

Members of Parliament (Staff) Act 1984

DIRECTION TO DEFER THE TERMINATION OF EMPLOYMENT

I, ALEX HAWKE, Special Minister of State, acting under all relevant authorisations given to me, direct under subsections 16(5) and 23(4) and determine under subsection 13(2) of the *Members of Parliament (Staff) Act 1984* (the Act) that:

1. Direction 2013/4 and Direction 2018/29 are revoked.

Part A – Staff of Senators and Members (Part IV of the Act)

2. Where the employment of an electorate employee is terminated under subsection 23(1) of the Act:
 - (a) In the case where a Member resigns from the Parliament or dies, or where a Member does not stand for re-election or is defeated at an election, the employment of the person is deemed not to have terminated and to continue until the declaration of the poll for the election for the seat;
 - (b) In the case where a Senator resigns from the Parliament or dies, the employment of the person is deemed not to have terminated and to continue until the casual vacancy has been filled; or
 - (c) In the case where a Senator for a Territory, or a Senator in a double-dissolution of the Parliament does not stand for re-election or is defeated at an election, the employment of the person is deemed not to have terminated and to continue until the declaration of the poll for the election for the Senate position.

Part B – Staff of office-holders other than Ministers or Presiding Officers (Part III of the Act)

3. Part B of this Direction does not apply to the termination of employment of a Minister's employee or a Presiding Officer's personal employee.
4. Where the employment of an employee (other than an employee to whom this part does not apply) is terminated under subsection 16(1) or 16(2) of the Act:
 - (a) In the case where a Member or a Senator resigns from the Parliament or dies, the employment of a personal employee is deemed not to have terminated and to continue for a period of two weeks from the date of the termination;
 - (b) In the case where a Member resigns from the Parliament or dies, the employment of an electorate employee is deemed not to have terminated and to continue until the declaration of the poll for the election for the seat;

- (c) In the case where a Senator resigns from the Parliament or dies, the employment of an electorate employee is deemed not to have terminated and to continue until the casual vacancy has been filled;
 - (d) In the case where a Member, a Senator for a Territory, or a Senator in a double-dissolution of the Parliament does not stand for re-election, the employment of a personal employee is deemed not to have terminated and to continue for a period of eight weeks from the date of the termination;
 - (e) In the case where a Member, a Senator for a Territory, or a Senator in a double-dissolution of the Parliament does not stand for re-election, the employment of an electorate employee is deemed not to have terminated and to continue until the declaration of the poll for the seat or the Senate position; or
 - (f) In the case where a Member, a Senator for a Territory, or a Senator in a double-dissolution of the Parliament is defeated at an election, the employment of the person is deemed not to have terminated and to continue until the later of the following:
 - (i) declaration of the poll for the seat or the Senate position; or
 - (ii) eight weeks from the date of the termination.
5. Other than in the case where a Member or a Senator resigns from the Parliament, dies, does not stand for re-election or is defeated at an election:
- (a) Where the employment of an employee is terminated under paragraph 16(2)(a) of the Act, as the employing Member or Senator has ceased to hold the relevant office, the employment of the person is deemed not to have terminated and to continue for:
 - (i) a period of eight weeks from the date of the termination if the employment is terminated as a result of a Federal election¹; or
 - (ii) a period of two weeks from the date of the termination.
 - (b) Where the employment of an employee is terminated under paragraph 16(2)(b) or 16(2)(c) of the Act, as the relevant determination under section 12 of the Act has been revoked, the employment of the person is deemed not to have terminated and to continue for:
 - (i) a period of eight weeks from the date of the termination if the employment is terminated as a result of a Federal election; or
 - (ii) a period of two weeks from the date of the termination.

¹ 'Federal election' means an election other than a by-election.

