Australian Civilian Corps
Regulations 2011

Select Legislative Instrument No. 246, 2011 as amended
made under the

Australian Civilian Corps Act 2011

Compilation start date: 13 December 2013
Includes amendments up to: Act No. 140, 2013

Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

This compilation

This is a compilation of the *Australian Civilian Corps Regulations 2011* as in force on 13 December 2013. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 13 December 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.
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Part 1—Preliminary

1 Name of Regulations

These Regulations are the *Australian Civilian Corps Regulations 2011*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Definitions

In these Regulations:

*ACC Register* means the register maintained by the Department that includes information about people identified by the Department as potentially suitable for engagement as Australian Civilian Corps employees.

*Act* means the *Australian Civilian Corps Act 2011*.

**Agency Head:**

(a) has the meaning given by section 7 of the *Public Service Act 1999*; and

(b) includes a person who is:

(i) a delegate of the Agency Head for the purposes of these Regulations; or

(ii) authorised by the Agency Head, expressly or impliedly, to perform the Agency Head’s functions for the purposes of these Regulations.

*applicant* means a person who applies for review of a decision mentioned in subsection 17A(1) of the Act.

Note: Subsections 17A(1) and (2) of the Act explain when a person can apply for review of a decision. Regulation 9 explains when a person is not entitled to review, or ceases to be entitled to review, of the decision.
**Part 1** Preliminary

Regulation 3

*reviewer* means a person identified, or a committee constituted, under subregulation 11(1).

*tribunal* means a tribunal constituted under an enactment.
Part 2—Australian Civilian Corps Values and Code of Conduct

4 Australian Civilian Corps Values

Schedule 1 prescribes the Australian Civilian Corps Values, for section 12 of the Act.

5 Australian Civilian Corps Code of Conduct

Schedule 2 prescribes the Australian Civilian Corps Code of Conduct, for section 15 of the Act.

6 Limitation on sanctions for breaches of Australian Civilian Corps Code of Conduct

(1) For subsection 17(2) of the Act, this regulation applies if:
   (a) an Australian Civilian Corps employee is found to have breached the Australian Civilian Corps Code of Conduct; and
   (b) the Secretary imposes on the employee the sanction of deduction from salary, by way of fine, under paragraph 17(1)(c) of the Act.

(2) The deduction must not be more than 2% of the Australian Civilian Corps employee’s annual salary.

7 General policy about review

(1) It is the policy of the Australian Government that the Secretary and the Australian Civilian Corps should achieve and maintain workplaces that encourage productive and harmonious working environments.

(2) It is intended that this Part should provide for a fair system of review of decisions relating to breaches of the Australian Civilian Corps Code of Conduct.
(3) Australian Civilian Corps employees’ concerns are intended to be dealt with quickly, impartially and fairly.

(4) The review processes are intended to be consistent with the use of alternative dispute resolution methods to reach satisfactory outcomes where appropriate.

(5) Nothing in this Part is intended to prevent an application for review from being resolved by conciliation or other means at any time before the review process is completed.

8 Secretary’s responsibility

The Secretary is responsible for ensuring that applications for review can be dealt with in accordance with:

(a) this Division; and

(b) the procedures agreed upon under regulation 15; and

(c) the Secretary’s responsibility to uphold and promote the Australian Civilian Corps Values.

9 Exceptions to entitlement to review of decisions relating to breaches of Australian Civilian Corps Code of Conduct

(1) For subsection 17A(3) of the Act, this regulation sets out exceptions to a person’s entitlement to review of a decision relating to a breach of the Australian Civilian Corps Code of Conduct.

Substantive classification

(2) A person is not entitled to review of a decision if:

(a) the person is an Australian Civilian Corps employee with the substantive classification of ACC 3 when the person applies for review of the decision; or

(b) if the person is no longer an Australian Civilian Corps employee—the person was an Australian Civilian Corps employee with the substantive classification of ACC 3 immediately before the person’s employment ceased.

Note: When these Regulations commenced, the classification ACC 3 applied to employees who were the equivalent of SES employees.
Regulation 9

(3) A person ceases to be entitled to review of a decision if the person becomes an Australian Civilian Corps employee with the substantive classification of ACC 3 after the person has applied for review of the decision.

Note: When these Regulations commenced, the classification ACC 3 applied to employees who were the equivalent of SES employees.

