



ADMIN 24/066

## **Australian Border Force (Immigration and Border Protection Worker Employment Suitability Screening and Integrity Measures) Directions 2024**

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I, Stephanie Foster PSM, Secretary of the Department of Home Affairs, make the following directions.

Dated *28 September* 2024

*Stephanie Foster*

Stephanie Foster PSM  
Secretary  
Department of Home Affairs

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## Part 1—Preliminary

### 1 Name

This instrument is the *Australian Border Force (Immigration and Border Protection Worker Employment Suitability Screening and Integrity Measures) Directions 2024*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument.	The day after the instrument is signed.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under section 55 of the *Australian Border Force Act 2015*.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides that, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### 4 Application and Citation

- (1) The directions contained in this instrument apply to all IBP workers.
- (2) This instrument may be cited as the *Employment Suitability Screening and Integrity Measures Secretary Directions*.

### 5 Schedule

Each instrument that is specified in the Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this instrument has effect according to its terms.

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## 6 Definitions

Note: A number of expressions used in this instrument are defined in subsection 4(1) of the ABF Act, including the following:

- (a) Australian Border Force;
- (b) Australian Border Force Commissioner;
- (c) corrupt conduct;
- (d) engages in corrupt conduct;
- (e) Immigration and Border Protection worker;
- (f) prohibited drug;
- (g) serious misconduct.

In this instrument:

**ABF** means the Australian Border Force.

**ABF Act** means the *Australian Border Force Act 2015*.

**ABF worker** means an IBP worker who is holding or occupying a position in the ABF.

**APS** means the Australian Public Service established by section 9 of the Public Service Act.

**APS Code of Conduct** means the rules in section 13 of the Public Service Act.

**Department** means the Department of Home Affairs.

**Department Integrity Framework** means all Procedural Instructions referred to in the Integrity and Professional Standards Frameworks Policy Statement, as in force on the day this instrument commences.

**DAMP** means the Drug and Alcohol Management Program, which is the program of work that facilitates the alcohol and drug testing of ABF workers, as described in the Drug and Alcohol Testing Procedural Instruction as in force on the day this instrument commences.

**ESC** means Employment Suitability Clearance, which is clearance granted by the Department to ABF workers upon assessment of an applicant's suitability, which involves undertaking a range of checks recommended under the Protective Security Policy Framework, as described in the ESS, as in force on the day this instrument commences.

**ESS** means Employment Suitability Screening, which is the process of the same name as described in the Employment Suitability Screening Procedural Instruction, as in force on the day this instrument commences.

**Home Affairs worker** means an IBP worker who is not an ABF worker.

**IBP worker** means Immigration and Border Protection worker.

**impaired** in relation to the consumption of drugs (listed in Schedule 1 or 2 of the *Criminal Code Regulations 2019*) and/or alcohol, means reduction or loss of function or ability.

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***Acts Interpretations Act*** means the *Acts Interpretations Act 1901*.

***Onboarding Check*** means clearance granted by the Department to Home Affairs workers upon assessment of an applicant's suitability for employment, which involves undertaking checks outlined in the Protective Security Policy Framework, as described in the ESS, as in force on the day this instrument commences.

***Protective Security Policy Framework*** means the policy, guidance and better practice advice (being those policy, guidance and advice as in force on the day this instrument commences), in relation to security governance and information, personnel and physical security, which supports Australian Government entities to protect their people, information and assets.

***Public Service Act*** means the *Public Service Act 1999*.

***Security clearance*** means an assessment conducted by the Australian Government Security Vetting Agency to evaluate an individual's eligibility and suitability to have ongoing non-public access to departmental premises, security classified resources, information, systems or assets.

## **7 Purpose**

- (1) The Department (including the ABF) is charged with protecting Australia's border and managing the movement of people and goods across it. The Department holds a privileged place at the border and in the community, with access to secure environments, and the ability to make decisions that affect a person's safety, rights and freedoms, and Australian trade and commerce.
- (2) The work of the Department and the information the Department holds are valuable to organised crime syndicates, who actively try to circumvent border controls, compromise border integrity and threaten national security and our border management activities are a significant target for criminal groups who have strong financial and other motives to infiltrate border protection agencies across the globe.
- (3) The integrity of the workers in the Department must therefore be of the highest order and the behaviour of the workers must be consistent with the laws to which the Department enforce. The directions contained in Part 2 require IBP workers to comply with certain integrity measures under the Department's Integrity Framework relating to employment suitability, security screening, the DAMP and mandatory reporting of IBP workers who are reasonably believed to be engaging in serious misconduct, corrupt conduct or criminal activity.
- (4) The Department assesses character and integrity suitability of IBP workers for non-public access to departmental premises, information, systems or assets by conducting ESS.

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## Part 2—Directions

### 8 Onboarding Check

- (1) For the purposes of organisational suitability assessment, Home Affairs workers are directed to obtain an Onboarding Check.

Note: Subsection 55(4) of the ABF Act has the effect that directions made under subsection 55(1) of that Act may relate to organisational suitability assessments.

- (2) For the purpose of essential qualifications for the performance duties, Home Affairs workers are directed to maintain the conditions that would satisfy the grant of the Onboarding Check.

Note 1: Subsection 55(2) of the ABF Act has the effect that directions made under subsection 55(1) of that Act may relate to the essential qualifications for IBP workers.

Note 2: Section 6 of this instrument defines Home Affairs workers to be IBP workers that are not ABF workers.

- (3) However, the direction under subsection (1) does not apply to a Home Affairs worker:

- (a) covered by subsection (4); or
- (b) to whom section 10 applies.

