



Australian Government
Department of Home Affairs

Submission to the Inquiry into the impact temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions

Select Committee on Temporary Migration

22 July 2020



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Glossary

Term	Acronym
Australian Border Force	ABF
Australian Bureau of Statistics	ABS
Australian Criminal Intelligence Commission	ACIC
Australian Federal Police	AFP
Australian Taxation Office	ATO
Culturally and Linguistically Diverse	CALD
Department of Education, Skills and Employment	DESE
Department of Foreign Affairs and Trade	DFAT
Department of Home Affairs	Home Affairs
Fair Work Ombudsman	FWO
Information and Communications Technology	ICT
Labour Market Testing	LMT
Medium and Long Term Skills Shortage List	MLTSSL
Productivity Commission	PC
Pacific Labour Scheme	PLS
Regional Occupation List	ROL
Science, Technology, Engineering and Mathematics	STEM
Special Category Visas	SCV
Skilling Australians Fund	SAF
Short-term Skilled Occupation List	STSOL
Seasonal Worker Programme	SWP
Temporary Skilled Migration Income Threshold	TSMIT
Temporary Skill Shortage visa	TSS visa
Visa Entitlement Verification Online system	VEVO

Introduction

The Department of Home Affairs (Home Affairs) welcomes the opportunity to provide a submission to the Senate Select Committee on Temporary Migration inquiry into the impact temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions.

On 5 December 2019, the Senate resolved to establish a Select Committee on Temporary Migration for inquiry and report on or before 2 December 2020. The Terms of Reference are:

The impact temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions, with particular reference to:

- a. government policy settings, including their impact on the employment prospects of Australians and social cohesion;
- b. the impact of temporary skilled and unskilled migration on Australia's labour market;
- c. policy responses to challenges posed by temporary migration;
- d. whether permanent migration offers better long-term benefits for Australia's economy, Australian workers and social cohesion;
- e. the impact of wage theft, breaches of workplace rights and conditions, modern slavery and human trafficking on temporary migrants; and
- f. any related matters.

The closing date for submissions was initially set as 5 March 2020. This was extended to 25 March 2020 and then further extended to 30 July 2020 as a result of the COVID-19 pandemic.

Overview

Immigration is central to our national story. From a population of around 7 million people after the Second World War, Australia has grown to a nation of more than 25 million people in 2019. The Immigration Program has played a core role in that nation building.

The Immigration Program comprises Temporary visas, the Migration Program, and the Humanitarian Program and is closely aligned with the Australian Citizenship Program.

The Australian Bureau of Statistics (ABS) estimates that almost 30 per cent of Australia's resident population was born overseas¹—a level much higher than most other Organisation for Economic Co-operation and Development (OECD) countries. Our people-to-people links provide tremendous opportunities and benefits to Australia and help to shape the perception of Australia around the world.

Australia's Immigration and Citizenship Program is based around a universal, non-discriminatory visa system, which focuses on the contribution a person can make to Australia rather than their ethnicity, gender or religious beliefs. Australia enjoys high levels of social cohesion and broad public support for immigration. This is in part based around confidence in well-managed non-discriminatory migration.

The world has seen an expansion in the movement of people over the past 30 years, with international migration numbers rising from 153 to 272 million between 1990 and 2019.² As international travel has become more accessible, Australia, like many other countries, has seen significant growth in temporary visas over this period.

On 31 May 2020, there were approximately 2.06 million people in Australia on temporary visas. Of this number, 559,536 were international students, 669,364 were New Zealand citizen Special Category visa holders and 120,285 visitors.³ This contrasts with the 2.4 million people in Australia on temporary visas on 31

¹ Australian Bureau of Statistics, 3412.0 - *Migration, Australia, 2018-19*, <https://www.abs.gov.au/>, published 28 April 2020

² United Nations Department for Economic and Social Affairs, *International Migration 2019*, https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/InternationalMigration2019_Report.pdf

³ Department of Home Affairs, *BP0012 Number of Temporary visa holders in Australia*.

December 2019 with 480,543 students, 635,109 visitors and 668,687 New Zealand citizen Special Category visa holders.

Student and visitor visa programs are key enablers for Australia's international education and tourism sectors, which represent some of Australia's largest export sectors and generate significant benefits for the Australian economy.

Census data tells us that temporary residents in Australia tend to be younger than the general population, with a median age of 28 years compared to 38 years⁴. Approximately 33 per cent across all visa sub groups and 57 per cent of Temporary Work (Skilled) visa holders holding a bachelor degree or higher level qualification.⁵ This is higher than the 24.3% of Australia's who had completed a bachelor degree or above at the time of the 2016 census.

Welcoming and integrating immigrants from many cultures from all parts of the world has enriched Australia's social fabric. Australia's cultural diversity has played an important role in our prosperity, enriching Australia and deepening our connections with the region and the wider world. This includes the talent of the many temporary migrants who contribute to the Australian economy and society while they are here. Many settle permanently in Australia, while others return to their home country or move to another country, further strengthening our cultural, trade and economic opportunities overseas.