Review of decision by Court or tribunal

(4) A person is not entitled to review of a decision, or ceases to be entitled to review of the decision, if:

(a) the person has applied to have the decision reviewed by a Court or tribunal; and

(b) the decision may be reviewed by that Court or tribunal.

Decision by reviewer not to review decision

(5) A person ceases to be entitled to review of a decision if:

(a) a reviewer has been appointed or constituted in relation to the decision; and

(b) the reviewer decides that the decision should not be reviewed for any of the following reasons:

(i) the application for review of the decision is made later than the period mentioned in subregulation 10(3), and the delay is not because of exceptional circumstances;

(ii) the application for review of the decision is frivolous or vexatious;

(iii) the person who made the application has previously applied to the Secretary for review of the decision;

(iv) the person who made the application has applied, or could apply, to have the decision reviewed by another body and review by the other body would be more appropriate than review under these Regulations;

(v) review, or further review, of the decision is not otherwise justified in all the circumstances.

Examples of other bodies for subparagraph (iv):

1 Commonwealth Ombudsman.
2 Australian Human Rights Commission.
Part 2 Australian Civilian Corps Values and Code of Conduct

Regulation 10

Example for subparagraph (v):

Review may not be justified because the applicant does not respond to a requirement under regulation 16 for further information about why the review is sought.

10 Application for review

(1) For subsection 17A(1) of the Act, this regulation applies to a person who seeks review of a decision mentioned in subsection 17A(1) of the Act.

Note: Subsections 17A(1) and (2) of the Act explain when a person can apply for review of a decision. Regulation 9 explains when a person is not entitled to review, or ceases to be entitled to review of the decision.

(2) An application for review of the decision must be made in writing to the Secretary and must state briefly:

(a) why the review is sought; and
(b) any specific outcome that the applicant is seeking.

Examples of outcomes:
1 Reconsideration of the decision.
2 Reassignment of duties.

(3) An application for review of the decision must be made not later than 60 days after the day on which the decision was made.

11 Setting up review process

(1) For subsection 17A(4) of the Act, if:

(a) the Secretary receives an application for review of a decision that complies with regulation 10; and
(b) the entitlement to review of the decision is not affected by subregulation 9(2), (3) or (4);

the Secretary must, as soon as practicable after the application is received, identify a person, or constitute a committee, to review the decision.

Note: The person or committee is the reviewer.

(2) A committee that is constituted under subregulation (1) must have 3 members.
12 Notification of no entitlement to review

(1) If a reviewer decides that a decision should not be reviewed in accordance with subregulation 9(5), the reviewer must tell the applicant, in writing:
   (a) that there is no entitlement to review of the decision; and
   (b) why there is no entitlement to review.

(2) If an applicant:
   (a) is not entitled to review of a decision in accordance with subregulation 9(2); or
   (b) ceases to be entitled to review of a decision in accordance with subregulation 9(3);
the Secretary must ensure that the applicant is told, in writing, that the applicant is not entitled to review, or has ceased to be entitled to review, of the decision, and why there is no entitlement to review of the decision.

(3) If:
   (a) an applicant is not entitled to review, or ceases to be entitled to review, of a decision in accordance with subregulation 9(4); and
   (b) the Secretary is notified by the relevant Court or tribunal that:
      (i) the person has applied to have the decision reviewed by the Court or tribunal; and
      (ii) the decision may be reviewed by the Court or tribunal;
the Secretary must ensure that the applicant is told, in writing, that the applicant is not entitled to review, or has ceased to be entitled to review.
13 Conduct of review

If an application for review of a decision is made and there is an entitlement to review, the reviewer must:

(a) review the decision as soon as practicable; and

(b) make a recommendation to the Secretary, in writing, about the decision; and

(c) tell the Secretary, in writing, of the reasons for the recommendation; and

(d) tell the applicant, in writing, of the recommendation and reasons given to the Secretary.

14 Action by Secretary following review

(1) If the Secretary receives a recommendation under paragraph 13(b), the Secretary must, as soon as practicable after receiving the recommendation:

(a) consider the recommendation; and

(b) do any of the following:

(i) confirm the decision;

(ii) vary the decision;

(iii) set the decision aside and substitute a new decision.

(2) Paragraph (1)(b) does not limit the employer powers of the Secretary in relation to the decision or the applicant.

Example: The Secretary may take other appropriate action to rectify the effects of the decision under review or to restore the applicant to the position in which the applicant would have been if the decision under review had not been made.
(3) The Secretary must tell the applicant and the reviewer, in writing, of:
   (a) the action that the Secretary has taken under subregulation (1); and
   (b) the reasons for taking the action.

