii) the extension, or further extension, will contribute to efficient and effective organisational performance.

However, the total period of engagement (including any extension), must not exceed 3 years.

- (3) The Secretary must ensure as far as practicable that such a vacancy is brought to the notice of the community in a way that gives eligible members of the community a reasonable opportunity to apply for it.

Example: A vacancy may be brought to the notice of the community by being advertised or access being provided to non-ongoing employment registers.

- (4) As a minimum requirement, the Secretary must be satisfied that the person to be engaged has the work-related qualities genuinely required to perform the relevant duties.

Note: Clauses 15 and 16 provide for matters regarding the engagement of non-ongoing Parliamentary Service employees.

24 Engagement of non-ongoing Parliamentary Service employee as ongoing employee in exceptional circumstances

- (1) The Commissioner may authorise the engagement by a Secretary of a non-ongoing Parliamentary Service employee as an ongoing Parliamentary Service employee if:
- (a) the Secretary requests, in writing, such an authorisation in respect of the non-ongoing Parliamentary Service employee; and
 - (b) the Commissioner is satisfied that exceptional circumstances justify such an engagement.
- (2) A Secretary may only make a request in respect of a non-ongoing Parliamentary Service employee if the Secretary is satisfied that:
- (a) the duties of the relevant employment are more appropriately undertaken by an ongoing Parliamentary Service employee; and
 - (b) the person to be engaged as an ongoing Parliamentary Service employee has the work-related qualities genuinely required to perform the relevant duties; and
 - (c) the engagement as an ongoing Parliamentary Service employee is at the person's classification (or equivalent) as a non-ongoing Parliamentary Service employee; and
 - (d) the original engagement of the person as a non-ongoing Parliamentary Service employee, or an extension of the engagement of the person as a non-ongoing Parliamentary Service employee, complied with the requirements of Subdivision 1; and
 - (e) the engagement is necessary for the Department's operations.

25 Engagement of ongoing Parliamentary Service employee as non-ongoing Parliamentary Service employee

A Secretary may engage a person who is an ongoing Parliamentary Service employee as a non-ongoing Parliamentary Service employee if:

- (a) the person is to be engaged for a specified term or specified task; and
- (b) the person resigns as an ongoing Parliamentary Service employee to start the engagement; and
- (c) the engagement is at the same classification as the person's current classification or at a lower classification.

Note: Clauses 15 and 16 provide for matters regarding the engagement of non-ongoing Parliamentary Service employees.

26 Affirmative measure—Indigenous employment

- (1) A Secretary may, consistently with Commonwealth law, identify a vacancy as open only to Aboriginal and/or Torres Strait Islander persons.
- (2) The Secretary must ensure that for such a vacancy:
 - (a) eligible applicants are only persons:
 - (i) of Aboriginal and/or Torres Strait Islander descent; and
 - (ii) who identify as Aboriginal and/or Torres Strait Islander; and
 - (iii) who are accepted by their community as being Aboriginal and/or Torres Strait Islander; and
 - (b) either:
 - (i) the selection process for the vacancy otherwise satisfies the requirements of Subdivision 1; or
 - (ii) section 23 is satisfied.

Note: Clauses 15 and 16 provide for matters regarding the engagement of non-ongoing Parliamentary Service employees.

- (3) In this clause:

Aboriginal has the same meaning as in the *Racial Discrimination Act 1975*.

Torres Strait Islander has the same meaning as in the *Racial Discrimination Act 1975*.

27 Affirmative measure—disability

- (1) A Secretary may, consistently with Commonwealth law, identify a vacancy as open only to persons who have a disability or a particular type of disability.
- (2) The Secretary must ensure that for such a vacancy:
 - (a) eligible applicants are only persons described in subclause (1); and
 - (b) one of the following applies:
 - (i) the selection process for the vacancy otherwise satisfies the requirements of Subdivision 1;

Clause 29

- (ii) clause 23 is satisfied;
- (iii) a disability employment service provider has assessed each applicant as being likely to be unable to compete successfully on merit in a competitive selection process.

Note: Clauses 15 and 16 provide for matters regarding the engagement of non-ongoing Parliamentary Service employees.

29 Engagement of person from State or Territory jurisdiction

A Secretary may engage a person as a non-ongoing Parliamentary Service employee for a specified term if:

- (a) the person is an employee of:
 - (i) a State or Territory; or
 - (ii) an authority of a State or Territory; and
- (b) the Secretary has entered into an agreement with the State or Territory, or the authority of the State or Territory, to engage the person as a non-ongoing employee for a specified term.

Note: Clauses 15 and 16 provide for matters regarding the engagement of non-ongoing Parliamentary Service employees.

30 Re-engagement of election candidates

Person may apply to be re-engaged as a Parliamentary Service employee

- (1) A Secretary may engage a person as a Parliamentary Service employee if:
 - (a) the person is a former Parliamentary Service employee, whose employment ended because they resigned to contest:
 - (i) an election for a member of a House of the Parliament of the Commonwealth or of a State; or
 - (ii) an election for a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory; or
 - (iii) an election for a member of the Torres Strait Regional Authority; and
 - (b) section 32 of the Act (right of return for election candidates) applies to the person; and
 - (c) the person applies to the Secretary to be engaged as a Parliamentary Service employee within the applicable timeframe mentioned in subclause (2); and
 - (d) if the former employment was non-ongoing:
 - (i) the employment would not have ended except for the resignation; and
 - (ii) the person applies to the Secretary to be engaged before the employment would have ended if the person had not resigned.
- (2) A person mentioned in paragraph (1)(a) must apply to the Secretary:
 - (a) if the result of the election is not disputed—within 2 months after the declaration of the result of the election; or

- (b) if the result of the election is disputed—within 2 months after a court of disputed returns decides the petition disputing the result, or the petition is withdrawn or lapses; or
 - (c) if the Commissioner has made a declaration under subclause (3)—as soon as practicable after receiving notice of the declaration.
- (3) If the Commissioner is satisfied that it is appropriate to do so, the Commissioner may declare that the person is taken to be a former Parliamentary Service employee for the purposes of paragraph (2)(c).

Example: The Commissioner may make a declaration if the Department in which the person was employed no longer exists or is no longer responsible for duties that were previously carried out by the employee.

Basis on which person may be re-engaged as a Parliamentary Service employee

- (4) If the Secretary engages the person as a Parliamentary Service employee, the person must be:
- (a) engaged on the same basis (ongoing or non-ongoing) as the person's employment before resigning and at the same classification; and
 - (b) assigned duties that are the same as, or similar to, the duties the person had immediately before the resignation or, if such duties are unavailable, other duties at the same classification; and
 - (c) engaged on:
 - (i) the same terms and conditions of employment that applied to the person when the person resigned; or
 - (ii) if the remuneration, or another term or condition, applying to the person's previous classification has changed since the person resigned—the changed terms and conditions.
- (5) The person's continuity of service is taken not to have been broken by the period between the person's resignation and the person's re-engagement as a Parliamentary Service employee, but that period does not count as service for the purposes of:
- (a) the National Employment Standards; or
 - (b) an employment arrangement that applies to the person.

Note: For entitlements to long service leave and paid maternity leave, see the *Long Service Leave (Commonwealth Employees) Act 1976* and the *Maternity Leave (Commonwealth Employees) Act 1973*.

Specified elections

- (6) For the purposes of paragraph 32(1)(a) of the Act, the elections mentioned in subparagraphs (1)(a)(i), (ii) and (iii) are specified.

31 Promotion on completion of appointment to statutory office

- (1) A Secretary may, in writing, request the Commissioner to authorise the promotion of an ongoing Parliamentary Service employee without complying with Subdivision 1 if the following apply:

Clause 32

- (a) the employee was granted leave without pay for appointment to a statutory office of a kind that requires the Commissioner, or a representative of the Commissioner, to be a participant in the selection process for the office;
 - (b) the employee's appointment to the statutory office has not expired, or expired no more than 3 months before the Commissioner was asked to authorise the promotion;
 - (c) the duties to which the employee is to be assigned are assessed by the Secretary as being at a classification that is equivalent to, or lower than, the duties of the statutory office;
 - (d) the Secretary is satisfied that the employee has the work-related qualities to perform duties at the classification to which the employee is to be promoted.
- (2) The Commissioner may authorise the promotion.
- (3) In deciding whether to authorise the promotion the Commissioner may take into account the matters mentioned in paragraphs (1)(a) to (d) and any other matters that the Commissioner considers relevant, including:
- (a) the duration of the appointment; and
 - (b) the selection process for the appointment.

32 Engagement of an ongoing APS employee as an ongoing Parliamentary Service employee

A Secretary may engage a person who is an ongoing APS employee as an ongoing Parliamentary Service employee if the person is to be employed at a comparable classification or lower, as set out in Schedule 2.

Note: See sections 26 and 26A of the Act for the engagement of an ongoing APS employee as an ongoing or non-ongoing Parliamentary Service employee.

33 Re-engagement of a former Parliamentary Service employee

- (1) The relevant Secretary may engage a former Parliamentary Service employee as an ongoing or non-ongoing Parliamentary Service employee if:
- (a) the Secretary is satisfied that the person's former employment should not have ended; or
 - (b) the engagement will settle legal action relating to the termination of the employee's employment; or
 - (c) an appropriate authority has recommended or ordered the reinstatement of the person.
- Note: An appropriate authority includes, for example, the Federal Court of Australia, the Fair Work Commission or the Australian Human Rights Commission.
- (2) The person must be engaged:
- (a) on the same basis (ongoing or non-ongoing) as the person was when formerly employed; and
 - (b) at the same or a lower classification.

Division 4—Assignment of duties and movement between Departments

35A Moves between Departments not associated with promotion

- (1) This clause applies if:
 - (a) a Secretary enters into a written agreement with an ongoing Parliamentary Service employee for the employee to move to the Secretary's Department (the *new Department*) from another Department (the *original Department*); and
 - (b) the movement between Departments is not associated with a promotion.
- (2) The move takes effect:
 - (a) in the case of an ongoing move:
 - (i) if a date of effect has been agreed by the Parliamentary Service employee and the 2 Secretaries—on the agreed date of effect; and
 - (ii) if a date of effect has not been agreed—4 weeks after the Parliamentary Service employee informs the original Secretary in writing; and
 - (b) in the case of a temporary move:
 - (i) if the original Secretary has approved it in writing—on the date of effect specified in the approval; and
 - (ii) if the original Secretary has not approved it in writing—on the date the Parliamentary Service employee begins duties in the new Department. The move has the effect of an ongoing move to the new Department at the Parliamentary Service employee's existing classification.
- (3) In the case of an agreed temporary move, an agreement between the new Secretary and the Parliamentary Service employee to vary the period of the move:
 - (a) if approved by the original Secretary in writing—has effect according to its terms; and
 - (b) if not approved by the original Secretary in writing—has no effect.

Movement between Departments in cases of a suspected breach of the Code of Conduct

- (4) Despite subclause (2), if:
 - (a) a Parliamentary Service employee is suspected of having breached the Code of Conduct and is formally advised of the suspected breach in accordance with procedures established under subsection 15(3) or 48A(2) of the Act; and
 - (b) the matter to which the suspected breach relates has not yet been resolved;

Clause

then, unless the Parliamentary Service employee's current Secretary and the new Secretary agree otherwise, a move by the Parliamentary Service employee does not take effect until the matter to which the suspected breach relates is resolved.

- (5) For the purposes of subclause (4), the matter to which the suspected breach relates is taken to be resolved when:
- (a) a determination is made as to whether the Parliamentary Service employee has breached the Code of Conduct; or
 - (b) it is decided that such a determination is not necessary.

35B Moves between Departments on promotion

- (1) If:
- (a) a decision is taken to promote a Parliamentary Service employee; and
 - (b) the Parliamentary Service employee is suspected of having breached the Code of Conduct and is formally advised of the suspected breach in accordance with procedures established under subsection 15(3) or 48A(2) of the Act; and
 - (c) the matter to which the suspected breach relates is not resolved before the Parliamentary Service employee moves to take up the promotion;
- then, unless the Parliamentary Service employee's current Secretary and the new Secretary agree otherwise, the Parliamentary Service employee's promotion does not take effect until the matter to which the suspected breach relates is resolved.
- (2) For the purposes of subclause (1), the matter to which the suspected breach relates is taken to be resolved when:
- (a) a determination is made as to whether the Parliamentary Service employee has breached the Code of Conduct; or
 - (b) it is decided that such a determination is not necessary.

35C Movement from an APS agency in cases of a suspected breach of the APS Code of Conduct

- (1) If:
- (a) an APS employee is suspected of having breached the APS Code of Conduct and is formally advised of the suspected breach in accordance with procedures established under subsection 15(3), 41B(3) or 50A(2) of the *Public Service Act 1999*; and
 - (b) the matter to which the suspected breach relates is not resolved before the APS employee moves to a Department under section 26 of the Act;
- then, unless the head of the APS agency in which the employee is employed and the Secretary of the Department to which the employee would be moving agree otherwise, the movement does not take effect until the matter to which the suspected breach relates is resolved.
- (2) For the purposes of subclause (1), the matter to which the suspected breach relates is taken to be resolved when:
-

- (a) a determination is made as to whether the APS employee has breached the APS Code of Conduct; or
- (b) it is decided that such a determination is not necessary.

Part 3 Parliamentary Service employment

Division 4 Assignment of duties and movement between Departments

Clause 35C

(3) In this clause:

APS Code of Conduct means the rules in section 13 of the *Public Service Act 1999*.