Part C – Staff of Ministers (Part III of the Act)

6. Where the employment of an employee of a Minister is terminated under subsection 16(1) of the Act:
 - (a) In the case where a Minister dies, the employment of a personal employee is deemed not to have terminated and to continue for a period of two weeks from the date of the termination;
 - (b) In the case where a Minister who is a Member dies, the employment of an electorate employee is deemed not to have terminated and to continue until the declaration of the poll for the election for the seat; or
 - (c) In the case where a Minister who is a Senator dies, the employment of an electorate employee is deemed not to have terminated and to continue until the casual vacancy has been filled.

7. Where employment of an employee of a Minister is terminated under paragraph 16(2)(a) of the Act, where the employing Minister has ceased to hold that office other than as a result of a Federal election, and on the same day the Minister resigns from Parliament, then:
 - (a) the employment of a personal employee is deemed not to have terminated and to continue for a period of two weeks from the date of the termination;
 - (b) where a Minister is a Member, the employment of an electorate employee is deemed not to have terminated and to continue until the declaration of the poll for the election for the seat; and
 - (c) where a Minister is a Senator, the employment of an electorate employee is deemed not to have terminated and to continue until the casual vacancy has been filled.

8. Other than in the circumstances described in section 7, where employment of an employee is terminated under paragraph 16(2)(a) of the Act, as the employing Minister has ceased to hold that office:
 - (a) the employment of the person is deemed not to have terminated and to continue for:
 - (i) a period of eight weeks from the date of the termination if the employment is terminated as a result of a Federal election; or
 - (ii) a period of two weeks from the date of the termination.

Part D – Personal Employees of Presiding Officers (Part III of the Act)

9. Where the employment of a personal employee of a Presiding Officer is terminated under subsections 16(1) or (2) of the Act:
- (a) In the case where a Presiding Officer dies, the employment of the employee is deemed:
 - (i) not to have terminated; and
 - (ii) to continue for two weeks after a new Presiding Officer is chosen.
 - (b) In the case where a Presiding Officer resigns his or her office or seat, the employment of the employee is deemed:
 - (i) not to have terminated; and
 - (ii) to continue for two weeks after a new Presiding Officer is chosen.
 - (c) In the case where:
 - (i) the Speaker of the House of Representatives; or
 - (ii) the President of the Senate who is a Territory Senator, does not stand for re-election or is defeated at an election, the employment of the employee is deemed:
 - (iii) not to have terminated; and
 - (iv) to continue for eight weeks after a new Speaker or President (as relevant) is chosen.
 - (d) In the case where, following a double-dissolution of the Parliament, the President of the Senate who is a State Senator does not stand for re-election or is defeated at the ensuing election, the employment of the employee is deemed:
 - (i) not to have terminated; and
 - (ii) to continue for eight weeks after a new President is chosen.
 - (e) Other than in the circumstances in paragraphs (c) and (d), in the case where a Presiding Officer ceases to hold office as a result of a Federal election, the employment of the employee is deemed:
 - (i) not to have terminated; and
 - (ii) to continue until eight weeks after a new Presiding Officer is chosen.

Example: the House of Representatives may choose a new Speaker at its first sitting following an election.

- (f) In the case where the term of a State Senator who is President of the Senate expires, the employment of the employee is deemed:
- (i) not to have terminated; and
 - (ii) to continue until eight weeks after a new President is chosen.

Part E – Determination of travel and employment arrangements for Personal Employees of Presiding Officers

10. A personal employee of a Presiding Officer whose employment is terminated in circumstances specified in Part D may travel as directed anywhere in Australia on official business by a person deemed to be the Presiding Officer under the *Parliamentary Presiding Officers Act 1965* during the period of the deferral of termination of the employee's employment.
11. All other provisions of any determination made under the Act concerning staff travel arrangements continue to apply during the period of the deferral of termination of the employee's employment.
12. A person deemed to be a Presiding Officer during the period of the deferral of termination of a personal employee's employment may exercise the powers of the employing Member under the *Commonwealth Members of Parliament Staff Enterprise Agreement 2016-2019* or any replacement enterprise agreement.

Dated this 9th day of April 2019


ALEX HAWKE
Special Minister of State