Note: Subsection 17A(11) of the Act allows for matters to be reported to the Minister, the Prime Minister and the Parliament if the reviewer is not satisfied with the response to recommendations contained in a report to the Secretary.

15 Review procedures

(1) If the Secretary gives an application to a reviewer, the Secretary and the reviewer must, as soon as practicable, agree to the procedures to be followed by the reviewer.

(2) The procedures must ensure that:
   (a) the procedures have due regard to procedural fairness; and
   (b) the review is conducted in private; and
   (c) the review is finished as quickly, and with as little formality, as a proper consideration of the matter allows.

(3) The procedures must not be inconsistent with the Act or these Regulations.

(4) An applicant appearing before a reviewer must do so without representation unless the reviewer decides that, in all the circumstances, it would be reasonable to allow the applicant to be represented.

(5) The reviewer must comply with the procedures.

16 Requirement to provide information or documents

(1) A reviewer may, by written notice given to the Secretary or an Agency Head, require the Secretary or the Agency Head to give to the reviewer information or documents specified in the notice that are relevant to the review.

(2) A reviewer may, by written notice given to a person who is, or was, an Australian Civilian Corps employee, require the person to
Part 2  Australian Civilian Corps Values and Code of Conduct

Regulation 17

give to the reviewer information or documents specified in the notice that are relevant to the review.

(3) The Secretary, Agency Head or person mentioned in subregulation (2) must give the information or documents in the way, and at or within the time, stated in the notice.

17 Making of application does not operate as stay

The making of an application for review of a decision under regulation 10 does not operate to stay the decision.
Part 3—Miscellaneous

18 Power to require Australian Civilian Corps Employee to attend medical examination or mental health assessment

(1) Subregulation (2) applies to an Australian Civilian Corps employee if:
   (a) the employee’s employment is subject, under paragraph 19(4)(e) of the Act, to a condition dealing with health clearances; or
   (b) the Secretary believes that the employee’s state of health:
       (i) may be affecting the employee’s work performance; or
       (ii) has caused, or may cause, the employee to have an extended absence from work; or
       (iii) may be a danger to the employee; or
       (iv) has caused, or may cause, the employee to be a danger to other employees or members of the public; or
       (v) may be affecting the employee’s standard of conduct.

Examples of absences that could be treated as extended absences:
1. An absence from work of at least 4 continuous weeks.
2. A combined total of absences from work, within a 13 week period, of at least 4 weeks, whether based on a single or separate illness or injury.

(2) The Secretary may, in writing, direct the employee to:
   (a) undergo:
       (i) a medical examination by a nominated medical practitioner; or
       (ii) a mental health assessment by a nominated psychologist;
       for an assessment of the employee’s fitness for duty; and
   (b) give the Secretary a report of the examination or assessment.

(3) In this regulation:

   nominated medical practitioner means:
   (a) a medical practitioner who is:
Part 3 Miscellaneous

Regulation 19

(i) registered to practice medicine in Australia; and
(ii) nominated by the Secretary to assess the fitness for duty of an Australian Civilian Corps employee; or

(b) a person who:
   (i) is not in Australia; and
   (ii) is not registered to practice medicine in Australia; and
   (iii) is registered, or has an equivalent approval, under the law of another country to practice medicine in that country; and
   (iv) is nominated by the Secretary to assess the fitness for duty of an Australian Civilian Corps employee in that country.

*nominated psychologist* means:

(a) a psychologist who is:
   (i) registered to practice psychology in Australia; and
   (ii) nominated by the Secretary to assess the fitness for duty of an Australian Civilian Corps employee; or

(b) a person who:
   (i) is not in Australia; and
   (ii) is not registered to practice psychology in Australia; and
   (iii) is registered, or has an equivalent approval, under the law of another country to practice psychology in that country; and
   (iv) is nominated by the Secretary to assess the fitness for duty of an Australian Civilian Corps employee in that country.

Note: The Privacy Act 1988 has rules about keeping records of personal information.

19 Suspension

(1) The Secretary may suspend an Australian Civilian Corps employee from duties if the Secretary believes on reasonable grounds that:

(a) the employee has, or may have, breached the Australian Civilian Corps Code of Conduct; and

(b) the employee’s suspension is in:

Australian Civilian Corps Regulations 2011
Regulation 20

(i) the public interest; or
(ii) the interests of the Australian Civilian Corps; or
(iii) the interests of the Department.