Division 5—Notification of employment decisions

38 Purpose of Division

The purpose of this Division is to:

- (a) set out requirements for notifying certain employment decisions in the *Public Service Gazette*; and
- (b) provide for the date of effect of a promotion decision.

39 Gazettal of employment decisions

Decisions that must be notified

- (1) A Secretary must notify the following employment decisions in the *Public Service Gazette*:
 - (a) the promotion of an ongoing Parliamentary Service employee;
 - (b) the promotion of an ongoing Parliamentary Service employee, following the decision of a Promotion Review Committee under subparagraph 90(1)(b)(ii) that has not been notified under paragraph (a);
 - (c) the engagement, promotion or assignment of duties of a person made in accordance with an Independent Selection Advisory Committee recommendation;
 - (d) the engagement of an ongoing APS employee as an ongoing Parliamentary Service employee at a higher classification than the person's current classification as an APS employee;
 - (e) the termination of the employment of an ongoing Parliamentary Service employee on the ground mentioned in paragraph 29(3)(g) of the Act (breach of the Code of Conduct).

Time within which notification must be made

- (2) A decision must be notified in the *Public Service Gazette* within 3 months after the decision is made, unless the Commissioner agrees to a different arrangement.
- (3) For an employment decision to engage or promote a person that is made on the basis that the person is required to satisfy an eligibility requirement, the 3 month period mentioned in subclause (2) is taken to commence at the time the eligibility requirement is met.

Note: Examples of an eligibility requirement include a security or character clearance.

Notification generally to include employee's name

- (4) A notification must include the employee's name unless the Secretary decides that the name should not be included because of the person's work-related or personal circumstances.
- (5) If a notification does not include the employee's name and relates to a promotion that is subject to review, the Department must:

Clause 40

- (a) on or before the day the decision is notified, notify all parties eligible to seek review of the promotion of their rights of review; and
- (b) at the same time as parties are notified, advise the Merit Protection Commissioner that eligible parties have been notified.

Notification relating to a former ongoing APS employee

- (6) If an employment decision is made to engage a person at a higher classification than the person's current classification as an APS employee, the notification must include a statement to the following effect:

This engagement of an ongoing APS employee at a higher classification may be subject to review by a Promotion Review Committee in accordance with Part 9 of the Parliamentary Service Determination 2013.

40 Gazettal when decisions previously notified are cancelled

Decisions that must be notified

- (1) A Secretary must notify a decision (a **cancellation decision**) to cancel the following employment decisions in the Public Service *Gazette*:
 - (a) a promotion notified under paragraph 39(1)(a) (in a case where the cancellation decision is made by the Secretary);
 - (b) a promotion notified under paragraph 39(1)(a) or (b) (in a case where the cancellation decision is the result of a decision of a Promotion Review Committee);
 - (c) an engagement, promotion or assignment of duties notified under paragraph 39(1)(c);
 - (d) the engagement of an ongoing APS employee as an ongoing Parliamentary Service employee under paragraph 39(1)(d);
 - (e) a termination notified under paragraph 39(1)(e).

Time within which notification must be made

- (2) A cancellation decision must be notified in the Public Service *Gazette* within 3 months after the cancellation decision is made.

Requirements of notification

- (3) Notification of a cancellation decision must include:
 - (a) the date that the cancellation decision took effect; and
 - (b) the person's name, unless this was not included in the original notification.

41 When promotion decisions take effect

- (1) This clause applies in respect of a decision (a **promotion decision**) to:
 - (a) promote an ongoing Parliamentary Service employee; or

- (b) engage an ongoing APS employee as an ongoing Parliamentary Service employee at a classification that is higher than the employee's APS classification, worked out in accordance with clause 2 of the Schedule 2.

Note: Clause 81 sets out requirements for review applications.

- (2) If a promotion decision is not subject to PRC review, the decision takes effect:
- (a) if a date of effect has been agreed by the relevant parties and is after the day the decision is notified in the *Public Service Gazette*—on that date; or
 - (b) otherwise—4 weeks after the day the decision is notified in the *Public Service Gazette*.
- (3) A promotion decision that is subject to PRC review takes effect on the date mentioned in column 3 of an item in the following table in the circumstances mentioned in column 2 of the item:

When promotion decisions take effect		
Column 1	Column 2	Column 3
Item	If the promotion decision is subject to PRC review and	then, the decision takes effect ...
1	no application for review is made before the end of the period within which an application for PRC review of the decision may be made	(a) if a date of effect has been agreed by the relevant parties and is after the application period ends—on that date; or (b) 2 weeks after the end of the application period
2	an application for review is made but withdrawn before the PRC makes a decision on the application	(a) if a date of effect has been agreed by the relevant parties and is after the application period ends—on that date; or (b) 2 weeks after the day the Secretary is notified that the application was withdrawn
3	an application for review is made but the application lapses before the PRC completes its review	(a) if a date of effect has been agreed by the relevant parties and is after the Secretary is notified that the application has lapsed—on that date; or (b) 2 weeks after the day the Secretary is notified that the application has lapsed
4	an application for review is made but the Merit Protection Commissioner decides under clause 82 that it is unnecessary to appoint a PRC to consider the application	(a) if a date of effect has been agreed by the relevant parties and is after the Secretary is notified of the decision of the Merit Protection Commissioner—on that date; or (b) the later of: (i) the day the Secretary is notified; and

Part 3 Parliamentary Service employment
Division 5 Notification of employment decisions

Clause 41

When promotion decisions take effect		
Column 1	Column 2	Column 3
Item	If the promotion decision is subject to PRC review and	then, the decision takes effect ...
		(ii) 4 weeks after the day the decision is notified in the <i>Public Service Gazette</i>
5	an application for review is made and the PRC upholds the promotion decision	(a) if a date of effect has been agreed by the relevant parties and is after the Secretary is notified of the PRC's decision—on that date; or (b) 4 weeks after the day the Secretary is notified of the PRC's decision
6	an application for review is made and the PRC varies the promotion decision	(a) if a date of effect has been agreed by the relevant parties and is after the Secretary is notified of the PRC's decision—on that date; or (b) 4 weeks after the day the Secretary is notified of the PRC's decision

(4) This clause is subject to clauses 35B and 35C.

(5) In this clause:

PRC review means review by a Promotion Review Committee under Part 9 of this determination.

Division 6—Employer powers of Secretaries

42 Definition

In this Division:

nominated medical practitioner means a person who is:

- (a) registered or licensed as a health practitioner under a law of a State or Territory that provides for the registration or licensing of health practitioners; and
- (b) nominated by a Secretary to assess the fitness for duty of a Parliamentary Service employee in the Secretary's Department.

43 Condition of engagement—health clearance

- (1) This clause applies to a Parliamentary Service employee whose engagement in a Department is subject, under paragraph 22(6)(e) of the Act, to a condition dealing with health clearances.
- (2) While the engagement is subject to the condition:
 - (a) the Secretary of the Department may, in writing, direct the employee to do either or both of the following within a specified period:
 - (i) undergo a medical examination by a nominated medical practitioner;
 - (ii) give the Secretary a report of the examination; and
 - (b) the nominated medical practitioner may give the relevant Secretary a report of the examination.

Note: Arrangements will be made in Departments to ensure that employees know the period in which an engagement is subject to a condition dealing with health clearances.

44 Direction to attend medical examination

- (1) If a circumstance mentioned in subclause (2), (3) or (4) applies, a Secretary may give a Parliamentary Service employee in the Secretary's Department a written direction to do either or both of the following:
 - (a) undergo an examination by a nominated medical practitioner, either at a time, or within a period, specified by the Secretary in the direction;
 - (b) give the Secretary a report of the examination.
- (2) A circumstance is that the Secretary believes that the state of health of the employee:
 - (a) may be affecting the employee's work performance; or
 - (b) has caused, or may cause, the employee to have an extended absence from work; or
 - (c) may be a danger to the employee; or
 - (d) has caused, or may cause, the employee to be a danger to other employees or members of the public; or
 - (e) may be affecting the employee's standard of conduct.

Clause 45

- (3) A circumstance is that the employee is to be assigned new duties and the Secretary believes the employee's state of health may affect the employee's ability to undertake the duties.
- (4) A circumstance is that the employee is to travel overseas as part of the employee's employment.
- (5) The nominated medical practitioner may give the Secretary a report of the examination.

45 Workforce participation schemes

- (1) A Secretary may approve a scheme to assist persons engaged for a specified term, or for the duration of a specified task, in the relevant Department, to gain skills and experience to enhance workforce participation.
- (2) The approval of the scheme must be notified in the *Public Service Gazette* within 14 days of the day the scheme is approved.

45A Suspension from duties

- (1) A Secretary may suspend a Parliamentary Service employee employed in the Secretary's Department from duties if the Secretary believes on reasonable grounds that:
 - (a) the employee has, or may have, breached the Code of Conduct; and
 - (b) the employee's suspension is in the public, or the Department's, interest.
- (2) The suspension may be with remuneration.
- (3) If the suspension is to be without remuneration, the period without remuneration is to be:
 - (a) not more than 30 days; or
 - (b) if exceptional circumstances apply—a longer period.
- (4) The Secretary must review the suspension at reasonable intervals.
- (5) The Secretary must immediately end the suspension if the Secretary no longer believes on reasonable grounds:
 - (a) that the Parliamentary Service employee has, or may have, breached the Code of Conduct; or
 - (b) that the Parliamentary Service employee's suspension is in the public, or the Department's, interest.
- (6) The Secretary must immediately end the suspension if a sanction has been imposed on the Parliamentary Service employee for the relevant breach of the Code of Conduct.
- (7) In exercising powers under this clause, the Secretary must have due regard to procedural fairness unless the Secretary is satisfied on reasonable grounds that, in the particular circumstances, it would not be appropriate.

Part 5—Performance management

51 Achieving effective performance

A Secretary upholds the Employment Principle mentioned in paragraph 10A(1)(d) of the Act by ensuring that:

- (a) the Department has performance management policies and processes that support a culture of high performance; and
- (b) performance by Parliamentary Service employees in the Department is effectively managed; and
- (c) each Parliamentary Service employee in the Department is given a clear statement of the performance and behaviour expected of the employee, and an opportunity to discuss their duties; and
- (d) each Parliamentary Service employee in the Department is required to participate constructively in performance management processes; and
- (e) fair and effective measures are in place to address underperformance by a Parliamentary Service employee in the Department.

Note: Paragraph 10A(1)(d) of the Act provides that the Parliamentary Service is a career-based service that requires effective performance from each employee.

52 Managing performance in cases of a potential breach of the Code of Conduct

A Secretary must have regard to any relevant standards and guidance issued by the Commissioner if:

- (a) a Parliamentary Service employee in the Department has engaged in conduct that:
 - (i) may breach the Code of Conduct; or
 - (ii) raises concerns relating to effective performance; and
- (b) the Secretary is considering whether to initiate an inquiry under procedures established by the Secretary under subsection 15(3) of the Act.

Part 7—Code of Conduct

54 Allegations of breach of Code of Conduct by Secretary or statutory office holder

- (1) If an allegation, other than a public interest disclosure (within the meaning of the *Public Interest Disclosure Act 2013*) is made about conduct by a Secretary or a statutory office holder amounting to a breach of the Code of Conduct, the allegation must be referred to the Presiding Officers.
- (2) If the Presiding Officers consider that the matter may warrant investigation, the Presiding Officers may refer the matter to the Commissioner:
 - (a) for advice; or
 - (b) for inquiry and a report in accordance with paragraph 40(1)(b) of the Act.
- (3) The Presiding Officers may request the Commissioner to include recommendations in the report, in accordance with subsection 40(2) of the Act.
- (4) In this clause:

statutory office holder:

- (a) means a person who holds an office or appointment under this Act, being an office or appointment prescribed by clause 57 for the purposes of the definition of *statutory office holder* in subsection 14(3) of the Act; and
- (b) does not include the Commissioner.

56 Duty not to disclose information

- (1) This clause sets out conduct requirements made for subsection 13(13) of the Act.
- (2) This clause does not affect other restrictions on the disclosure of information.
- (3) A Parliamentary Service employee must not disclose information which the employee obtains or generates in connection with his or her employment if the information:
 - (a) was, or is to be, communicated in confidence:
 - (i) to or by the Presiding Officers, a committee of either House or a joint committee, a Senator or a Member of the House of Representatives;
or
 - (ii) within the Parliamentary Service; or
 - (b) was received in confidence from a person or persons outside the Parliament or the Parliamentary Service who has not, or have not, given permission for the disclosure;
whether or not the disclosure would found an action for breach of confidence.
- (4) Subclause (3) does not prevent a disclosure of information by a Parliamentary Service employee if:

-
- (a) the information is disclosed in the course of the employee's duties; or
 - (b) the information is disclosed in accordance with an authorisation given by:
 - (i) a Secretary; or
 - (ii) the Parliamentary Librarian in relation to information acquired or created in connection with the functions of the Parliamentary Librarian as set out in section 38B of the Act; or
 - (c) the disclosure is otherwise authorised by law; or
 - (d) the information that is disclosed:
 - (i) is already in the public domain as the result of a disclosure of information that is lawful under this determination or another law; and
 - (ii) can be disclosed without disclosing, expressly or by implication, other information to which subclause (3) applies.
- (5) Subclause (3) does not limit the authority of a Secretary to give lawful and reasonable directions in relation to the disclosure of information.
- (6) Nothing in this clause affects the provision of advice to a House, a committee or a member of either House by a Parliamentary Service employee for the purpose of the performance of the duties or functions of a House, a committee or a member of either House.