This submission sets out details of Australia's temporary migration programs, which aim to help meet short to medium term challenges, and immediate deficits in labour or skills supply in sectors or regions. Despite this immediate focus, temporary migration program settings have the potential to have long-term impacts as businesses in key sectors, including tourism and education, may make economic and investment decisions based on assumptions about access to Australia through temporary migration products.

The demand driven nature of Australia's temporary visa system allows it to be highly responsive to the economic and social needs of Australia as well as broader global trends.

More recently, the COVID-19 pandemic has had a significant impact on Australia's economic and public health landscape, and has seen a number of changes to temporary visa arrangements in response. These have been implemented in line with key principles to: support public health measures, protect the health of the community, safeguard job opportunities for Australians; support critical industries; and assist with economic recovery.

⁴ Australian Bureau of Statistics, *3419.0 - Insights from the Australian Census and Temporary Entrants Integrated Dataset* (ACTEID) 2016, <https://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/d71d3673bd6eaa38ca2583a00012c31c!OpenDocument>

⁵ Australian Bureau of Statistics, *3419.0 - Insights from the Australian Census and Temporary Entrants Integrated Dataset* (ACTEID) 2016, <https://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/d71d3673bd6eaa38ca2583a00012c31c!OpenDocument>

1.1. Australia's temporary migration programs

Australia's temporary migration programs are designed to allow overseas people to come to Australia for a range of purposes, including temporary activity or work, international relations, study, training and to visit.

Under Australia's visa framework, a temporary visa is issued to a non-citizen to enter and remain in Australia for a specified period, event or for a specified status.

Key substantive temporary visa categories that provide some form of permission to work covered in this submission include:

- Temporary Skill Shortage (TSS) (subclass 482) visa;
- Temporary Work (skilled) subclass 457) (closed to new applications from 18 March 2018);
- Temporary Work (short stay specialist) (subclass 400) visa;
- Temporary Work (international relations) (subclass 403) visa;
- Temporary Activity (subclass 408) visa;
- Sponsored Parent (Temporary) (subclass 870) visa;
- Student (subclass 500) visa;
- Temporary Graduate (subclass 485) visa;
- Working Holiday visa (subclass 417) visa;
- Work and Holiday (subclass 462) visa; and
- Special Category visa (subclass 444) for citizens of New Zealand.

The right to work is provided under various circumstances, and different temporary visas allow different work conditions and periods. For example, Temporary Skill Shortage visa holders can only work in their nominated occupation and international students are only permitted to work 40 hours a fortnight whilst their course is in session. Visa conditions related to work are listed at **Attachment A**.

Not every visa holder in these categories is required to, or seeks to work. For example, ABS data from November 2019 shows that around 65 per cent of student visa holders participate in some form in the workforce.⁶

Of the approximately 2.06 million temporary visa holders in Australia on 31 May 2020, approximately 1.86 million have some form of work rights.

⁶ Australian Bureau of Statistics, *6250.0 Characteristics of Recent Migrants, Australia, Nov 2019: Table 2. Labour Force Status: Migration Status at November 2019*. Note: from the Characteristics of Recent Migrants, Survey, Nov 2019, in which 'Temporary Student' refers to people studying or seeking to study, training or skills development in Australia, and are planning to stay in Australia for 12 months or more

1.1.1. Temporary Skill Shortage visa program

The Temporary Skill Shortage (TSS) visa was introduced in March 2018 to enable employers to meet their workforce needs by bringing in skilled overseas workers where they genuinely cannot source an appropriately skilled Australian worker. It replaced the Temporary Work (Skilled) (subclass 457) visa.

The TSS visa provides businesses with access to the critical skills they need to grow, where no skilled Australian worker is available. TSS visa settings reinforce the Government's intent that Australian workers have priority for Australian jobs and that overseas workers supplement but do not displace Australian workers. The visa provides a mechanism for bringing to Australia overseas workers who are highly skilled and can quickly contribute their experience to the Australian workplace.

There were 132,122 Temporary Resident (Skilled) (TSS/457) visa holders in Australia as at 31 May 2020.⁷

Analysis of the ABS Labour Force Survey data and Home Affairs visa data shows that, on average across all industries and occupations, the number of primary TSS/subclass 457 visa holders in Australia represent less than one per cent of employed persons.⁸

In most states and territories, the number of primary TSS/subclass 457 visa holders comprises a low percentage of the employed workforce in skilled (managerial, professional, trade and technical) occupations.

Table 1 shows the changes over time in the number of primary and secondary grants for Temporary Resident (Skilled) visas (ie both the TSS and subclass 457 visa). Temporary Resident (Skilled) visas are a key mechanism for Australian businesses to fill vacancies when facing domestic labour market shortages.

