



Australian Government

Comcare

Comcare Conditions of Engagement
under subsections 22(1), 22(6),22(8) of the Public Service Act 1999

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PURPOSE

To provide instructions on Conditions of Employment for ongoing and non-ongoing employees engaged by Comcare in accordance with *The Public Service Act 1999*.

The *Public Service Act 1999* provides that an Agency Head:

- may, “on behalf of the Commonwealth, engage persons as employees for the purposes of the Agency” (subsection 22(1));
- may engage employees “subject to conditions notified to the employee, including conditions dealing with any of the following matters:
(a) probation; (b) citizenship; (c) formal qualifications; (d) security and character clearances; (e) health clearances.” (subsection 22(6));
- “must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so”
(Subsection 22(8))

Probation

Comcare’s Probation Policy is described in a separate policy – it provides guidance on the probation process and the forms to be completed. This policy should be read in conjunction with these conditions.

[Probation Policy](#) Intranet link

Topic	Description of condition
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CITIZENSHIP (ss22(6)(b))

<p>Subsection 22(8) of the PS Act</p> <p>Employment of Australian citizens</p>	<p>The Act states that a person who is not an Australian citizen must not be engaged unless the agency head considers it appropriate to do so. The Act does not make any distinction in citizenship requirements between permanent (ongoing) and temporary (non-ongoing) engagements.</p>
<p>Waiver of citizenship</p>	<p>APSC guidance states that “While the PS Act indicates a general expectation that people engaged as APS employees will be Australian citizens, agency heads have the discretion to engage non-citizens as either ongoing or non-ongoing employees depending on particular needs of the agency, for example, a shortage of skills or professional qualifications required to perform particular duties. There may be a range of circumstances where it is appropriate to engage a non-citizen, particularly, where the person is actively pursuing the acquisition of Australian citizenship.</p> <p><i>(ref http://www.apsc.gov.au/publications04/conditions4.htm)</i></p>
<p>Comcare’s policy</p>	<p>In line with Australian Public Service Commission guidelines, Comcare’s policy is that all employees will be Australian citizens. However a waiver may be appropriate in circumstances where it is essential to the efficiency and effectiveness of Comcare’s operations and non-citizens who are in the process of obtaining citizenship may be appointed to positions within Comcare.</p> <p>The citizenship requirement will be notified in job advertisements and will be reiterated in the offer of employment letter given to the employee (selection panels and delegates are reminded of this requirement in advice provided with the vacancy file).</p> <p>Advertising will allow for consideration of non-citizens, eg.</p> <p><i>(Please note that these positions are open to Australian Citizens. In some circumstances, applicants who have Permanent Residence status may be offered employment pending the granting of citizenship. The delegate may waive the citizenship requirement depending on the needs and circumstances of the agency (for example, a shortage of the skills or professional qualifications required to perform particular duties).</i></p>

	<p>The delegate should be aware that if the decision is made to engage a non-citizen, they will need to ensure that the person has, or is eligible for, temporary or permanent residence in Australia, and is able to obtain the appropriate work rights, before the delegate engages the prospective employee.</p> <p>Where it is considered appropriate to engage a non-citizen, the approval of the agency head should be documented and retained on the employee’s personal records. Where a citizenship waiver is granted, the person will generally be engaged as a non-ongoing employee pending the granting of Australian citizenship.</p> <p>The <i>Australian Citizenship Act 1948</i> provides that citizenship may be granted on application after a total of two years residency in the previous five years and a total of at least 12 months in the last 2 years. . A decision to waive the requirement must be recorded in writing on the instrument of engagement.</p>
<p>Things to consider before a waiver is granted</p>	<p>Before approving the engagement of a person who is not an Australian citizen, the delegate must ensure that the person has the necessary visa and work rights appropriate to the employment being offered.</p> <p><i>Guidelines on checking citizenship, residency and visitors’ rights to work can be found on the Department of Immigration and Multicultural and Indigenous Affairs (DIMA) website. link</i></p>

FORMAL QUALIFICATIONS (ss22(6)(c))

<p>Mandatory qualifications must be specified where relevant in advertising material and in selection documentation</p>	<p>A mandatory requirement for formal qualifications may be imposed for particular positions. However there must be a clear link between the qualifications and the duties of the position. For example, in the Legal Adviser classification structure and Graduate APS positions, there is a mandatory requirement for formal qualifications.</p> <p>Where formal qualifications are required, this must be specified in the Commonwealth Gazette and any press or electronic media where the position is advertised.</p> <p>In addition, all related selection documentation should specify the requirement for formal qualifications and the requirement should also be stated in the offer of employment letter. The employee engaged to fill the position must provide evidence that they have the formal qualifications stipulated for the position.</p>
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CHARACTER AND SECURITY CLEARANCES (ss22(6)(d))

<p>Character and security clearances (ss22(6)(d))</p>	<p>All Comcare employees must comply with the APS Values and the APS Code of Conduct (sections 10 and 13 of the <i>Public Service Act</i> respectively).</p> <p>All Comcare employees must also complete the Australian Federal Police (AFP) check authorisation form on commencement. This form seeks information on any previous criminal convictions and gives permission to conduct the police records check.</p>
<p>Security Assessment</p>	<p>Comcare is required to ensure compliance with the requirements of the <i>Commonwealth Protective Security Manual 2000</i> (PSM). In accordance with PSM requirements, employees engaged for positions that are classified as Designated Security Assessment Positions (DSAP) or Positions of Trust (POT) are subject to security clearance processes. An employee cannot be granted access to security classified material before the necessary level of clearance has been granted.</p> <p>The requirement for security access must be specified in the job advertisement such as the Commonwealth Gazette and any press or electronic media where the position is advertised.</p> <p>Comcare's <i>CEO Direction – Security</i> provides further information about security requirements and the clearance process.</p>

HEALTH CLEARANCES (ss22(6)(e))

<p>Health Clearances ss22(6)(E)</p>	<p>The majority of Comcare work activities are of an administrative nature and are office based. The exception to this is the National File Centre where work includes climbing ladders and lifting boxes in addition to performing a range of administrative tasks.</p> <p>Comcare (like other agencies whose work is office-based) does not specify minimum health requirements as a condition of engagement. However, all employees engaged by Comcare should, as a condition of employment, be required to complete a pre-employment health check to ensure they are fit to perform their duties. Where they are employed prior to a health check for reasons of urgency, a health check should be completed within a month of joining Comcare and their appointment should be subject to the outcome of that test.</p> <p>Comcare has an obligation to comply with its duty of care responsibilities that include providing a safe and healthy work environment. Employees being engaged must disclose all medical conditions that may require specific adjustments to be made to the work environment to accommodate their needs or</p>
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	<p>that may, as a result of performing work, risk aggravation of a pre-existing condition(s).</p> <p>If a newly engaged employee declares an existing medical condition, or if Comcare becomes aware that such a condition exists, within the first twelve months of employment, arrangements must be made for the employee to immediately undergo an employment medical exam. The purpose of the medical is to determine whether adjustments must be made to duties or to the employee's work area. If the examination reveals that the employee is not fit to work then Comcare's fitness for duty guidelines will be followed.</p> <ul style="list-style-type: none">▪ Routine medical examinations are no longer required for superannuation purposes. A newly engaged employee will complete a medical history/declaration form before starting and the superannuation fund may require a medical examination to be conducted. However, this is not a condition of employment. <p>Non-ongoing contracts – may send for medical Conditions – work requirements – e.g.: Investigators</p>
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