Note: Subsections 33(3A) of the *Acts Interpretations Act 1901* has the effect that, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) with respect to particular matters (however the matters are described), the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

- (4) For the purposes of subsection (3), the Secretary or a delegate of the Secretary may, in writing, in accordance with the ESS, as in force on the day this instrument commences, identify:

- (a) a Home Affairs worker; or
- (b) a class of Home Affairs workers;

to whom the direction under subsection (1) does not apply.

- (5) If the direction under subsection (1) does not apply to a Home Affairs worker, then the direction under subsection (2) also does not apply in respect of that worker.

### 9 Employment Suitability Clearance—ABF workers

- (1) For the purposes of organisational suitability assessment, ABF workers are directed to obtain an ESC.

Note: Subsection 55(4) of the ABF Act has the effect that directions made under subsection 55(1) of that Act may relate to organisational suitability assessments.

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- (2) For the purpose of essential qualifications for the performance duties, ABF workers are directed to maintaining the conditions that would satisfy the grant of the ESC for the performance of their duties, through compliance with the Department's ESS policy as in force on the day this instrument commences.

Note 1: Subsection 55(2) of the ABF Act has the effect that directions made under subsection 55(1) of that Act may relate to the essential qualifications for IBP workers.

Note 2: Section 6 of this instrument defines ABF workers to be IBP workers who is holding or occupying a position in the ABF.

- (3) However, the direction under subsection (1) does not apply to an ABF worker if the circumstances under subsection (4) are satisfied.

Note: Subsections 33(3A) of the *Acts Interpretations Act 1901* has the effect that, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by - laws) with respect to particular matters (however the matters are described), the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

- (4) For the purposes of subsection (3), the Secretary or a delegate of the Secretary may, in writing, in accordance with the ESS, as in force on the day this instrument commences, identify:

- (a) an ABF worker; or
- (b) a class of ABF workers;

to whom the direction under subsection (1) does not apply.

- (5) If the direction under subsection (1) does not apply to an ABF worker, then the direction under subsection (2) also does not apply in respect of that worker.

## **10 Employment Suitability Clearance—Home Affairs workers**

- (1) This section applies if the Secretary or a delegate of the Secretary identifies in writing that a circumstance in subsection (2) applies to a Home Affairs worker or a class of Home Affairs workers.

- (2) For the purposes of subsection (1), the Secretary or the delegate of the Secretary may, in writing, identify that one or more of the following apply in relation to a Home Affairs worker or a class of Home Affairs workers:

- (a) the worker is in an area where an ESC is required;
- (b) the type of work being undertaken by the worker requires an ESC;
- (c) access to secure systems is required to perform the duties of the worker, where that systems access requires an ESC.

Note: Subsections 33(3A) of the *Acts Interpretations Act 1901* has the effect that, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by - laws) with respect to particular matters (however the matters are described), the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

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- (3) If this section applies to a Home Affairs worker, the worker is directed to comply with the directions mentioned in subsections 9(1) and (2).

## **11 Security Clearance**

- (1) Subject to subsection (2), all IBP workers are directed to:
- (a) obtain at a minimum BASELINE security clearance for the performance of their duties; and
  - (b) maintain the security clearance mentioned in paragraph (1)(a) for the performance of their duties.
- (2) If an IBP worker is advised, in writing, that the nature of their duties requires the IBP worker to obtain and maintain a higher security clearance, the IBP worker must:
- (a) apply for and obtain at a minimum the higher security clearance required; and
  - (b) maintain the security clearance mentioned in paragraph (2)(a).

## **12 Declarable Circumstances**

IBP workers are directed to report changes in their personal circumstances in accordance with the Department's Declarable Circumstances policy as in force on the day this instrument commences.

## **13 Drugs and Alcohol**

- (1) IBP workers must not, contrary to law, use, possess, traffic, consume or otherwise have present in their bodies, any prohibited or illegal drugs.
- (2) IBP workers must not be on duty or perform any services for the Department, including the ABF, whilst impaired by any legal or illegal drugs.
- (3) ABF workers must comply with the DAMP as in force on the day this instrument commences.

## **14 Mandatory reporting—serious misconduct, corrupt conduct or criminal activity**

- (1) An IBP worker must report as soon as practicable after becoming aware of, or having a reasonable belief that, another IBP worker is, has or may be engaging in serious misconduct, corrupt conduct or criminal activity that affects, or is likely to affect, the operations, responsibilities or reputation of the Department, including the ABF.
- (2) An IBP worker must report as soon as practicable if they themselves have engaged or are engaging in any of the conduct referred to in subsection (1).
- (3) An IBP worker must comply with the Department's Mandatory Reporting policy as in force on the day this instrument commences.



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## 15 Effect of non-compliance

- (1) Unless otherwise permitted by this Part, a failure to comply with directions in this Part by an IBP worker employed under the Public Service Act may result in action being commenced to determine whether that IBP worker has breached the APS Code of Conduct.

Note: Failure to obtain or maintain an Onboarding Check, ESC or security clearance may lead to an assessment that an IBP worker lacks or has lost an essential qualification for performing his or her duties. Lack or loss of an essential qualification is a ground for termination of employment under paragraph 29(3)(b) of the Public Service Act.

- (2) Unless otherwise permitted by this Part, a failure to comply with directions in this Part by an IBP worker who is not employed under the Public Service Act may result in action being taken in accordance with the terms and conditions under which that worker is providing services or labour to the Department, or under section 57 of the ABF Act.

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## **Schedule—Repeals**

### ***Employment Suitability and Security Screening Directions 2015***

#### **1 The whole of the Directions**

Repeal the instrument.

### ***Integrity Measures Directions 2015***

#### **2 The whole of the Directions**

Repeal the instrument.