(2) The suspension may be with or without remuneration.

(3) If the suspension is to be without remuneration, the period without remuneration is to be:
   (a) not more than 30 days; or
   (b) if exceptional circumstances apply—a longer period.

(4) The Secretary must review the suspension at reasonable intervals.

(5) The Secretary must immediately end the suspension if the Secretary no longer believes on reasonable grounds:
   (a) that the Australian Civilian Corps employee has, or may have, breached the Australian Civilian Corps Code of Conduct; or
   (b) that the employee’s suspension is in:
      (i) the public interest; or
      (ii) the interests of the Australian Civilian Corps; or
      (iii) the interests of the Department.

(6) The Secretary must immediately end the suspension if a sanction has been imposed on the Australian Civilian Corps employee for the breach of the Australian Civilian Corps Code of Conduct mentioned in paragraph (1)(a).

(7) In exercising powers under this regulation, the Secretary must have due regard to procedural fairness unless the Secretary is satisfied on reasonable grounds that, in the particular circumstances, it would not be appropriate.

20 Disclosure or use of personal information

(1) For paragraph 29(a) of the Act, the Secretary or another Agency Head may use or disclose personal information, within the meaning of the Privacy Act 1988, that is in the possession, or under the control, of the Secretary or Agency Head in any of the following circumstances:

Australian Civilian Corps Regulations 2011
Regulation 20

(a) the use or disclosure is necessary for the performance or exercise of:
   (i) the employer powers of the Secretary; or
   (ii) the employer powers of the Agency Head;
(b) the use or disclosure is necessary for the performance of a function of a reviewer;
(c) the use or disclosure is necessary for the performance of an outsourced personnel function.

(2) For paragraph 29(b) of the Act, personal information that is used or disclosed by the Secretary for the performance of an outsourced personnel function may be further used or disclosed without the Secretary’s written permission only if the use or disclosure is for the performance of the outsourced personnel function.

(3) A use of personal information in accordance with subregulation (1) or (2) is an authorised use for paragraph 1(c) of Information Privacy Principle 10, set out in section 14 of the Privacy Act 1988.

(4) A disclosure of personal information in accordance with subregulation (1) or (2) is an authorised disclosure for paragraph 1(d) of Information Privacy Principle 11, set out in section 14 of the Privacy Act 1988.

(5) In this regulation:

Commonwealth contract has the same meaning as in the Privacy Act 1988.

employer powers of an Agency Head has the same meaning as in section 20 of the Public Service Act 1999.

employer powers of the Secretary means the rights, duties and powers mentioned in Part 3 of the Act.

outsourced personnel function, in relation to a proposed use or disclosure of personal information, means a personnel function, relating to a former, current or prospective Australian Civilian Corps employee, that is to be performed by a contractor under a Commonwealth contract at the time of the proposed use or disclosure of the personal information.
Regulation 20

Note: The Freedom of Information Act 1982 and the Privacy Act 1988 have rules about the use and disclosure of personal information.
Schedule 1—Australian Civilian Corps Values
(regulation 4)

Relationship with Australian Government and Parliament

1. Australian Civilian Corps employees are apolitical and perform their functions in an impartial and professional manner.

2. Australian Civilian Corps employees are openly accountable for their actions, within the framework of ministerial responsibility to the Government, the Parliament and the Australian public.

3. Australian Civilian Corps employees are responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government’s policies and programs.

Relationship with the Australian public

4. Inclusion on the ACC Register is merit-based, with all eligible members of the community having a reasonable opportunity to apply to join the Register.

Workplace relationships

5. Australian Civilian Corps employees are Australian Government officials recruited from the ACC Register on the basis of merit.

6. The Secretary provides, to the extent possible, a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community.

7. The Secretary establishes workplace relations with Australian Civilian Corps employees that value communication, consultation, cooperation and input from employees on matters that affect their workplace.

8. The Secretary provides, to the extent possible, a fair, flexible, safe and rewarding workplace for Australian Civilian Corps employees.

9. The Secretary and Australian Civilian Corps employees focus on achieving results and managing performance.
10. The Secretary provides a fair system of review of decisions relating to Australian Civilian Corps employees.

**Personal behaviour**

11. Australian Civilian Corps employees have the highest ethical standards.

12. Australian Civilian Corps employees’ leadership is of the highest quality.

**Relationship with host countries and their people**

13. Australian Civilian Corps employees respond flexibly to assist host countries experiencing or emerging from natural disasters or conflicts.