Note: See section 70 of the *Crimes Act 1914* for the circumstances in which publication or communication by a Parliamentary Service employee of a fact or document is an offence.

57 Statutory office holder bound by Code of Conduct

- (1) For the definition of **statutory office holder** in subsection 14(3) of the Act, an office is prescribed if:
 - (a) the office is held by a person who is engaged or employed under the Act; and
 - (b) the holder is assisted by, or has dealings with, Parliamentary Service employees in a supervisory capacity, or in another capacity related to the holder's day to day working relationship with Parliamentary Service employees; and
 - (c) the office is not an office of Secretary.
- (2) For the definition of **statutory office holder** in subsection 14(3) of the Act, an appointment is prescribed if:
 - (a) the appointment is the appointment of a person under the Act; and
 - (b) the appointee is assisted by, or has dealings with, Parliamentary Service employees in a supervisory capacity or another capacity related to the appointee's day to day working relationship with Parliamentary Service employees; and
 - (c) the appointment is not an appointment as Secretary.
- (3) For subsection 14(2A) of the Act:
 - (a) a statutory office holder is bound by the Code of Conduct only to the extent to which the statutory office holder:

Clause 58

- (i) is assisted by Parliamentary Service employees in a supervisory capacity or another capacity related to the statutory office holder's day to day working relationship with Parliamentary Service employees; or
 - (ii) deals with Parliamentary Service employees in a supervisory capacity, or in another capacity related to the statutory office holder's day to day working relationship with Parliamentary Service employees; and
- (b) if there is an inconsistency between the requirements of:
- (i) the Code of Conduct; and
 - (ii) an Australian law that relates to a statutory office holder's office or appointment;
- the Code of Conduct does not bind the statutory office holder to the extent of the inconsistency.

Note: The Code of Conduct requires the upholding of the Parliamentary Service Values and Parliamentary Service Employment Principles, among other things.

- (4) For subsection 14(2A) of the Act, a statutory office holder is bound by the Code of Conduct as if the Code of Conduct referred to the statutory office holder's office or appointment and matters related to the office or appointment.

58 Limitation on sanctions for breaches of Code of Conduct

A deduction from the salary of a Parliamentary Service employee imposed under paragraph 15(1)(e) of the Act must not be more than 2% of the employee's annual salary.

Part 8—ISACs

59 Function of ISAC

- (1) The function of an ISAC is to make recommendations to a Secretary about the suitability of candidates for:
 - (a) engagement connected with employment in the Department; or
 - (b) promotion to employment in the Department; or
 - (c) assignment to duties in connection with employment in the Department.
- (2) The employment must be at a classification mentioned in any of Groups 1 to 6 set out in Schedule 1 to the Classification Rules, as in force immediately before 1 July 2013.

60 Establishment of ISAC

- (1) The Merit Protection Commissioner may establish an ISAC at the request of a Secretary.
- (2) The Merit Protection Commissioner may charge the Secretary a fee for carrying out functions for the Secretary under this Part.

61 Constitution of ISAC

- (1) An ISAC must comprise:
 - (a) a Convenor nominated by the Merit Protection Commissioner; and
 - (b) a person nominated by the relevant Secretary; and
 - (c) a Parliamentary Service employee nominated by the Merit Protection Commissioner.
- (2) The Merit Protection Commissioner must be satisfied that the Parliamentary Service employee nominated under paragraph (1)(c) has the skills and personal qualities necessary to undertake his or her role independently and impartially.
- (3) The Parliamentary Service employee nominated under paragraph (1)(c) must be made available for the purposes of the ISAC, subject to the operational efficiency of the Department in which he or she is employed.
- (4) If a member of an ISAC ceases to act as a member before the ISAC has made its recommendation to the relevant Secretary, the ISAC is to be reconstituted by the remaining members and another member nominated in accordance with subclause (1).
- (5) The reconstituted ISAC must have regard to matters put before, or decided by, the ISAC as previously constituted.
- (6) A person is not subject to direction in carrying out his or her duties as a member of an ISAC, except:

Clause 62

- (a) by a Court; or
- (b) by instructions issued under clause 63.

62 ISAC procedures—minimum requirements

- (1) The procedures used by an ISAC in performing its functions under this Part must meet the following minimum requirements:
 - (a) the procedures must have due regard to procedural fairness;
 - (b) the functions must be carried out in private;
 - (c) the functions of the ISAC must be finished as quickly, and with as little formality, as a proper consideration of the matter allows.
- (2) A person appearing before an ISAC must do so without representation unless the Merit Protection Commissioner decides that, in all the circumstances, it would be reasonable to allow the person to be represented.

63 ISAC procedures—Merit Protection Commissioner’s instructions

- (1) The Merit Protection Commissioner must, as soon as practicable after the commencement of this clause, issue instructions about the procedures to be followed by an ISAC in performing its functions under this Part.
- (2) The Merit Protection Commissioner may issue instructions, in writing, about the procedures to be followed by a Secretary who is appointed, under subclause 65(3), to act on behalf of an ISAC in performing the functions of the ISAC under this Part.
- (3) The instructions must not be inconsistent with the Act or this determination.
- (4) An ISAC, or a Secretary appointed under subclause 65(3) to act on behalf of an ISAC, must comply with the instructions.

64 Assistance to ISAC

The Merit Protection Commissioner must take all reasonable steps to ensure that staff and other resources are available to assist an ISAC to carry out its functions efficiently and effectively.

65 Assessment and recommendation by ISAC

- (1) If an ISAC is established in respect of a vacancy, the ISAC must:
 - (a) assess the relative merits of the candidates for the relevant employment on the basis of:
 - (i) the relative suitability of the candidates for the duties; and
 - (ii) the relationship between the candidates’ work-related qualities and the work-related qualities genuinely required for the duties; and
 - (iii) the relative capacity of the candidates to achieve outcomes related to the duties; and
 - (b) report on the assessment to the relevant Secretary; and

- (c) make a recommendation to the Secretary, primarily on the basis of the assessment, as to which candidate it considers to be the most suitable for the relevant employment.
- (2) In conducting an assessment under subclause (1), the ISAC may seek and accept expert opinion about the work-related qualities and capabilities of candidates.
- (3) The ISAC may appoint the relevant Secretary to act on behalf of the ISAC in conducting some or all of an assessment under subclause (1).
- (4) The Secretary:
 - (a) must act in accordance with instructions given to the Secretary by the ISAC; and
 - (b) must act in accordance with instructions from the Merit Protection Commissioner only to the extent that the Secretary is appointed as an agent of the ISAC under subclause (3).
- (5) If the ISAC considers that none of the candidates is suitable for the relevant employment, the ISAC must make a recommendation to the Secretary to that effect.

66 Non-agreement on recommendation by ISAC

- (1) This clause applies if all members of an ISAC do not agree on a recommendation.
- (2) If 2 members agree on a recommendation, that recommendation is taken to be the recommendation of the ISAC.
- (3) If there is no agreement between any of the members, the Convenor's recommendation is taken to be the recommendation of the ISAC.

67 ISAC recommendation not binding

The recommendation of an ISAC is not binding on a Secretary.

68 Effect of acting on ISAC recommendation

- (1) An engagement, promotion or assignment of duties made in accordance with an ISAC recommendation is not subject to review under Part 9.
- (2) The engagement, promotion or assignment of duties must be notified in the Public Service *Gazette* as having been made in accordance with an ISAC recommendation.

Note: This subclause also applies to any subsequent engagement, promotion or assignment of duties made by a Secretary in accordance with an ISAC recommendation.

- (3) The engagement, promotion or assignment of duties is not affected by:
 - (a) a defect in the nomination of a member of the ISAC; or
 - (b) a failure to comply with the instructions issued under clause 63.

Clause 69

69 Effect of not acting in accordance with ISAC recommendation

- (1) If, instead of acting in accordance with an ISAC recommendation of a candidate in respect of a vacancy, a Secretary promotes another ongoing Parliamentary Service employee to the relevant employment, the promotion is subject to review under Division 2 of Part 9.
- (2) However, subclause (1) does not apply if:
 - (a) either of the following occurs after the ISAC has made its recommendation:
 - (i) the candidate is found to have breached the Code of Conduct and the Secretary believes that the candidate is no longer suitable for the vacancy;
 - (ii) the candidate has lost a qualification which is essential for the candidate's suitability for the vacancy; and
Example: A security clearance.
 - (b) the Secretary has consulted with the Merit Protection Commissioner about the candidate; and
 - (c) the Secretary acts in accordance with the recommendation of the ISAC in relation to the next suitable candidate.
- (3) The promotion must be notified in the *Public Service Gazette* as a promotion decision that is subject to review under Division 2 of Part 9.

70 Offence

- (1) A person commits an offence if the person obstructs an ISAC in carrying out its functions under this Part.

Penalty: 10 penalty units.
- (2) Strict liability applies to the physical element of an offence against subclause (1) that the functions being carried out by the ISAC were functions under this Part.

Part 9—Review of actions

Division 1—Preliminary

71 General policy about review

- (1) Parliamentary Departments should achieve and maintain workplaces that encourage productive and harmonious working environments.
- (2) It is intended that this Part should provide for a fair system of review of Parliamentary Service actions.
- (3) The concerns of Parliamentary Service employees are intended to be dealt with quickly, impartially, and fairly.
- (4) The review processes are intended to be consistent with the use of alternative dispute resolution methods to reach satisfactory outcomes where appropriate.
- (5) Nothing in this Part is intended to prevent an application for review from being resolved by conciliation or other means at any time before the review process is completed.

72 Outline of Part

This Part makes provision in relation to the following matters:

- (a) the entitlement of Parliamentary Service employees to review of certain promotion decisions and other Parliamentary Service actions;
- (b) the entitlement of ongoing APS employees to review of certain promotion decisions;
- (c) the entitlement of Parliamentary Service employees and ongoing APS employees to review of certain engagement decisions;
- (d) the responsibilities and powers of Secretaries and the Merit Protection Commissioner in relation to review of Parliamentary Service actions;
- (e) the role and powers of PRCs constituted for the review of a decision mentioned in this clause.

Note: A reporting power for the Merit Protection Commissioner is set out in subsection 33(6) of the Act.

73 Review of certain promotion and engagement decisions

Division 2 of this Part provides for applications for review of certain promotion decisions and engagement decisions to be made to the Merit Protection Commissioner for review by a PRC.

Note: A decision by a PRC is binding on a Secretary—see subclause 92(1).

Clause 74

74 Review of other Parliamentary Service action

Division 3 of this Part provides for:

- (a) applications for primary review of other Parliamentary Service actions to be made to the relevant Secretary or, in certain circumstances, to the Merit Protection Commissioner; and
- (b) applications for secondary review of actions that were the subject of primary review by a Secretary to be made to the Merit Protection Commissioner.

Note: A recommendation made on an application to the Merit Protection Commissioner for primary or secondary review is not binding on a Secretary: see clause 104.

75 Secretary's responsibility

A Secretary is responsible for ensuring that applications for review can be dealt with in accordance with:

- (a) this Division; and
- (b) the Secretary's responsibility to uphold and promote the Parliamentary Service Values and the Parliamentary Service Employment Principles.

76 Definition

In this Part:

PRC decision means a decision by a PRC.

relevant employment means employment as an ongoing Parliamentary Service employee at a classification mentioned in any of Groups 1 to 6 set out in Schedule 1 to the Classification Rules, as in force immediately before 1 July 2013.

Division 2—Review of certain Parliamentary Service promotion decisions and engagement decisions (including decisions involving APS employees)

77 Application of Division 2

- (1) This Division applies if:
 - (a) a decision (a *promotion decision*) is made by a Secretary to promote an ongoing Parliamentary Service employee to employment at a classification mentioned in any of Groups 1 to 6 set out in Schedule 1 to the Classification Rules (as in force immediately before 1 July 2013); and
 - (b) the promotion decision is not made in accordance with the recommendation of an ISAC; and
 - (c) the promotion decision is not made in accordance with a PRC decision.
- (2) This Division also applies if:
 - (a) an engagement decision is made by a Secretary to engage an ongoing APS employee as an ongoing Parliamentary Service employee at a classification mentioned in any of Groups 1 to 6 set out in Schedule 1 to the Classification Rules (as in force immediately before 1 July 2013); and
 - (b) the engagement decision is not made in accordance with the recommendation of an ISAC; and
 - (c) the engagement decision is not made in accordance with a PRC decision.
- (3) In this Division, a decision to engage an ongoing APS employee is an *engagement decision* if the engagement is at a higher classification than the ongoing APS employee's classification as an APS employee, worked out in accordance with clause 2 of Schedule 2.

78 Entitlement for review—promotion decision

- (1) If:
 - (a) an ongoing Parliamentary Service employee applies for promotion to relevant employment; and
 - (b) a promotion decision is made in relation to the relevant employment;the ongoing Parliamentary Service employee is entitled to apply to the Merit Protection Commissioner to have the promotion decision reviewed by a PRC.

