

Citizenship in the APS

See also [Conditions of Engagement](#)

1. Where Australian citizenship is required

Evidence of Australian citizenship

A [list of documents that can confirm Australian citizenship](#) is available from the Department of Foreign Affairs and Trade.

Information on Australian citizenship—including how to obtain evidence of Australian citizenship—is available from the Department of Home Affairs at www.citizenship.gov.au.

Australian Citizenship is generally required in order to obtain a security clearance. For more information, see [Section 11.4 of the Personnel security guidelines](#), part of the [Australian Government Protective Security Policy Framework](#).

Providing evidence of Australian citizenship as a condition of engagement

Where satisfactory evidence is not provided prior to engagement, then **evidence of citizenship** should be required as a *condition of engagement*, under subsection 22(6) of the *Public Service Act 1999* (PS Act).

It is good practice for an agency's letter of offer make clear:

- the requirement for the employee to provide evidence (as specified) of Australian citizenship within a specified timeframe
- that employment can be ended if the condition is not met within the specified timeframe.

Obtaining Australian citizenship as a condition of engagement

An agency may require the person to **obtain Australian citizenship** as a condition of engagement, under subsection 22(6) of the PS Act. Where this is the case, a potential employee must be notified.

It is good practice for an agency's letter of offer to make clear:

- the requirement for the employee to provide evidence (as specified) of Australian citizenship within a specified timeframe
- the requirement for the employee to provide evidence (as specified)—and within specified timeframes—that they are *actively seeking* citizenship
- that employment can be ended by the agency if the condition is not met within the specified timeframes.

While it may seem impractical to impose the condition where an engagement is for a short period of time, agencies should be mindful that periods of employment can be extended in certain circumstances, and that a condition of engagement can only be imposed *at the time of engagement*.

Moving to another APS agency

Where an employee moves to another agency, the gaining agency can determine whether the requirement to obtain citizenship continues to apply. The gaining agency is responsible for:

- confirming whether the requirement exists, and has not been met
- making it clear to the employee that the requirement is continuing—for example in the written agreement to transfer.

Where the condition continues to apply, a person's employment may be ended by the new agency if the condition is not met under subsection 29(3)(f) of the PS Act.

Citizenship, as a condition of engagement, cannot be imposed by the new agency if it was not initially imposed by the agency that made the engagement.

2. Where Australian citizenship is not required on engagement

Where Australian citizenship is not required by an agency head, a person who is not an Australian citizen *and who is eligible to work in Australia* can be employed in that agency on an ongoing or non-ongoing basis, subject to the normal provisions of merit in the APS¹.

The decision of the agency head or delegate to engage a person who is not an Australian citizen should be documented and retained in the employee's personal records. The employee should be made aware that—without Australian citizenship—they may not be eligible to be employed in other APS agencies unless the relevant agency head agrees.

A person who holds a temporary visa would normally only be engaged on a non-ongoing (temporary) basis, in line with the time available on their visa.

Eligibility to work in Australia

A person who is not an Australian citizen must hold appropriate work entitlements in order to be employed in the APS. This is an independent legal requirement. It applies regardless of whether a related condition of engagement has been imposed or whether the person was notified of such a requirement at the time of their engagement.

Where an employee no longer holds a valid work entitlement, their employment can be ended for loss of an essential qualification under subsection 29(3)(b) of the PS Act.

It is good practice for an agency to:

- inform an employee who is not an Australian citizen—in the letter of offer—that if they cease to hold valid work entitlements, their employment will be ended
- make regular checks with the Department of Home Affairs to ensure a person's work entitlements have not changed.

Information on visa requirements for foreign nationals working in Australia and on employer obligations is available from the Department of Home Affairs www.border.gov.au/.

3. Dual citizenship

Some Australian citizens also hold citizenship of another country (dual citizenship). If a person in this position can demonstrate evidence of Australian citizenship, they can be engaged as an APS employee, regardless of other citizenship they may hold at the same time.

Employment of a dual citizen can lead to employment-related issues, for example where the person is required to obtain a security clearance or to work in an area where their dual citizenship could be seen as a conflict of interest.

4. Recruiting outside Australia

There is no APS-wide sponsorship scheme for recruiting people who are not Australian citizens from overseas. Agencies should contact the Department of Home Affairs for information on employer sponsorship schemes.

If an agency decides to recruit outside Australia, requirements in relation to notifying vacancies in the Public Service Gazette (www.apsjobs.gov.au) still apply.

If an overseas applicant who is not an Australian citizen is being considered for employment, the agency should be satisfied that the applicant is eligible to obtain the appropriate work entitlements *before* an offer of employment is made. A person who is not an Australian citizen must hold appropriate work entitlements in order to be employed in the APS.

5. Locally engaged staff

Under section 74 of the PS Act, agency heads can engage persons overseas, to perform duties overseas. These persons are not APS employees under the PS Act and there is no citizenship requirement under the Act for locally engaged staff. These persons are engaged in accordance with local employment law in the relevant jurisdiction.

6. Legislation

Public Service Act 1999

Subsection 22(6)

An agency head may impose conditions on the engagement of an APS employee.

These conditions must be notified to the employee.

Conditions may include matters dealing with citizenship.

Subsection 22(8)

An agency head must not engage a person who is not an Australian citizen as an APS employee *'unless the agency head considers it appropriate to do so'*.

The discretion to engage a person who is not an Australian citizen is with the relevant agency head.

An agency may have policies that limit the circumstances under which a person who is not an Australian citizen can be employed—for example only where, as a condition of engagement, an employee must *obtain* Australian citizenship.

Subsection 29(3)(f)

An agency head may terminate the employment of an APS employee for failing to meet a condition of engagement imposed under subsection 22(6) of the PS Act.

Additional note

Subsection 22(6) of the PS Act can only be used to impose conditions *at the time a person is being engaged in the APS*. This subsection cannot be used to impose or vary conditions of employment *after* engagement.

If a condition is not imposed *at the time of engagement*, then subsection 29(3)(f) of the PS Act cannot be used by an agency to end employment if the condition is not met.

¹ As described in the *Australian Public Service Commissioner's Directions 2016–Chapter 3*.