14. Australian Civilian Corps employees consider the needs of the most vulnerable people, and carry out their functions fairly, effectively and with cultural sensitivity for the benefit of people who are affected by conflict or disaster in the host country.

15. Australian Civilian Corps employees respect local ownership of the recovery process, including ownership by the host government as appropriate, and encourage broad community participation in that process.

16. Australian Civilian Corps employees work with Australian and international partners to deliver coherent and harmonised assistance to host countries.

17. Australian Civilian Corps employees strive to minimise harm that may be inadvertently caused in providing assistance.
Schedule 2—Australian Civilian Corps Code of Conduct

(regulation 5)

1. An Australian Civilian Corps employee must act at all times in a way that upholds the Australian Civilian Corps Values and the integrity and good reputation of the Australian Civilian Corps.

2. An Australian Civilian Corps employee must, while deployed overseas, behave in a way that upholds the good reputation of Australia at all times.

3. An Australian Civilian Corps employee must behave honestly, ethically and with integrity in connection with Australian Civilian Corps employment.

4. An Australian Civilian Corps employee must act with care and diligence in connection with Australian Civilian Corps employment.

5. An Australian Civilian Corps employee must, when acting in connection with Australian Civilian Corps employment, treat everyone with respect, courtesy and dignity, and without harassment.

6. An Australian Civilian Corps employee must, at all times, be culturally sensitive in the host country, or any other country in which he or she is travelling.

7. An Australian Civilian Corps employee must, at all times while deployed overseas, comply with all applicable laws of Australia, the host country and any other country in which he or she is travelling.

8. An Australian Civilian Corps employee must comply with any lawful and reasonable direction given by:
   (a) a senior officer of the Department who has authority to give the direction; and
   (b) while overseas—the Australian Head of Mission or, when there is no Australian Head of Mission in the host country, the senior representative of the Australian Government to the host country.
9. An Australian Civilian Corps employee must not engage in sexual exploitation or abuse of any person in the host country, whether that person is a child or adult.

10. An Australian Civilian Corps employee must not engage in behaviour that compromises the safety, security or health of themselves or others.

11. An Australian Civilian Corps employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with Australian Civilian Corps employment.

12. An Australian Civilian Corps employee must not make improper use of:
   (a) inside information; or
   (b) the employee’s duties, status, power or authority;
   in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person.

13. An Australian Civilian Corps employee must not accept gifts, benefits, hospitality or advantages that are offered in connection with his or her duties, status, power or authority, except in accordance with directions issued by the Secretary under the Act from time to time.

14. An Australian Civilian Corps employee must use any government resources in a proper manner.

15. An Australian Civilian Corps employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee’s Australian Civilian Corps employment.

16. An Australian Civilian Corps employee must not disclose confidential information to any person, including the media, which the employee obtains or generates in connection with Australian Civilian Corps employment unless:
   (a) the disclosure is necessary to enable the employee to perform his or her duties; or
   (b) the information is disclosed in accordance with an authorisation given by the Secretary or a relevant delegate; or
   (c) the disclosure is otherwise required or authorised by law.
17. An Australian Civilian Corps employee must take reasonable steps to ensure that members of his or her household:
   (a) comply with applicable local laws; and
   (b) are culturally sensitive, at all times, to people in the host country; and
   (c) do not adversely affect the good reputation of Australia; and
   (d) do not engage in behaviour that compromises the safety of themselves or others.

18. An Australian Civilian Corps employee overseas must inform the senior representative of the Australian Government to the host country as soon as practicable if:
   (a) the employee, or a member of his or her household, comes to the notice of the local law enforcement authorities; or
   (b) the employee becomes aware of serious criminal misconduct by an Australian citizen in the host country, unless it is reasonable for the employee to believe that it has already come to the attention of the senior representative.
Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2
The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5
The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.
Endnotes

Endnote 1—About the endnotes

**Modifications—Endnote 6**
If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

**Misdescribed amendments—Endnote 7**
An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

**Miscellaneous—Endnote 8**
Endnote 8 includes any additional information that may be helpful for a reader of the compilation.
### Endnote 2—Abbreviation key

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Endnote 3—Legislation history

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### Endnote 4—Amendment history

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Endnotes

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]
Endnote 6—Modifications [none]
Endnote 7—Misdescribed amendments [none]
Endnote 8—Miscellaneous [none]