Note: A PRC may be appointed to deal with:

- (a) applications from Parliamentary Service employees and APS employees in relation to the same promotion decision; and
 - (b) applications relating to promotion decisions and engagement decisions.
- (2) If:
 - (a) an ongoing APS employee applies for engagement to relevant employment; and

Part 9 Review of actions

Division 2 Review of certain Parliamentary Service promotion decisions and engagement decisions (including decisions involving APS employees)

Clause 79

(b) the engagement would be at a higher classification than the APS employee's classification as an APS employee worked out in accordance with clause 2 of Schedule 2; and

(c) a promotion decision is made in relation to the relevant employment; the ongoing APS employee is entitled to apply to the Merit Protection Commissioner to have the promotion decision reviewed by a PRC.

Note: A PRC may be appointed to deal with:

- (a) applications from Parliamentary Service employees and APS employees in relation to the same promotion decision; and
- (b) applications relating to promotion decisions and engagement decisions.

79 Entitlement for review—engagement decision

(1) If:

(a) an ongoing Parliamentary Service employee applies for promotion to relevant employment; and

(b) an engagement decision is made in relation to the relevant employment; the ongoing Parliamentary Service employee is entitled to apply to the Merit Protection Commissioner to have the engagement decision reviewed by a PRC.

Note: A PRC may be appointed to deal with:

- (a) applications from Parliamentary Service employees and APS employees in relation to the same promotion decision; and
- (b) applications relating to promotion decisions and engagement decisions.

(2) If:

(a) an ongoing APS employee applies for engagement to relevant employment; and

(b) the engagement would be at a higher classification than the APS employee's classification as an APS employee; and

(c) an engagement decision is made in relation to the relevant employment; the ongoing APS employee is entitled to apply to the Merit Protection Commissioner to have the engagement decision reviewed by a PRC.

Note: A PRC may be appointed to deal with:

- (a) applications from Parliamentary Service employees and APS employees in relation to the same promotion decision; and
- (b) applications relating to promotion decisions and engagement decisions.

80 Grounds for review

A promotion decision or engagement decision may only be reviewed under this Division on the grounds of merit.

Note: It is a Parliamentary Service Employment Principle that employment decisions are based on merit: see paragraph 10A(1)(c) of the Act. A decision relating to engagement or promotion is based on merit if the matters set out in subsection 10A(2) of the Act are satisfied.

81 Application for review

- (1) An application for review of a promotion decision under this Division must:
 - (a) be in writing; and
 - (b) be received by the Merit Protection Commissioner:
 - (i) within:
 - (A) the period specified in the *Public Service Gazette* as part of notifying the promotion; or
 - (B) if the Merit Protection Commissioner has given an extension of time to a class of employees before the end of the period mentioned in subparagraph (A)—that extension of time; and
 - (ii) at the place specified in the *Public Service Gazette*.
- (2) An application for review of an engagement decision under this Division must:
 - (a) be in writing; and
 - (b) be received by the Merit Protection Commissioner:
 - (i) within:
 - (A) the period specified in the *Public Service Gazette* as part of notifying the engagement; or
 - (B) if the Merit Protection Commissioner has given an extension of time to a class of employees before the end of the period mentioned in subparagraph (A)—that extension of time; and
 - (ii) at the place specified in the *Public Service Gazette*.
- (3) The making of an application for review of a promotion decision or engagement decision under this Division operates to stay the decision until it takes effect in accordance with Part 3 of this determination.

82 Appointment of PRC

- (1) If the Merit Protection Commissioner receives an application for review of a promotion decision or an engagement decision under this Division, the Merit Protection Commissioner must:
 - (a) consider the circumstances in which the application was made; and
 - (b) if he or she believes that a review of the promotion decision or engagement decision is necessary—appoint a PRC to deal with the application.
- (2) A particular PRC may be appointed to deal with:
 - (a) applications by ongoing Parliamentary Service employees and ongoing APS employees for review of a promotion decision; and
 - (b) applications by ongoing Parliamentary Service employees and ongoing APS employees for review of an engagement decision; and
 - (c) applications in relation to more than one promotion or engagement decision.

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Division 2 Review of certain Parliamentary Service promotion decisions and engagement decisions (including decisions involving APS employees)

Clause 83

83 Constitution of PRC

- (1) A PRC must comprise:
 - (a) a Convenor nominated by the Merit Protection Commissioner; and
 - (b) a Parliamentary Service employee nominated by the relevant Secretary; and
 - (c) a Parliamentary Service employee nominated by the Merit Protection Commissioner.
- (2) The Merit Protection Commissioner must be satisfied that the Parliamentary Service employee nominated under paragraph (1)(c) has the skills and personal qualities necessary to undertake his or her role independently and impartially.
- (3) The Parliamentary Service employee nominated under paragraph (1)(c) must be made available for the purposes of the PRC, subject to the operational efficiency of the Department in which he or she is employed.
- (4) If a member of a PRC ceases to act as a member before the PRC has made its recommendation to the relevant Secretary, the PRC is to be reconstituted by the remaining members and another member nominated in accordance with subclause (1).
- (5) The reconstituted PRC must have regard to matters put before, or decided by, the PRC as previously constituted.
- (6) A person is not subject to direction in carrying out his or her duties as a member of a PRC, except:
 - (a) by a Court; or
 - (b) by instructions issued under clause 87.

84 Statements by parties

- (1) An applicant for review of a promotion decision, and the person promoted, must each give the Merit Protection Commissioner a statement in writing setting out his or her claim for promotion or engagement to the relevant employment.
- (2) An applicant for review of an engagement decision, and the person engaged, must each give the Merit Protection Commissioner a statement in writing setting out his or her claim for promotion or engagement to the relevant employment.
- (3) The statement must be given within 14 days after the closing date for lodging applications for review of the decision.
- (4) However if:
 - (a) within that 14 days, the applicant, or the person promoted or engaged, asks the Merit Protection Commissioner for a longer period within which to give the statement; and
 - (b) the Merit Protection Commissioner agrees to allow a longer period; the statement must be given within the longer period allowed.

- (5) If the statement is not given within the time required under subclause (3) or (4), the PRC may consider and decide the application without the statement.
- (6) Subject to paragraph 86(1)(a):
 - (a) a person mentioned in subclause (1) is not entitled to have access to a statement mentioned in subclause (1) or (2) given to the Merit Protection Commissioner by another person mentioned in subclause (1) or (2); and
 - (b) a person mentioned in subclause (2) is not entitled to have access to a statement mentioned in subclause (1) or (2) that was given to the Merit Protection Commissioner by another person mentioned in subclause (1) or (2).

85 Frivolous or vexatious applications

A PRC may refuse to consider, or further consider, an application for review if each member of the PRC is satisfied that the application is frivolous or vexatious.

86 PRC procedures—minimum requirements

- (1) The procedures used by a PRC in conducting a review under this Division must meet the following minimum requirements:
 - (a) the procedures must have due regard to procedural fairness;
 - (b) the review must be conducted in private;
 - (c) the review must be finished as quickly, and with as little formality, as a proper consideration of the matter allows.
- (2) A person appearing before a PRC must do so without representation unless the Merit Protection Commissioner decides that, in all the circumstances, it would be reasonable to allow the person to be represented.

87 PRC procedures—Merit Protection Commissioner's instructions

- (1) The Merit Protection Commissioner must, as soon as practicable after the commencement of this determination, issue instructions about the procedures to be followed by a PRC in performing its functions under this Division.
- (2) The instructions must not be inconsistent with the Act or this determination.
- (3) A PRC must comply with the instructions.

88 Assistance to PRC

The Merit Protection Commissioner must take all reasonable steps to ensure that staff are available to assist a PRC to carry out its functions efficiently and effectively.

Part 9 Review of actions

Division 2 Review of certain Parliamentary Service promotion decisions and engagement decisions
(including decisions involving APS employees)

Clause 89

89 Requirement to provide information or documents

- (1) A PRC may, by written notice given to a Secretary, require the Secretary to give to the PRC stated information or documents relevant to the review.
- (2) The Secretary must give the information or documents in the way, and at or within the time, stated in the notice.

90 Conduct of review by PRC

- (1) In considering an application for review of a promotion decision or an engagement decision, a PRC must:
 - (a) assess the relative merits of the person promoted or engaged, and each applicant for review of the decision, on the basis of:
 - (i) the relative suitability of each person for the duties; and
 - (ii) the relationship between each person's work-related qualities and the work-related qualities genuinely required for the duties; and
 - (iii) the relative capacity of each person to achieve outcomes related to the duties; and
 - (b) decide, primarily on the basis of the assessment, that:
 - (i) the promotion or engagement decision should be upheld; or
 - (ii) an applicant for review should be promoted to the relevant employment; or
 - (iii) an applicant for review should be engaged to the relevant employment.
- (2) The PRC must tell the relevant Secretary, in writing, of its decision.

91 Non-agreement on decision by PRC

- (1) This clause applies if all members of a PRC do not agree on a decision in relation to an application for review of a promotion decision or engagement decision.
- (2) If 2 members agree on a decision, that decision is taken to be the decision of the PRC.
- (3) If there is no agreement between any of the members, the Convenor's decision is taken to be the decision of the PRC.

92 Effect of PRC decision

- (1) The decision of a PRC is binding on the relevant Secretary.

Note: Clause 41 provides for the date of effect of a PRC decision.
- (2) The decision of a PRC is not affected by:
 - (a) a defect in the nomination of a member of the PRC; or
 - (b) a failure to comply with instructions issued under clause 87.

- (3) If a PRC has decided, after conducting a review under clause 90, that an applicant for review who is an ongoing Parliamentary Service employee should be promoted to the relevant employment, the applicant is taken to have been promoted to the relevant employment.
- (4) If a PRC has decided, after conducting a review under clause 90, that an applicant for review who is an ongoing APS employee should be engaged to the relevant employment, the Secretary must offer the ongoing APS employee the relevant employment not later than 2 weeks after the Secretary is notified of the review decision.

Note 1: Clause 41 provides for the date of effect of a promotion decision if an application for review has been made to a PRC.

Note 2: Clause 41 provides for the date of effect of an engagement decision if the engagement is at a higher classification than the person's classification as an ongoing APS employee where an application for review has been made to a PRC.

93 Offence

- (1) A person commits an offence if the person obstructs a PRC in carrying out its functions under this Division.

Penalty: 10 penalty units.

- (2) Strict liability applies to the physical element of an offence against subsection (1) that the functions being carried out by the PRC were functions under this Division.

Division 3—Application by Parliamentary Service employees for review of other actions

Subdivision 1—Reviewable action

94 Entitlement for review

- (1) A non-SES employee (an *affected employee*) is entitled to review of Parliamentary Service action under this Division if the action is:
 - (a) action by:
 - (i) a Secretary; or
 - (ii) a Parliamentary Service employee; or
 - (b) reviewable action (including the action of finding that the affected employee has breached the Code of Conduct).
- (2) If the affected employee makes an application for review under this Division, the affected employee ceases to be entitled to review under this Division if, after the application is made:
 - (a) the employee ceases to be employed; or
 - (b) the employee is promoted to an SES position.
- (3) A former Parliamentary Service employee is not entitled to review under this Division.

Note: For rights of former Parliamentary Service employees to review, see Division 4 of Part 11.

95 What Parliamentary Service action is *reviewable action*

- (1) A Parliamentary Service action is *reviewable action* if the affected employee is entitled, under subsection 33(1) of the Act, to review of the action.
- (2) However, the action is not, or ceases to be, reviewable action if:
 - (a) it is action mentioned in Schedule 3; or
 - (b) the affected person has applied to have the action reviewed by a Court or Tribunal and the action may be reviewed by that Court or Tribunal.
- (3) Also, the action is not, or ceases to be, reviewable action, if the person who, or would be, conducting the review considers that the action should not be reviewable for any of the following reasons:
 - (a) the application by the affected employee for review of the action is misconceived or lacking in substance;
 - (b) the application by the affected employee for review of the action is frivolous or vexatious;
 - (c) the affected employee has previously applied for review of the action under this Division;
 - (d) the affected employee has applied to have the action reviewed under Division 2 of this Part;

- (e) the affected employee has applied, or could apply, to have the action reviewed by an external review body and review by the review body would be more appropriate than review under this Division;
- (f) the affected employee does not have sufficient direct personal interest in review of the action;
- (g) review, or further review, of the action is not otherwise justified in all the circumstances.

Note 1: The following are examples of external review bodies for paragraph (e):

- (a) the Commonwealth Ombudsman;
- (b) the Australian Information Commissioner;
- (c) the Australian Human Rights Commission.

Note 2: Example for paragraph (g):

Review may be not justified because the applicant does not respond to a request under clause 106 for further information about why the review is sought.

- (4) Also, an action mentioned in a table item is not, or ceases to be, reviewable action if a circumstance mentioned in the item applies.

