

**Declaration of Non-Disclosure**

*(Before signing please read the notes below)*

I,.....  
(full name)

of,.....  
(work or other address)

a nominee of  
.....  
(Merit Protection Commissioner or Agency Head)

to the  
.....  
(Independent Selection Advisory Committee [ISAC] or Promotion Review Committee [PRC])

which is considering candidates for employment/applications for promotion review

at .....in .....  
(classification level) (agency)

**DECLARE** that I have read and understood Public Service Regulation 7.6 and accept my obligations pursuant to that regulation.

Signature.....

Date.....

**NOTES**

1. The purpose of this document is to facilitate proper and efficient operation of ISACs and PRCs established under the Public Service Regulations 1999. The Merit Protection Commissioner has instructed all persons nominated as ISAC or PRC members to make this declaration. If a person feels, for any reason, unable to comply with this requirement, he or she should discuss the matter with other members of the ISAC or PRC and their nominating body (the Merit Protection Commissioner or Agency Head as the case may be) with a view to determining whether, in all the circumstances of the case, they should decline to serve on the ISAC or PRC so that their nominating body may nominate another person in their place.

2. Actions contrary to the provisions of Public Service Regulation 7.6 may result in an investigation to determine whether there has been a breach of the APS Code of Conduct.

(1) This regulation applies to the following persons:

- (a) the Merit Protection Commissioner;
  - (b) a member of a Review Committee established under paragraph 33 (4) (d) of the Act;
  - (c) a member of the staff assisting the Merit Protection Commissioner;
  - (d) a person acting under the direction or authority of the Merit Protection Commissioner;
- (e) a person (other than an employee of the Agency) to whom the Merit Protection Commissioner has delegated any of his or her powers under section 78 of the Act.

The person must not, directly or indirectly, make a record of, or divulge or communicate to any other person, any information that was:

acquired by the person while he or she was performing duties as a person described in subregulation (1); and disclosed or obtained under section 33 or paragraph 50 (1) (a) of the Act.

Penalty: 10 penalty units.

(3) Subregulation (2) applies to the person:

- (a) while he or she is performing duties as a person described in subregulation (1); and
- (b) after he or she ceases to perform the duties.

(4) Subregulation (2) does not prevent the person:

- (a) from making a record of, or divulging or communicating to any other person, information acquired by the person:
  - (i) while he or she is performing duties as a person described in subregulation (1); and
  - (ii) for purposes connected with the exercise of the powers, and with the performance of the functions, of the Merit Protection Commissioner under the Act; or
- (b) from divulging or communicating to any other person information given by an APS employee, in the performance of the APS employee's duties, with the consent of the APS employee's Agency Head or the responsible Minister; or from divulging or communicating to any person information given by a person, otherwise than as described in paragraph (b), with the consent of the person who gave the information.

Subregulation (2) does not prevent the Merit Protection Commissioner from disclosing, in a report made under the Act, matters that, in his or her opinion, ought to be disclosed in the course of setting out the grounds for the conclusions and recommendations contained in the report.

A person who is, or has been, a person described in subregulation (1) is not competent and may not be required, in any proceeding before a court (whether exercising federal jurisdiction or not) or before a person authorised by a law of the Commonwealth or of a State or Territory, or by consent of parties, to hear, receive or examine evidence, to disclose any information acquired by the person by reason of his or her being or having been a person described in subregulation (1), being information that was disclosed or obtained under the provisions of section 33 or paragraph 50 (1) (a) of the Act.

This regulation does not prevent the Merit Protection Commissioner from disclosing information, or making a statement, to any person or to the public or a section of the public with respect to the performance of a function of the Merit Protection Commissioner under the Act if, in the opinion of the Merit Protection Commissioner:

- (a) it is in the interest of any Agency or person to disclose the information or to make the statement; or
- (b) it is otherwise in the public interest to disclose the information or to make the statement.

The Merit Protection Commissioner must not disclose information or make a statement under the subregulation (7) with respect to a particular inquiry or review if the disclosure of the information, or the making of the statement, is likely to interfere with the carrying out of the inquiry or review, or of any other inquiry or review.

If the Merit Protection Commissioner discloses information or makes a statement under the subregulation (7) with respect to a particular inquiry or review, the Merit Protection Commissioner must not disclose the name of an applicant, or any other matter that would allow an applicant to be identified, unless it is fair and reasonable in all circumstances to do so.