

# Re-appointment of Public Service Officers Ceasing in Statutory Offices

## Commissioner's Instruction 15

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### Statement of intent

A clear process for employees and agencies when former public service officers appointed to or employed in statutory offices exercise a legislative entitlement to be re-appointed to the public service.

### Scope and application

This Instruction applies to:

- the public service as defined in section 34 of the *Public Sector Management Act 1994* (PSM Act)
- people who have a legislative entitlement to be reappointed to the public service after ceasing in or within statutory offices
- employers of statutory office holders.

This instruction does not apply to people who are seconded to statutory offices.

### References

This instruction should be read in conjunction with the:

- legislation that applies to statutory office holders or employees of statutory offices
- applicable award or agreement
- [supporting guidelines](#).

To the extent of any inconsistency with this instruction, the legislation prevails.

### Definitions

#### Home agency

The public service agency that employed the person immediately before their employment in a statutory office.



## **Employment**

Includes employment in a statutory office and appointment to a statutory office.

## **Suitable vacant position**

As defined in section 94(6)(a) and (b) of the PSM Act.

## **Instruction**

1. To exercise their entitlement a person must:
  - a. notify their home agency of their intention to exercise their entitlement to be re-appointed as soon as practicable after knowing their employment in a statutory office is to cease
  - b. if the home agency no longer exists, notify the Public Sector Commissioner who determines the home agency.
2. To facilitate the person's re-appointment:
  - a. the statutory office must share relevant employment details with the home agency
  - b. the home agency must assist the person to find a suitable vacant position in the home agency
  - c. where a suitable vacant position is not immediately available in the home agency, the home agency must assist the person to find a suitable vacant position in another agency
  - d. where a suitable vacant position is identified in the home agency and a recruitment process is underway, the process must be stopped and the person appointed.
3. If the person has not been appointed before their statutory office employment ends, the home agency must appoint the person on terms and conditions no less than their previous appointment in the public service.
4. A position created to satisfy the entitlement does not need to be advertised as required by Commissioner's Instruction 2: Filling a Public Sector Vacancy and is exempt from the requirement to seek redeployment clearance under clause 5 of Commissioner's Instruction 12: Redeployment and Redundancy.
5. A person's entitlement to employment in the public service lapses if they:
  - a. fail to notify their home agency within 4 weeks after ceasing employment in the statutory office
  - b. are dismissed or terminated from their statutory office employment for reasons such as substandard performance, breach of discipline and misconduct
  - c. accept employment outside the public service after ceasing with the statutory office
  - d. at any time accept an offer of voluntary severance in accordance with the Public Sector Management (Redeployment and Redundancy) Regulations 2014 and Commissioner's Instruction 12: Redeployment and Redundancy.