Actions that are not, or cease to be reviewable

Item	Action	Circumstances
1	An application for primary review of a Parliamentary Service action made to an affected employee's Secretary under subclause 96(1)	The application is not made within 120 days of the Parliamentary Service action
2	An application for primary review of a Parliamentary Service action made to the Merit Protection Commissioner under paragraph 96(2)(a)	The application is not made within 60 days of the determination that the affected employee has breached the Code of Conduct
3	An application for primary review of a Parliamentary Service action made to the Merit Protection Commissioner under paragraph 96(2)(b)	The application is not made within 60 days of the sanction for breach of the Code of Conduct being imposed
4	An application for primary review of a Parliamentary Service action made to the Merit Protection Commissioner under subclause 96(3)	The application is not made within 60 days of the Parliamentary Service action
5	An application made to the Merit Protection Commissioner for secondary review of a Parliamentary Service action if the Secretary has told the affected employee under clause 98 that the Parliamentary Service action is not reviewable	The application is not made within 60 days of the affected employee being told that the Parliamentary Service action is not reviewable
6	An application made to the Merit Protection Commissioner for secondary review of a Parliamentary Service action if: <ul style="list-style-type: none"> (a) the Secretary has told the affected employee of the Secretary's decision under subclause 99(5); and (b) the affected employee is dissatisfied with the decision 	The application is not made within 60 days of the affected employee being told of the Secretary's decision

Part 9 Review of actions

Division 3 Application by Parliamentary Service employees for review of other actions

Clause 96

Actions that are not, or cease to be reviewable

Item	Action	Circumstances
7	An application made to the Merit Protection Commissioner for secondary review of a Parliamentary Service action	The application for primary review of the action was one to which table item 1 applied

- (5) However, an action mentioned in an item of the table is reviewable action if the person who is, or would be, conducting the review considers that there are exceptional circumstances explaining the failure to make an application within the period in the item.

Subdivision 2—Primary review

96 Application for primary review

- (1) An affected employee may apply in writing to the relevant Secretary for primary review of a reviewable action.
- (2) However, the application must be made to the Merit Protection Commissioner if the application is for review of:
 - (a) a determination that the affected employee has breached the Code of Conduct; or
 - (b) a sanction imposed for breach of the Code of Conduct.
- (3) Also, the employee may apply in writing to the Merit Protection Commissioner for review of the action if:
 - (a) the Secretary was directly involved in the action; or
 - (b) it is not appropriate, because of the seriousness or sensitivity of the action, for the Secretary to deal with the application; or
 - (c) the action is claimed to be victimisation or harassment of the employee for having made a previous application for review of action.
- (4) The application must state briefly:
 - (a) why the review is sought; and
 - (b) if a particular outcome is sought—the outcome sought.

Note: For paragraph (4)(b), the following are examples of outcomes:

- (a) reconsideration of the action.
- (b) re-assignment of duties.

97 Referral to Merit Protection Commissioner

- (1) If an application for review of a reviewable action is made to the relevant Secretary, the Secretary may, with the Merit Protection Commissioner's agreement, refer the application to the Merit Protection Commissioner.
- (2) The Secretary may, for example, refer the application to the Merit Protection Commissioner if:
 - (a) the Secretary was directly involved in the action; or

- (b) the Secretary thinks that it is not appropriate, because of the seriousness or sensitivity of the action, for the Secretary to deal with the application.
- (3) If the Secretary refers the application to the Merit Protection Commissioner, the Secretary must tell the employee in writing.

Note: Clause 100 deals with review of applications referred to the Merit Protection Commissioner by a Secretary.

98 Notice that action not reviewable

If an application for review of a Parliamentary Service action is made and the action is not, or has ceased to be, reviewable action under subclauses 95(3) or (4), the person who would have conducted the review must tell the employee in writing:

- (a) that the action is not reviewable; and
- (b) the reasons why it is considered that the action is not reviewable; and
- (c) if the application was not made or referred to the Merit Protection Commissioner—of the employee's right to apply to the Merit Protection Commissioner under clause 101 for secondary review of the action.

99 Conduct of review by Secretary

- (1) If a Secretary:
 - (a) does not refer an application for review to the Merit Protection Commissioner; and
 - (b) considers the employee is entitled to review under this Division: the Secretary must review the action and attempt to resolve the employee's concerns about the action.
- (2) Subject to subclause 105(1), the Secretary may conduct the review in any manner the Secretary thinks fit.
- (3) The Secretary may:
 - (a) confirm the action; or
 - (b) vary the action; or
 - (c) set the action aside and substitute a new action.
- (4) Subclause (3) does not limit the employer powers of the Secretary in relation to the action or the affected employee.

Example: The Secretary may take other appropriate action to rectify effects of the action or restore the affected employee to the position in which the employee would have been if the action had not been taken.
- (5) The Secretary must tell the employee in writing of:
 - (a) any decision made on the application; and
 - (b) the reasons for the decision; and
 - (c) any action to be taken as a result of the review; and

Clause 100

- (d) the applicant's right to apply to the Merit Protection Commissioner under clause 101 for secondary review of the action.

100 Conduct of review by Merit Protection Commissioner

- (1) This clause applies if an application for review of a Parliamentary Service action is:
 - (a) made to the Merit Protection Commissioner under subclause 96(2) or (3);
or
 - (b) referred to the Merit Protection Commissioner under subclause 97(1).
- (2) If the Merit Protection Commissioner considers that the employee is entitled to review under this Division, the Merit Protection Commissioner:
 - (a) must review the action; and
 - (b) may, subject to the minimum requirements mentioned in subclause 105(1), conduct the review in any manner the Merit Protection Commissioner thinks fit.
 - (c) must make a recommendation to the Secretary, in writing about the action; and
 - (d) must tell the Secretary, in writing, of the reasons for the recommendation; and
 - (e) must tell the employee in writing of the recommendation and reasons given to the Secretary.

Subdivision 3—Secondary review

101 Application for secondary review

- (1) An affected employee may apply in writing to the Merit Protection Commissioner for secondary review of a reviewable action if:
 - (a) the Secretary has told the employee under clause 98 that the action is not a reviewable action; or
 - (b) the employee is dissatisfied with the outcome of the Secretary's review of the action under clause 99.
- (2) The application must be made through the Secretary.
- (3) The application must state briefly why the review is sought.

102 Secretary to give documents to Merit Protection Commissioner

- (1) Within 14 days after receiving the application, the Secretary must give to the Merit Protection Commissioner:
 - (a) the application; and
 - (b) any relevant documents relating to the primary review of the action.
- (2) The Secretary must give to the affected employee a copy of any documents given to the Merit Protection Commissioner under paragraph (1)(b).

103 Conduct of review

If the Merit Protection Commissioner considers that the employee is entitled to review under this Division, the Merit Protection Commissioner:

- (a) must review the action; and
- (b) may, subject to the minimum requirements mentioned in subclause 105(1), conduct the review in any manner the Merit Protection Commissioner thinks fit; and
- (c) must make a recommendation about the action; and
- (d) must tell the Secretary, in writing, the recommendation and reasons for the recommendation; and
- (e) must tell the employee in writing of the recommendation and reasons given to the Secretary.

Subdivision 4—Action following recommendation to Secretary

104 Action by Secretary

- (1) If a Secretary receives a recommendation under clause 100 or 103, the Secretary must, as soon as possible:
 - (a) consider the recommendation; and
 - (b) make a decision about the recommendation.
- (2) The Secretary may:
 - (a) confirm the relevant action; or
 - (b) vary the action; or
 - (c) set the action aside and substitute a new action.
- (3) If the Secretary acts in accordance with the recommendation, the Secretary is not required to seek the views of the employee before acting on the recommendation.

Note: The views of the Parliamentary Service employee have already been sought by the Merit Protection Commissioner during the review in accordance with the principles of procedural fairness.

- (3A) If, after the recommendation:
 - (a) the Secretary considers making a finding of a breach of the Code of Conduct; and
 - (b) the Secretary had not made the finding before the recommendation was made; and
 - (c) the finding was not mentioned in the recommendation;the Secretary must comply with the procedures established under subsection 15(3) of the Act before deciding whether to make the finding.
- (3B) If, after the recommendation:
 - (a) the Secretary considers imposing a sanction, for breach of the Code of Conduct, that the Secretary had not imposed before the recommendation was made; and
 - (b) the sanction was not mentioned in the recommendation;

Clause 105

the Secretary must comply with the procedures established under subsection 15(3) of the Act before deciding whether to impose the sanction.

- (4) Subclause (2) does not limit the employer powers of the Secretary in relation to the action or the affected employee.

Example: The Secretary may take other appropriate action to rectify effects of the action or restore the affected employee to the position in which the employee would have been if the action had not been taken.

- (5) The Secretary must tell the employee and the Merit Protection Commissioner in writing of:

- (a) the decision; and
- (b) the reasons for the decision.

Note: Subsection 33(6) of the Act allows for matters to be reported to the Secretary of the relevant Department and to the Presiding Officers, for presentation to the Parliament, if the Merit Protection Commissioner is not satisfied with the response to recommendations contained in a report to a Secretary.

Subdivision 5—Other provisions about review

105 Review procedures—minimum requirements

- (1) The procedures used for a review conducted under this Division must meet the following minimum requirements:
 - (a) the procedures must have due regard to procedural fairness;
 - (b) the review must be conducted in private;
 - (c) the review must be finished as quickly, and with as little formality, as a proper consideration of the matter allows.
- (2) A person appearing before the Merit Protection Commissioner must do so without representation unless the Merit Protection Commissioner decides that, in all the circumstances, it would be reasonable to allow the person to be represented.

106 Requirement to provide information or documents

- (1) The Merit Protection Commissioner may, by written notice given to a Secretary or Parliamentary Service employee, require the Secretary or Parliamentary Service employee to give a person or committee, specified in the notice, information or documents specified in the notice.
- (2) The Secretary or employee must give the information or documents in the way, and at or within the time, stated in the notice.

107 Making of application does not operate as stay

The making of an application for review of a Parliamentary Service action under this Division does not operate to stay the action.

108 Offence

- (1) A person commits an offence if the person obstructs a person in carrying out his or her functions under this Division.

Penalty: 10 penalty units.

- (2) Strict liability applies to the physical element of an offence against subclause (1) that the functions being carried out by the person were functions under this Division.

Part 10—Other employment matters

109 Knowledge obligation

Each Parliamentary Service employee must inform himself or herself about the Act and this determination.

110 Restrictions on engaging a person who has received a redundancy benefit

- (1) A Secretary may only engage a person who has received a redundancy benefit as an ongoing Parliamentary Service employee in accordance with the following paragraphs:
- (a) the Secretary must consider that the person's engagement is essential for the Department's operations, having regard to:
 - (i) the nature of the duties to be performed; and
 - (ii) the work-related qualities of the person;
 - (b) the Secretary must obtain the Commissioner's approval to do so.

Note: Subparagraph (a)(ii)—for *work-related qualities*, see clause 14.

- (2) A Secretary may only engage a person who has received a redundancy benefit as a non-ongoing SES employee, if the Secretary has obtained the Commissioner's approval to do so.
- (3) In this clause:

person who has received a redundancy benefit means a person who has received a redundancy benefit:

- (a) from a Department or an APS agency; and
- (b) for which the redundancy benefit period has not ended.

redundancy benefit means:

- (a) a severance payment, or similar payment, made to an employee on the ending of the employee's employment; or
- (b) a payment made to an employee as a result of the shortening of a retention period; or
- (c) an incentive to retire payment under section 37 of the Act or section 37 of the *Public Service Act 1999*;

but not:

- (d) a payment made to an employee as redundancy pay under section 119 of the *Fair Work Act 2009*; or
- (e) a payment made to a person in lieu of notice of termination of employment.

Note: Paragraph (d)—the amount of the payment mentioned in that paragraph is known as the National Employment Standards redundancy amount.

redundancy benefit period, relating to a person's redundancy benefit, means the period (rounded down to the nearest equivalent whole day):

- (a) beginning on the day after the person's employment ends; and
- (b) ending on the last day of the period worked out using the following formula:

$$\frac{\text{Gross amount of employee's redundancy benefit}}{\text{Weekly salary}}$$

where:

weekly salary means:

- (a) for a person who has periods of full-time and part-time service and whose redundancy benefit is calculated on the basis of a part-time weekly salary—the full-time equivalent of the part-time weekly salary; or
- (b) in any other case—the weekly salary used to calculate the redundancy benefit.

Part 10A—Commissioner

112A Commissioner’s functions—inquiries into public interest disclosures that relate to alleged breaches of the Code of Conduct

- (1) For paragraph 40(1)(c) of the Act, this clause relates to the function of the Commissioner to inquire into a public interest disclosure (the *disclosure*), to the extent that the disclosure relates to one or more alleged breaches of the Code of Conduct.

Inquiry into disclosure

- (2) The Commissioner may inquire into the disclosure if the Commissioner is satisfied that it would be inappropriate for the discloser to make the disclosure to a Secretary.
- (3) The Commissioner may inquire into the disclosure if the discloser:
 - (a) has made the disclosure to a Secretary; and
 - (b) is not satisfied with the outcome that followed the disclosure.

Decision to decline to inquire

- (4) The Commissioner may decide to decline to inquire into the disclosure, or to decline to inquire further, if the Commissioner concludes that conducting or continuing the inquiry would not be justified in all the circumstances.

Examples: The circumstances that exist in a particular case may include some or all of the following:

- (a) the disclosure has been, or is being, considered by the Merit Protection Commissioner;
- (b) the disclosure would be dealt with more appropriately by another means;
- (c) the disclosure is vexatious, frivolous, misconceived, or lacking in substance;
- (d) the discloser has provided insufficient detail;
- (e) the disclosure does not to any extent concern serious disclosable conduct;
- (f) it would not be practical to inquire, or inquire further, because the discloser has not consented to the use or disclosure of identifying information about the discloser.

Process of inquiry

- (5) If the Commissioner inquires into the disclosure, the Commissioner must:
 - (a) consider, having regard to all the circumstances, whether to give a person about whom the disclosure has been made an opportunity to be heard in relation to the disclosure; and
 - (b) take reasonable steps to report the outcome of the inquiry to the discloser and the relevant Secretary.

