



LEGAL SERVICES DIRECTIONS 2005

(issued by the Attorney-General under section 55ZF of the *Judiciary Act*
1903)

EXEMPTIONS

Name of instrument

1. This instrument is the *Legal Services Directions 2005 - Exemptions*.

Commencement

2. This instrument commences on 1 March 2006.

Exemptions

3. The Schedule to this instrument sets out exemptions from the *Legal Services Directions 2005*

Special commencement of exemptions

- 4.1 Exemptions set out in Part 1 of the Schedule commence on 1 March 2006.
- 4.2 Exemptions set out in Part 2 of the Schedule commence on the date set out in the third column of the item of the table in that Part.

Definitions

4. In this instrument, the following terms have the stated meanings:

Directions means the *Legal Services Directions 2005*.

OLSC means the Office of Legal Services Coordination in the Attorney-General's Department.

SCHEDULE

Part 1 Exemptions commencing on 1 March 2006

Agency	Provision of Directions under which exemption granted	Conditions of exemption
Australian Crime Commission	Paragraph 5 (using in-house lawyers for court litigation)	<p>The ACC may use in-house lawyers for court litigation subject to the following conditions:</p> <ul style="list-style-type: none">• that the exemption expires on 5 April 2007• that the ACC is not authorised to conduct tied work within the meaning of paragraph 2 of, and Appendix A to, the Directions• that the ACC will continue to approach the question of whether to use in-house lawyers to conduct court litigation on a case-by-case basis, having regard to its particular needs and the issues raised in each matter• that the ACC will give OLSC a copy of every application when served, to enable OLSC to monitor the applications• that the approval does not extend to civil suits against the ACC, even if these also raise questions of the exercise of the ACC's coercive powers• that the ACC will give OLSC a copy of the reasons for decision in every case involving the ACC• that the ACC will report to OLSC about each specific case where the exemption is used

Administrative Appeals
Tribunal

Paragraph 5
(using
in-house
lawyers for
court
litigation)

The AAT may use an in-house lawyer to appear as solicitor on the record in federal courts when the AAT files a submitting appearance, providing that he or she holds a current practising certificate and is registered on the Register of Practitioners kept by the High Court Registry

Human Rights and Equal
Opportunities Commission

Paragraph 5
(using
in-house
lawyers for
court
litigation)

HREOC may use in-house lawyers for court litigation subject to the following conditions:

- that HREOC must request permission to do constitutional law work on a case-by-case basis
- that HREOC must notify OLSC promptly of constitutional law matters arising in connection with court litigation it is undertaking
- that if HREOC uses its in-house lawyers or external counsel to perform public international law work that involves the exercise of functions pursuant to paragraph 53 (1) (g) of the *Age Discrimination Act 2004* (Cth), subsection 67 (1) of the *Disability Discrimination Act 1992* (Cth), paragraph 20 (1) (e) of the *Racial Discrimination Act 1975* (Cth), paragraph 48 (1) (gb) of the *Sex Discrimination Act 1984* (Cth) or sections 11 (1) (o), 31 (j) or 46 PV of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth), HREOC must inform the Human Rights Branch of the Attorney-General's Department, in advance of undertaking that work, of the position that HREOC is intending to take

Australian National Audit Office	Paragraph 10.1 (requirements about consultation on seeking legal advice)	The ANAO is not required to provide a copy of an advice to an administering agency where to do so would, in the opinion of the Auditor-General, adversely affect the ANAO in the performance of its statutory functions. If a proposed request for advice raises tied work issues under paragraph 2 of, and Appendix A to, the Directions, then the ANAO must seek the advice from the Australian Government Solicitor or the Attorney-General's Department
All agencies	Paragraph 10.1 (requirements about consultation on seeking legal advice)	An agency seeking advice is exempt from the requirements of paragraph 10.1 in relation to an administering agency if there is a written agreement between the agencies, notified to OLSC, about the sharing of legal advice that is designed to operate in place of paragraph 10.1, to the extent that the agency seeking the advice complies with the requirements
ABC Television	Paragraph 13.1 (a) (General exemption from all the Directions)	ABC Television is exempt from all Directions
SBS Television	Paragraph 13.1 (a) (General exemption from all the Directions)	SBS Television is exempt from all Directions
Australian National University	Paragraph 13.1 (a) (General exemption from all the Directions)	The ANU is exemption from all Directions
Director of Public Prosecutions	Paragraph 13.1 (a) (General exemption from all the Directions)	The Commonwealth Director of Public Prosecutions is exempt from all Directions in relation to criminal prosecutions and related proceedings (including proceeds of crime proceedings)

High Court of Australia

Paragraph
13.1 (a)
(General
exemption
from all the
Directions)

The High Court of Australia is exempt from all
Directions

Part 2 Exemptions commencing on other dates

Agency	Provision of Directions under which exemption granted	Commencement of exemption	Conditions of exemption
Australian Prudential Regulation Authority	Paragraph 5 (using in-house lawyers for court litigation)	On the date on which APRA becomes an agency to which the <i>Financial Management and Accountability Act 1997</i> applies	APRA may use its in-house lawyers for court litigation subject to the following conditions: <ul style="list-style-type: none">• that the approval expires three years from the date on which APRA becomes an agency to which the <i>Financial Management and Accountability Act 1997</i> applies• that APRA is not authorised to conduct tied work within the meaning of paragraph 2 of, and Appendix A to, the Directions• that APRA is to notify OLSC in the event of a material change to any of the factors relevant to paragraph 5 of the Directions

Australian Securities and Investment Commission

Paragraph 5 (using in-house lawyers for court litigation)

On the date on which ASIC becomes an agency to which the *Financial Management and Accountability Act 1997* applies

- that APRA continues to engage external legal services providers in relation to litigation that falls outside their regulatory and enforcement activities

ASIC may use its in-house lawyers for court litigation subject to the following conditions:

- that the approval expires three years from the date on which ASIC becomes an agency to which the *Financial Management and Accountability Act 1997* applies
- that ASIC is not authorised to conduct tied work within the meaning of paragraph 2 of, and Appendix A to, the Directions
- that ASIC is to notify OLSC in the event of a material change to any of the factors relevant to paragraph 5 of the Directions
- that ASIC continues to engage external legal services providers in relation to litigation that falls outside their regulatory and enforcement activities