Note: Inquiring into public interest disclosures is a function of the Commissioner. Section 65AA of the Act deals with circumstances in which the Commissioner may

make a record of, disclose or otherwise use certain information for the purposes of, or in connection with, the performance of his or her functions.

If the Commissioner gives a person about whom a disclosure has been made an opportunity to be heard in relation to the disclosure, the Commissioner may give the person information identifying the discloser to the extent the Commissioner considers appropriate in the circumstances.

112B Commissioner’s functions—independent parliamentary workplace complaints mechanism

- (1) For the purposes of paragraph 40(1)(d) of the Act, the following functions are conferred on the Commissioner:
 - (a) to establish and maintain a mechanism for:
 - (i) reviewing, and making recommendations in relation to, complaints about serious incidents involving MOP(S) Act employees, parliamentarians, or both, in the course of their work; and
 - (ii) providing support to current or former MOP(S) Act employees and parliamentarians in relation to such serious incidents and other matters relating to work health and safety in the course of performing duties as a MOP(S) Act employee or parliamentarian;
 - (b) to provide for education of current MOP(S) Act employees and parliamentarians, and for informing current or former MOP(S) Act employees and parliamentarians, in relation to:
 - (i) the mechanism; and
 - (ii) serious incidents involving MOP(S) Act employees, parliamentarians, or both, in the course of their work; and
 - (iii) other matters relating to work health and safety in the course of performing duties as a MOP(S) Act employee or parliamentarian;
 - (c) to take steps to assure the independence, confidentiality and quality of the practices and processes that comprise the mechanism or relate to the provision of information;
 - (d) if a complaint is upheld following review—to receive a report of the review;
 - (e) if a report of a review makes recommendations to a parliamentarian—to engage with the parliamentarian in relation to implementing the recommendations;
 - (f) if recommendations made to a parliamentarian are not implemented—to refer the report to the relevant Presiding Officer, in accordance with any procedure that applies under the mechanism (which, if the relevant House of the Parliament has determined a procedure, must be the procedure determined by that House).
- (2) For the purposes of subparagraph (1)(a)(i), the mechanism is not to provide for review of a complaint:
 - (a) about a serious incident that occurred before 18 May 2019; or
 - (b) made after the person who is the subject of the complaint has ceased to be a MOP(S) Act employee or parliamentarian; or

Clause 112B

(c) made by a person about a serious incident that occurred while the person was a parliamentarian, if the person has ceased to be a parliamentarian since the incident occurred.

(3) Paragraph (2)(c) applies regardless of whether the person later becomes a parliamentarian again, or later becomes a MOP(S) Act employee.

(4) In this determination:

MOP(S) Act employee means a person employed under Part III or IV of the *Members of Parliament (Staff) Act 1984*.

parliamentarian means a Senator or a Member of the House of Representatives.

serious incident means:

- (a) sexual assault; or
- (b) assault; or
- (c) sexual harassment; or
- (d) harassment; or
- (e) a person being bullied at work (within the meaning of the *Fair Work Act 2009*); or
- (f) an incident of a person behaving unreasonably towards another person in a way that creates a risk to work health or safety.

Part 11—Merit Protection Commissioner

Division 1—Prescribed functions

113 Prescribed functions

- (1) The Merit Protection Commissioner’s functions set out in Part 9 are prescribed for the purposes of paragraph 48(1)(d) of the Act.
- (2) For paragraph 48(1)(e) of the Act, the Merit Protection Commissioner’s functions set out in Divisions 3, 4, 5 and 6 of this Part are prescribed.

113A Merit Protection Commissioner’s functions—inquiries into public interest disclosures that relate to alleged breaches of the Code of Conduct

- (1) For paragraph 48(1)(a) of the Act, this clause relates to the function of the Merit Protection Commissioner to inquire into a public interest disclosure (the *disclosure*), to the extent that the disclosure relates to one or more alleged breaches of the Code of Conduct.

Inquiry into disclosure

- (2) The Merit Protection Commissioner may inquire into the disclosure if the Merit Protection Commissioner is satisfied that it would be inappropriate for the discloser to make the disclosure to a Secretary.
- (3) The Merit Protection Commissioner may inquire into the disclosure if the discloser:
 - (a) has made the disclosure to a Secretary; and
 - (b) is not satisfied with the outcome that followed the disclosure.

Decision to decline to inquire

- (4) The Merit Protection Commissioner may decide to decline to inquire into the disclosure, or to decline to inquire further, if the Merit Protection Commissioner concludes that conducting or continuing the inquiry would not be justified in all the circumstances.

Examples: The circumstances that exist in a particular case may include some or all of the following:

- (a) the disclosure has been, or is being, considered by the Commissioner;
- (b) the disclosure would be dealt with more appropriately by another means;
- (c) the disclosure is vexatious, frivolous, misconceived, or lacking in substance;
- (d) the discloser has provided insufficient detail;
- (e) the disclosure does not to any extent concern serious disclosable conduct;
- (f) it would not be practical to inquire, or inquire further, because the discloser has not consented to the use or disclosure of identifying information about the discloser.

Clause 113A

Process of inquiry

- (5) If the Merit Protection Commissioner inquires into the disclosure, the Merit Protection Commissioner must:
- (a) consider, having regard to all the circumstances, whether to give a person about whom the disclosure has been made an opportunity to be heard in relation to the disclosure; and
 - (b) take reasonable steps to report the outcome of the inquiry to the discloser and the relevant Secretary.

Note: Inquiring into public interest disclosures is a function of the Merit Protection Commissioner. Section 65AB of the Act deals with circumstances in which the Merit Protection Commissioner may make a record of, disclose or otherwise use certain information for the purposes of, or in connection with, the performance of his or her functions.

If the Merit Protection Commissioner gives a person about whom a disclosure has been made an opportunity to be heard in relation to the disclosure, the Merit Protection Commissioner may give the person information identifying the discloser to the extent the Merit Protection Commissioner considers appropriate in the circumstances.

Division 2—Basic procedural requirements for Code of Conduct inquiries

114 Basic requirements for procedures for determining breach of Code of Conduct by Parliamentary Service employee or former Parliamentary Service employee

- (1) For paragraph 48A(2)(a) of the Act, this clause prescribes basic requirements that the Merit Protection Commissioner's written procedures must comply with.
- (2) The procedures must require that the Merit Protection Commissioner not make a determination in relation to an alleged breach of the Code of Conduct by a Parliamentary Service employee or a former Parliamentary Service employee unless:
 - (a) the Merit Protection Commissioner has taken reasonable steps to tell the employee or former employee the details of the suspected breach (including any variation of those details); and
 - (b) the Merit Protection Commissioner has taken reasonable steps to tell the employee the sanctions that may be imposed on the employee under subsection 15(1) of the Act; and
 - (c) the employee or former employee has been given a reasonable opportunity to make a statement in relation to the alleged breach.
- (3) The procedures must require that the process for determining whether a Parliamentary Service employee or a former Parliamentary Service employee has breached the Code of Conduct be carried out as quickly and with as little formality as a proper consideration of the matter allows.
- (4) The procedures must require that reasonable steps be taken to ensure that any person authorised under the Merit Protection Commissioner's written procedures to determine whether a Parliamentary Service employee or a former Parliamentary Service employee has breached the Code of Conduct is, and appears to be, independent and unbiased.
- (5) The procedures must require that a written record be prepared stating whether it has been determined that the Parliamentary Service employee or a former Parliamentary Service employee has breached the Code of Conduct.

Division 3—Complaints of former employees

115 Investigation of complaints by former employees

- (1) The Merit Protection Commissioner may investigate a complaint by a former Parliamentary Service employee that relates to the employee's entitlements on separation from the Parliamentary Service.
- (2) The Merit Protection Commissioner may make recommendations to the employee's former Secretary in relation to the complaint.

Division 4—Review of determination of breach of Code of Conduct by former Parliamentary Service employee

116 Entitlement for review

- (1) A former Parliamentary Service employee who was not an SES employee at the time the employee's employment ceased (the *affected former employee*) is entitled to review of a determination by a Secretary, made after the affected former employee's engagement ceased, that the affected former employee has breached the Code of Conduct (including by engaging in conduct referred to in subsection 15(2A) of the Act).
- (2) The affected former employee is not, or ceases to be, entitled to review of the determination mentioned in subclause (1) if:
 - (a) the affected former employee has applied to have the determination reviewed by a Court or a Tribunal and the determination may be reviewed by that Court or Tribunal; or
 - (b) the Merit Protection Commissioner considers that the determination should not be reviewable for any of the following reasons:
 - (i) the affected former employee has previously applied for review of the determination under this Division;
 - (ii) the affected former employee has applied, or could apply, to have the determination reviewed by an external review body, and review by the review body would be more appropriate than review under this Division;
 - (iii) review, or further review, of the determination is not otherwise justified in all the circumstances.
- (3) The affected former employee is not, or ceases to be, entitled to review of the determination mentioned in subclause (1) if an application for review of the determination is not made within 60 days of the determination that the affected former employee has breached the Code of Conduct.
- (4) However, an affected former employee is entitled to review of the determination if the Merit Protection Commissioner considers that there are exceptional circumstances explaining the failure to make an application within the period mentioned in subclause (3).

Example: The affected former employee could demonstrate that the affected former employee did not receive notification of the determination.

Clause 117

- (5) The affected former employee:
 - (a) is also entitled to review as mentioned in clause 117; and
 - (b) is not entitled to any other review.

117 Application for review

- (1) An affected former employee mentioned in clause 119 may apply, in writing, to the Merit Protection Commissioner for review of the determination.
- (2) The application must state briefly:
 - (a) why the review is sought; and
 - (b) if a particular outcome is sought—the outcome sought.

118 Notice that action not reviewable

If an application for review of a determination is made and the determination is not reviewable under subclause 116(2)(b) or (3), the Merit Protection Commissioner must tell the affected former employee in writing:

- (a) that the determination is not reviewable; and
- (b) the reasons why the determination is not reviewable.

119 Conduct of review

If the Merit Protection Commissioner considers that the affected former employee is entitled to review under this division, the Merit Protection Commissioner:

- (a) must review the determination; and
- (b) may, subject to the minimum requirements mentioned in clause 120, conduct the review in any manner the Merit Protection Commissioner thinks fit; and
- (c) must make a recommendation to the Secretary, in writing, about the determination; and
- (d) must tell the Secretary, in writing, the reasons for the recommendation; and
- (e) must tell the affected former employee in writing of the recommendation and reasons given to the Secretary.

120 Review procedures—minimum requirements

- (1) The procedures used for a review conducted under this Division must meet the following minimum requirements:
 - (a) the procedures must have due regard to procedural fairness;
 - (b) the review must be conducted in private;
 - (c) the review must be finished as quickly, and with as little formality, as a proper consideration of the matter allows.
- (2) A person appearing before the Merit Protection Commissioner must do so without representation unless the Merit Protection Commissioner decides that, in

all the circumstances, it would be reasonable to allow the person to be represented.

121 Requirement to provide information or documents

- (1) The Merit Protection Commissioner may, by written notice given to a Secretary or Parliamentary Service employee, require the Secretary or Parliamentary Service employee to give the Merit Protection Commissioner stated information or documents relevant to the review.
- (2) The Secretary or employee must give the information or documents in the way, and at or within the time, stated in the notice.

122 Making of an application does not operate as stay

The making of an application for review of a determination under this Division does not operate to stay the determination.

123 Offence

- (1) A person commits an offence if the person obstructs the Merit Protection Commissioner in carrying out his or her functions under this Division.

Penalty: 10 penalty units.
- (2) Strict liability applies to the physical element of an offence that the functions being carried out by the Merit Protection Commissioner were functions under this Division.

Division 5—Review of actions of statutory office holders

124 Review of actions of statutory office holders who are not Secretaries

- (1) A non-SES employee may apply to the Merit Protection Commissioner for review of an action of a statutory office holder that:
 - (a) relates to the employee's Parliamentary Service employment; and
 - (b) is not a termination of the employee's employment; and
 - (c) if the statutory office holder were a Secretary, would be reviewable action for Division 3 of Part 9.
- (2) The Merit Protection Commissioner may, by written notice given to the statutory office holder, require the statutory office holder to give the Merit Protection Commissioner:
 - (a) a report about the action; and
 - (b) other stated information or documents relevant to the review.
- (3) The statutory office holder must give the report and other information or documents in the way, and at or within the time, stated in the notice.
- (4) The Merit Protection Commissioner must:
 - (a) review the action; and
 - (b) make a recommendation to the statutory office holder in writing about the action; and
 - (c) tell the statutory office holder in writing of the reasons for the recommendation; and
 - (d) tell the employee in writing of the recommendation and reasons given to the statutory office holder.
- (5) If the Merit Protection Commissioner is not satisfied with the statutory office holder's response to the Merit Protection Commissioner's recommendation, the Merit Protection Commissioner may give a report on the matter to the Presiding Officers.
- (6) In this clause:

statutory office holder means a person who holds any office or appointment under the Act, being an office or appointment prescribed by clause 57 for the purposes of the definition of ***statutory office holder*** in subsection 14(3) of the Act.

Division 6—Miscellaneous

125 Independence of Merit Protection Commissioner

The Merit Protection Commissioner is not subject to direction in carrying out his or her duties under Part 8 or 9 of this determination, except by a Court.

126 Entrusted person

For paragraph (e) of the definition of *entrusted person* in subsection 65AB(1) of the Act, a member of a committee established or appointed by the Merit Protection Commissioner under this determination is prescribed.

127 Protected information

For paragraph (c) of the definition of *protected information* in subsection 65AB(1) of the Act, information that was obtained by an entrusted person in connection with the performance of functions or duties, or the exercise of powers, under clause 124 is prescribed.

128 Compellability of entrusted persons to give evidence

For paragraph 65AB(7)(d) of the Act, information that was obtained by an entrusted person in connection with the performance of functions or duties, or the exercise of powers, under clause 124 is prescribed.

129 Giving information or producing documents

For paragraph 65AD(2)(b) of the Act, clause 124 is prescribed.

Part 13—Attachment of salaries to satisfy judgement debts

133 Definitions

(1) In this Part:

debtor means a Secretary or a Parliamentary Service employee who owes a judgement debt.

net salary has the meaning given by subclause (2).

paying officer, in relation to a debtor, means a person appointed under clause 136 who is responsible for dealing with the debtor.

total gross salary has the meaning given by subclause (3).

(2) The **net salary** of a debtor is the debtor's total gross salary, less any amount to be deducted:

- (a) to pay income tax; or
- (b) to pay child support in accordance with the *Child Support (Assessment) Act 1989*; or
- (c) as a contribution that:
 - (i) the debtor is required to make to a superannuation fund relating to the debtor's engagement in the Department; and
 - (ii) is the minimum amount required by law or the rules of the fund.

(3) The **total gross salary** of a debtor is the amount of:

- (a) the debtor's gross salary as a Secretary or a Parliamentary Service employee (not including any payment of compensation under the *Safety, Rehabilitation and Compensation Act 1988*); and
- (b) the allowances, in the nature of salary, that are paid regularly to the debtor; without any reduction for salary sacrifice arrangements or other arrangements with a similar purpose.

134 Application of this Part

This Part does not apply in relation to a debtor:

- (a) whose estate has been sequestrated, either voluntarily or compulsorily, for the benefit of creditors; and
- (b) who has not yet obtained a certificate of discharge.

135 Application of State and Territory law

A law of a State or a Territory that deals with satisfying a judgement debt:

- (a) applies to a debtor's judgement debt to the extent that the law deals with the calculation of interest on the debt; and
- (b) does not apply to the judgement debt for any other purpose.

136 Paying officer

- (1) If a Secretary believes that the making of deductions from a debtor's salary is required, the Secretary must appoint one or more persons as paying officers for the purpose of making those deductions.
- (2) However, if the Secretary is the debtor:
 - (a) the Secretary must not appoint a paying officer under subclause (1); and
 - (b) the Secretary must act under this subclause without considering whether the making of deductions from the Secretary's salary is required; and
 - (c) the Secretary must, in writing, delegate his or her power under subclause (1) to appoint a paying officer to an SES employee in the Department; and
 - (d) the SES employee must:
 - (i) decide whether the making of deductions from the Secretary's salary is required; and
 - (ii) if the SES employee decides that the making of the deductions is required—appoint a person as a paying officer for the purpose of making those deductions; and
 - (e) the Secretary must not take any action, or make any arrangement, in relation to the administration under this Part of the Secretary's debt, other than:
 - (i) making the delegation mentioned in paragraph (c); and
 - (ii) if a paying officer is appointed—assisting the paying officer in the repayment of the debt.
- (3) If a person is appointed as a paying officer:
 - (a) the appointment authorises the person to act as a paying officer only in relation to the debtor to whom the appointment relates; and
 - (b) the person is responsible for making deductions from the debtor's salary to satisfy the judgement debt against the debtor.
- (4) A debtor is not authorised to be the paying officer for himself or herself.

137 Authority to make deductions

- (1) Deductions from a debtor's salary in order to satisfy a judgement debt may be started only if:
 - (a) the paying officer has received a statutory declaration, made by the judgement creditor, that the judgement debt exists and has not been discharged; and
 - (b) the paying officer has received a copy of the judgement to which the judgement debt relates, certified by the Registrar or other appropriate officer of the relevant court; and
 - (c) the paying officer has received the fee (if any) required under clause 138; and
 - (d) the paying officer has given the debtor a notice in accordance with subclause (2); and

Clause 138

- (e) the debtor does not, within the time specified in the notice given under subclause (2), satisfy the paying officer that the judgement debt has been satisfied.

Note: Clause 139 deals with cases where there are 2 or more judgement debts against a debtor.

- (2) The paying officer must:
 - (a) notify the debtor, as soon as practicable, that it is proposed to make the deductions; and
 - (b) require the debtor to state, in writing, by a time specified in the notice, whether the judgement has been satisfied, and:
 - (i) if the judgement debt has been satisfied—to give the paying officer evidence in support of that fact; and
 - (ii) if the judgement debt has not been satisfied—to state the amount due under the judgement at the time the statement is made.
- (3) If the debtor does not give the paying officer evidence that the judgement debt has been satisfied by the time specified in the notice under subclause (2), the paying officer must deduct from the debtor's salary on each pay day for the debtor an amount equal to:
 - (a) the deduction required under clause 141; or
 - (b) a lesser amount that, in the paying officer's opinion, is needed to satisfy the balance of the judgement debt.
- (4) After making the first deduction, the paying officer is authorised to continue to make deductions only if the paying officer has no reason to believe that the judgement debt has been discharged.
- (5) The paying officer must ensure that the amount of each deduction is paid to the judgement creditor.

138 Administration fee

- (1) A judgement creditor (other than the Commonwealth) who requests the payment of a judgement debt must pay a fee of \$38 for the making of the deductions.
- (2) The fee is the price of the supply of a service for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999*.
- (3) If a judgement creditor (other than the Commonwealth) requests the payment of a judgement debt, but does not pay the fee when making the request, the paying officer must notify the judgement creditor that:
 - (a) the fee is payable for making the deductions; and
 - (b) no deductions will be made unless the fee is paid.

139 More than one judgement debt

- (1) If more than one judgement debt exists against a debtor, the paying officer:

- (a) must deal with the judgement debts in the order in which requests for deductions were received; and
 - (b) must not make a deduction for the purposes of a particular judgement debt until all judgement debts for which earlier requests were made have been satisfied.
- (2) If the paying officer receives 2 or more requests at the same time for the payment of judgement debts against a debtor, the paying officer must deal with the judgement debts in the order of the dates and times at which judgement was given for each debt, starting with the earliest judgement.

140 Effect of deductions

If an amount is paid to a judgement creditor after a deduction is made from the debtor's salary on a pay day for the debtor:

- (a) an amount equal to that amount is taken to have been paid by the Commonwealth to the debtor on account of salary payable to the debtor on that pay day; and
- (b) an amount equal to that amount is taken to have been paid by the debtor to the judgement creditor for the purposes of the judgement debt.

141 Rate of deductions

- (1) For paragraph 137(3)(a), the rate at which a deduction is to be made from the debtor's net salary on a pay day for the debtor is 20% unless subclause (2), (3) or (4) applies.
- (2) If the paying officer is satisfied that the debtor:
- (a) is suffering serious financial hardship; or
 - (b) would suffer serious financial hardship if the rate of deduction is not reduced;
- the paying officer may reduce the rate at which deductions are to be made.
- (3) If the debtor asks the paying officer, in writing, to make deductions at a rate greater than 20% of the debtor's net salary, the paying officer must comply with the request as soon as practicable.
- (4) If:
- (a) deductions are being made at a rate greater than 20% of the debtor's net salary; and
 - (b) the debtor asks a paying officer, in writing, to reduce the rate of the deductions;
- the paying officer must reduce the rate as soon as practicable, but is not required to reduce the rate to less than 20%.

Clause 142

142 Move to another Department

- (1) If a debtor moves from a Department (*Department 1*) to another Department (*Department 2*), the debtor's paying officer in Department 1 must notify the Secretary of Department 2 of:
 - (a) the existence of each judgement debt against the debtor; and
 - (b) the arrangements in Department 1 for making deductions from the debtor's salary; and
 - (c) any deductions made for the purposes of each of those judgement debts.
- (2) If more than one judgement debt exists against the debtor:
 - (a) the debtor's paying officer in Department 1 must advise the Secretary of the order in which the judgement debts were to have been dealt with in accordance with clause 139; and
 - (b) the paying officer who is appointed in Department 2 in relation to the debtor must deal with the judgement debts in that order.
- (3) The paying officer in Department 2 is taken:
 - (a) to have received the statutory declaration, and copy of the judgement, mentioned in clause 137; and
 - (b) to have received the fee (if any) required under clause 138; and
 - (c) to have given to the debtor any notice that was given, in respect of the debtor, by a paying officer in another Department.
- (4) The paying officer in Department 2 must notify the judgement creditor of the move, and the deductions that the paying officer will make.
- (5) The judgement creditor is not required to pay another fee for the making of deductions.

143 Administration of deductions

- (1) A paying officer in relation to a debtor may:
 - (a) require the judgement creditor to confirm that the judgement debt has not been discharged; and
 - (b) suspend the making of deductions until the paying officer receives the confirmation.
- (2) If a debtor's employment ceases, or is terminated, for any reason (including the debtor's death) the paying officer must notify the judgement creditor of the cessation or termination as soon as practicable.

144 Recovery of overpayment

If a payment made to a judgement creditor for the purposes of a judgement debt exceeds the amount due under the judgement, the excess is repayable by the judgement creditor to the debtor.

Part 14—Delegation

145 Delegation by Merit Protection Commissioner

- (1) The Merit Protection Commissioner may, in writing, delegate any of the Merit Protection Commissioner's powers or functions under this determination (other than under this clause) to:
 - (a) an APS employee made available to the Merit Protection Commissioner by an Agency Head (within the meaning of the *Public Service Act 1999*); or
 - (b) a Parliamentary Service employee made available to the Merit Protection Commissioner by the Secretary of the Department in which the employee is employed.
- (2) A person exercising powers or functions under a delegation under this clause must comply with any directions of the Merit Protection Commissioner.

146 Delegation by Secretary

- (1) A Secretary may, in writing, delegate to a Parliamentary Service employee any of the Secretary's powers or functions under this determination (other than this clause).
- (2) A Secretary may, in writing, delegate to the Parliamentary Librarian any of the Secretary's powers or functions under this determination (other than this clause).
- (3) A Secretary may, in writing and with the prior written consent of the Commissioner, delegate to a person who is not a Parliamentary Service employee any of the Secretary's powers or functions under this determination (other than this clause).
- (4) If a Parliamentary Service employee (the **first delegate**) to whom powers or functions are delegated under subclause (1) is an SES employee or acting SES employee, the first delegate may, in writing, delegate any of those powers or functions to another Parliamentary Service employee (the **second delegate**).
- (5) However, if the first delegate is subject to directions in relation to the exercise of a power or function delegated under subclause (1), the first delegate must give corresponding directions to the second delegate.
- (6) If powers or functions are delegated under subclause (2), the Parliamentary Librarian may, in writing, delegate any of those powers or functions to a Parliamentary Service employee.
- (7) However, if the Parliamentary Librarian is subject to directions in relation to the exercise of a power or function delegated under subclause (2), the Parliamentary Librarian must give corresponding directions to the Parliamentary Service employee to whom a delegation is given under subclause (6).

Part 14 Delegation

Clause 146

- (8) A power or function that is exercised or performed by a person under a delegation under subclause (4) or (6) is taken, for the purposes of this determination, to have been exercised or performed by the person who originally delegated the corresponding power or function under subclause (1) or (2).
- (9) A person exercising powers or functions under a delegation under this clause must comply with any directions of the person who delegated the power or function.

Part 15—Miscellaneous

147 Use and disclosure of personal information

- (1) A Secretary may use personal information in the possession, or under the control, of the Secretary, if the use is necessary for, or relevant to, the performance or exercise of the employer powers of the Secretary.
- (2) A Secretary may disclose personal information in the possession, or under the control, of the Secretary if the disclosure is necessary for, or relevant to:
 - (a) the performance or exercise of the employer powers of the Secretary or another Secretary; or
 - (b) the exercise of a power or performance of a function of the Commissioner; or
 - (c) the exercise of a power or performance of a function of the Merit Protection Commissioner; or
 - (d) the performance of a function of an ISAC.
- (3) The Merit Protection Commissioner may disclose personal information in the possession, or under the control, of the Merit Protection Commissioner if:
 - (a) the information was obtained by the Merit Protection Commissioner during the course of a PRC review or review of action; and
 - (b) the disclosure is necessary for, or relevant to, a Secretary's consideration of alleged misconduct by a Parliamentary Service employee.
- (4) The Commissioner may use personal information in the possession, or under the control, of the Commissioner if:
 - (a) the information was obtained as part of the Commissioner's review or inquiry functions; and
 - (b) the use is necessary for, or relevant to, an inquiry relating to the Code of Conduct conducted by the Commissioner.
- (5) The Commissioner may disclose personal information in the possession, or under the control, of the Commissioner if:
 - (a) the information was obtained as part of the Commissioner's review or inquiry functions; and
 - (b) the disclosure is necessary for, or relevant to, a Secretary's consideration of alleged misconduct by a Parliamentary Service employee.
- (6) Use or disclosure under this clause must be consistent with any guidelines issued by the Commissioner after consultation with the Australian Information Commissioner performing the privacy functions.

Note: **Privacy functions** has the meaning given by section 9 of the *Australian Information Commissioner Act 2010*.

- (7) Use or disclosure of personal information under this clause is authorised for the purposes of Australian Privacy Principle 6.2(b) under the *Privacy Act 1988*.
-

Part 16—Application and transitional provisions

148 Definitions

In this Part:

commencement means the day the *Parliamentary Service Amendment (Managing Recruitment Activity and Other Measures) Determination 2017* commences.

149 Application—Gazettal of certain employment decisions and promotions

Division 5 of Part 3 of this determination applies in respect of:

- (a) an employment decision made on or after commencement; and
- (b) an employment decision made before commencement but not notified under Division 5 of this determination as it was in force immediately before commencement.

150 Transitional—use of merit lists

For the purposes of paragraph 20(1)(a) of this determination, a vacancy is taken to be a similar vacancy if the vacancy:

- (a) was advertised in the 12 month period occurring before commencement; and
- (b) otherwise satisfies the requirements of clause 13 of this determination.

151 Transitional—vacancies notified before commencement

This determination as it was in force immediately before commencement continues to apply in relation to a vacancy if, immediately before commencement:

- (a) the vacancy had been notified in the *Public Service Gazette*; and
- (b) a decision had not been made to fill the vacancy.

152 Transitional—engagement on a short term, irregular or intermittent basis

If a person was, immediately before commencement, engaged to perform duties as a non-ongoing Parliamentary Services employee under clause 23 of this determination as it was in force immediately before commencement, then:

- (a) the person is taken to be engaged to perform duties as a non-ongoing Parliamentary Services employee under clause 23 of this determination; and
- (b) clause 23 of this determination applies in respect of that engagement.

153 Transitional—managing effective performance

This determination as it was in force immediately before commencement continues to apply in relation to performance management taken in respect of a Parliamentary Service employee if:

- (a) immediately before commencement, performance management was being taken in respect of the Parliamentary Service employee in accordance with the Act and the requirements of Part 5 of the determination as it was in force immediately before commencement; and
- (b) on commencement, that performance management had not ended.

Schedule 1—Dictionary

Note: See clause 4.

In this determination:

Act means the *Parliamentary Service Act 1999*.

classification means an approved classification within the meaning of the Classification Rules, as in force immediately before 1 July 2013.

classification group means a group of classifications mentioned in Schedule 1 to the Classification Rules, as in force immediately before 1 July 2013.

disability employment service provider means an organisation that facilitates access to employment for persons with disabilities.

discloser has the same meaning as in the *Public Interest Disclosure Act 2013*.

employer powers, for a Secretary, means the rights, duties and powers of the Secretary under the Act.

employment (other than in clauses 109 and 112) means Parliamentary Service employment.

employment arrangement means any of the following:

- (a) a fair work instrument;
- (b) a transitional instrument;
- (c) a determination under subsection 24(1) or (3) of the Act;
- (d) a written contract of employment.

external review body does not include a Court or Tribunal.

fair work instrument has the same meaning as in the *Fair Work Act 2009*.

higher classification level, for a Parliamentary Service employee, means a classification that is in a higher classification group in Schedule 1 to the Classification Rules (as in force immediately before 1 July 2013) than the employee's current classification.

Note: To determine whether an APS employee will be engaged at a **higher classification** in the Parliamentary Service, see clause 2 of Schedule 2.

ISAC means an Independent Selection Advisory Committee established under clause 59.

lower classification, for a Parliamentary Service employee, means a classification that is in a lower classification group than the employee's current classification.

MOP(S) Act employee has the meaning given by subclause 112B(4).

parliamentarian has the meaning given by subclause 112B(4).

prohibited content has the same meaning as in section 356 of the *Workplace Relations Act 1996*, as in force immediately before 30 June 2009.

promotion:

- (a) means the ongoing assignment of duties to an ongoing Parliamentary Service employee at a higher classification than the employee's current classification, in the same or another Department; and
- (b) does not include:
 - (i) the allocation of a higher classification in a broadband to an ongoing Parliamentary Service employee who is already within the same broadband in the same Department; or
 - (ii) the allocation of a classification to a trainee under rule 11 of the Classification Rules (as in force immediately before 1 July 2013); or
 - (iii) following a voluntary temporary reduction in the classification of an ongoing Parliamentary Service employee—the assignment, on an ongoing basis, of duties to the employee at the classification that the employee had before the reduction; or
 - (iv) the assignment, on a temporary basis, of duties to a Parliamentary Service employee at a higher classification than the employee's current classification.

Promotion Review Committee (or **PRC**) means a Promotion Review Committee appointed under clause 82.

public interest disclosure has the same meaning as in the *Public Interest Disclosure Act 2013*.

Public Service Gazette means the *Gazette* published in electronic form.

Note: The Public Service *Gazette* may be accessed at <http://www.apsjobs.gov.au>.

relevant Secretary, for review of a Parliamentary Service action, means:

- (a) if the action is action by a Secretary—that Secretary; or
- (b) if the action is action by a Parliamentary Service employee—the Secretary of the Department in which the employee was employed at the time of the action.

serious incident has the meaning given by subclause 112B(4).

training classification means a classification mentioned in column 2 of Schedule 2 to the Classification Rules, as in force immediately before 1 July 2013.

transitional instrument has the same meaning as in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

Tribunal means a Tribunal constituted under an enactment.

unlawful term has the same meaning as in the *Fair Work Act 1999*.

workplace diversity program means a program established by a Secretary under section 18 of the Act.

Schedule 2—Comparison with Public Service Classifications

Note: See clauses 32, 39, 41, 77 and 78.

1 Meaning of comparable classification or lower

A person who is an ongoing APS employee is engaged as an ongoing Parliamentary Service employee at a **comparable classification or lower** if:

- (a) the person is engaged as an ongoing Parliamentary Service employee at a classification mentioned in column 1 for an item in the following table; and
- (b) immediately before the engagement, the person was engaged as an ongoing APS employee at the corresponding classification mentioned in column 2 for the item.

Comparable classification or lower		
Item	Column 1 Parliamentary Service group classification	Column 2 APS group classification
1	1	1
2	1,2	2
3	1,2,3	3
4	1,2,3,4	4
5	1,2,3,4,5	5
6	12,3,4,5,6	6
7	1,2,3,4,5,6,7	7
8	1,2,3,4,5,6,7,8	8
9	1,2,3,4,5,6,7,8,9	9
10	1,2,3,4,5,6,7,8,9,10	10
11	1,2,3,4,5,6,7,8,9,10,11	11

2 Meaning of higher classification

A person who is an ongoing APS employee is engaged as an ongoing Parliamentary Service employee at a **higher classification** if:

- (a) the person is engaged as an ongoing Parliamentary Service employee at a classification mentioned in an item in column 1 in the following table; and
- (b) immediately before the engagement, the person was engaged as an ongoing APS employee at the corresponding classification mentioned in column 2 of the item.

Schedule 2 Comparison with Public Service Classifications

Higher classification		
Item	Column 1	Column 2
	Parliamentary Service group classification	APS group classification
1	2,3,4,5,6,7,8,9,10,11	1
2	3,4,5,6,7,8,9,10,11	2
3	4,5,6,7,8,9,10,11	3
4	5,6,7,8,9,10,11	4
5	6,7,8,9,10,11	5
6	7,8,9,10,11	6
7	8,9,10,11	7
8	9,10,11	8
9	10,11	9
10	11	10

Schedule 3—Non-reviewable actions

Note: See clause 95.

Non-reviewable actions

Item

- | | |
|----|--|
| 1 | Action about the policy, strategy, nature, scope, resources or direction of the Parliamentary Service or a Department |
| 2 | Action taken, or not taken, in accordance with a direction or reference given by the Presiding Officer under the Act or another Act |
| 3 | The giving of a direction by the Commissioner under subsection 15(6) of the Act |
| 4 | Action taken, or not taken, for an inquiry by: <ul style="list-style-type: none"> (a) the Commissioner under subsection 40(1) of the Act; or (b) the Merit Protection Commissioner under subsection 48(1) or 48A(1) of the Act |
| 5 | The making of a determination by the Merit Protection Commissioner under paragraph 48A(1) of the Act |
| 6 | Action arising under any of the following Acts: <ul style="list-style-type: none"> (a) the <i>Australian Security Intelligence Organisation Act 1979</i>; (b) the <i>Safety, Rehabilitation and Compensation Act 1988</i>; (c) the <i>Superannuation Act 1976</i>; (d) the <i>Superannuation Act 1990</i>; (e) the <i>Superannuation Act 2005</i> |
| 7 | Action relating to the engagement of a Parliamentary Service employee, to the extent that the action is not reviewable under Part 9 of this determination |
| 8 | Action of a PRC |
| 9 | Action relating to the promotion of an ongoing Parliamentary Service employee as an SES employee (whether or not the employee is already an SES employee) |
| 10 | Action relating to the assignment of the duties of a Parliamentary Service employee, unless the action involves: <ul style="list-style-type: none"> (a) a reduction in classification; or (b) a relocation to another place; or (c) a promotion that meets all of the following criteria: <ul style="list-style-type: none"> (i) the affected employee was an applicant for the promotion; (ii) the promotion was to employment at a classification mentioned in Group 7 or 8 in Schedule 1 to the Classification Rules, as in force immediately before 1 July 2013; (iii) there were serious defects in the selection process; or (d) the assignment to an employee of duties that the employee could not reasonably be expected to perform |
| 11 | Action relating to a decision by a Secretary, under subclause 39(4), not to include the name of an employee in the Public Service <i>Gazette</i> |

Note: In relation to item 2, see section 20 of the Act. Under that section, a Secretary is not subject to direction by a Presiding Officer in relation to the exercise of powers by the Secretary under Part 4 of the Act in relation to particular individuals.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	FRLI registration	Commencement	Application, saving and transitional provisions
Parliamentary Service Determination 2013	28 June 2013 (F2013L01201)	1 July 2013	
Parliamentary Service Amendment Determination 2013 (No. 1)	6 Dec 2013 (F2013L02060)	7 Dec 2013	—
Parliamentary Service Amendment (Public Interest Disclosure and Other Matters) Determination 2014	28 Mar 2014 (F2014L00368)	s 1–4 and Sch 1: 29 Mar 2014 Sch 2: 15 Jan 2014 Sch 3: 12 Mar 2014	—
Parliamentary Service Amendment (Notification of Decisions and Other Measures) Determination 2016	27 Oct 2016 (F2016L01649)	28 Oct 2016	—
Parliamentary Service Amendment (Managing Recruitment Activity and Other Measures) Determination 2017	14 Oct 2017 (F2017L01353)	14 Oct 2017	—
Parliamentary Service Amendment (Independent Parliamentary Workplace Complaints Mechanism) Determination 2021	23 Sept 2021 (F2021L01316)	24 Sept 2021 (s 2(1) item 1)	—

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
c 2.....	rep LIA s 48D
c 5.....	rep LIA s 48C
Part 2	
c 6.....	rs F2017L01353
par 7(g).....	rep F2017L01353
par 9(g).....	am F2017L01353
par 10(b).....	am F2017L01353
Part 3	
Division 1	
c 13.....	rs F2017L01353
c 13A.....	ad F2017L01353
Division 3	
Subdivision 1	
Note to c 18.....	rs No 1, 2013
c 19.....	rs F2017L01353
c 20.....	rs F2017L01353
c 21.....	rs F2016L01649; F2017L01353
Subdivision 2	
c 23.....	rs F2017L01353
c 24.....	rs F2017L01353
c 25.....	rs F2017L01353
c 26.....	rs F2017L01353
c 27.....	rs F2017L01353
c 28.....	rep F2017L01353
c 29.....	rs F2017L01353
c 30.....	am F2016L01649
	rs F2017L01353
c 32.....	am No 1, 2013
	rs F2017L01353
c 33.....	rs F2017L01353
Division 4	
c 34.....	rep F2017L01353
c 35.....	am No 1, 2013
	rep F2017L01353

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
c 35A	ad No 1, 2013 rs F2017L01353
c 35B	ad F2017L01353
c 35C	ad F2017L01353
c 36.....	rep F2017L01353
c 37.....	rep F2017L01353
Division 5	
c 39.....	am F2016L01649 rs F2017L01353
c 40.....	am F2016L01649 rs F2017L01353
c 41.....	rs F2017L01353
Division 6	
c 44.....	am F2014L00368
c 45A	ad No 1, 2013
Part 4	
Pt 4.....	rep F2017L01353
Part 5	
c 51.....	rs F2017L01353
c 52.....	rs F2017L01353
Part 6	
Pt 6.....	rep F2017L01353
Part 7	
c 54(1).....	am F2017L01353
c 55.....	rep F2017L01353
Part 9	
Division 3	
Subdivision 4	
c 104.....	am F2014L00368
Part 10	
c 110.....	rs F2017L01353
c 111.....	rep F2017L01353
c 112.....	rep F2016L01649
Part 10A	
Pt 10A	ad F2014L00368
c 112A.....	ad F2014L00368
c 112B	ad F2021L01316
Part 11	
Division 1	
Note to c 113(2).....	rep F2014L00368

Endnote 4—Amendment history

Provision affected	How affected
c 113A.....	ad F2014L00368
Part 12	
Pt 12.....	rep F2014L00368
c 130.....	rep F2014L00368
c 131.....	rep F2014L00368
c 132.....	rep F2014L00368
Part 15	
c 147.....	am F2014L00368
Part 16	
Pt 16.....	am No 1, 2013; F2016L01649 rs F2017L01353
Schedule 1	
Sch 1.....	am F2014L00368; F2021L01316
Schedule 2	
Sch 2.....	am No 1, 2013