Table 1. Number of Temporary Resident (Skilled) visa grants over time⁹

Program Year (F/Y)	Primary	Dependant	Total
2001-02	19,990	18,602	38,592
2002-03	22,405	19,531	41,936
2003-04	23,239	19,198	42,437
2004-05	27,492	21,645	49,137
2005-06	39,693	32,044	71,737
2006-07	46,871	41,066	87,937
2007-08	58,187	52,832	111,019
2008-09	50,703	50,729	101,432
2009-10	34,798	33,225	68,023
2010-11	48,083	42,062	90,145
2011-12	68,314	56,761	125,075
2012-13	68,486	57,875	126,361
2013-14	51,939	46,632	98,571
2014-15	51,125	44,959	96,084
2015-16	45,395	40,216	85,611
2016-17	46,480	41,100	87,580
2017-18	34,446	30,024	64,470
2018-19	41,221	40,754	81,975
2019-20 to 31 May 2020	27,939	26,173	54,112

⁷ Department of Home Affairs (BP0012).

⁸ Australian Bureau of Statistics, 6202.0 - Labour Force, Australia, May 2020,

<https://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/6050C537617B613BCA25836800102753?opendocument>. Labour force status is self-declared and based on Estimated Resident Population (ERP). Total Australian labour force includes people in the workforce and people looking for work. As at May 2020 labour force was estimated at 13,081,700 people. Percentage is based on 109,276 TSS/457 visa holders 15 years and over as at 31 May 2020 (Department of Home Affairs, BP0012).

⁹ Department of Home Affairs (BP001) *Permanent and Temporary visa applications finalised*

1.1.1.1. TSS visa requirements

Australia's employer sponsored skilled migration program was reformed between 2017 and 2018 to ensure that it safeguards the jobs of Australian workers while continuing to support businesses to meet skills needs by recruiting migrants that complement the domestic labour market.

The reforms tightened requirements for skilled migration visas and restore the distinction between short and longer-term skills needs.

The TSS reforms have resulted in more professionally skilled workers with higher salaries using the program compared to those under the subclass 457 program. Average salaries have increased under the TSS program compared to the subclass 457 visa program.¹⁰

The TSS visa is a key element of the Government's reform agenda to ensure Australian workers have first priority for jobs and to enhance the integrity and responsiveness of Australia's employer sponsored skilled migration programs.

The TSS visa allows an overseas skilled worker to travel to and from Australia for the duration of their visa, and for the primary visa holder to work in Australia in a nominated occupation for an approved sponsor (or an associated entity of a sponsoring Australian employer). The visa permits a stay of up to four years, depending on the nomination length and the occupation.

TSS visa holders can work in Australia in their nominated occupation for their approved sponsor under one of three streams:

- The Short-Term stream – for employers to sponsor an overseas skilled worker on a temporary basis, only in occupations listed on the Short-term Skilled Occupation List (STSOL) for a TSS visa. It can be used to fill positions for a maximum of two years, or four years if an International Trade Obligation applies.
- The Medium-Term stream - for employers to sponsor an overseas skilled worker for periods of up to four years in occupations listed on the Medium and Long-term Strategic Skills List (MLTSSL) or the Regional Occupation List (ROL) for a TSS visa.
- Labour Agreements - Labour agreements are available for employers to sponsor an overseas skilled worker by entering into a labour agreement with the Australian Government.

Under visa condition 8607, a TSS visa holder must only work in the nominated occupation as was nominated by the sponsoring employer in the nomination application which corresponds to the most recent TSS visa application that was granted to them.

Labour market testing (LMT) is mandatory for the TSS visa with exemptions available only in specific circumstances where it would be inconsistent with Australia's international trade obligations under the World Trade Organisation General Agreement on Trade in Services, and under Free Trade Agreements to which Australia is a party; or where a TSS visa is applied for under a Minister of Religion Labour Agreement.

To meet the LMT requirement, employers must provide evidence when submitting the nomination application to demonstrate that they have tested the local labour market within the four months prior to nominating a skilled overseas worker for a TSS visa, over at least four weeks. Advertisements must be in English and specify skill/experience requirements. The position salary must also be specified in the advertisement for positions with salaries less than AUD94, 600. LMT must include at least two advertisements using the methods of a national recruitment website, national print media/radio or business website of accredited sponsors.

The recruitment practices of Australian employers must also satisfy Australian workplace, equal opportunity and non-discrimination laws. That is, job vacancies including those lodged on company websites and with labour hire firms should be available to Australian jobs seekers and should not target applications from persons holding particular visa types or from specific foreign countries.

¹⁰ For the nominations approved in the period 1/7/2019 – 29/02/2020 the average total remuneration for approved nominations under subclass 457 was \$63,387, compared to an average remuneration of \$106,114 for approved nominations under the TSS in the same period (Department of Home Affairs, BR0085).

Employers who wish to nominate workers for a TSS visa must also:

- Nominate the worker for an occupation on the relevant skilled occupation list;
- Meet salary and employment condition related requirements as specified in applicable Australian workplace law; and
- Not engage in discriminatory recruitment practices.

These requirements help to ensure that overseas workers are not paid less than an Australian worker would be paid, doing the same work in the same location, and that the visa programs are not used to undercut the Australian labour market.

Primary TSS visa applicants must:

- Have relevant skills, qualifications and employment background to perform the nominated occupation;
- Have worked in their nominated occupation or a related field for at least two years; and
- Meet English language requirements.

These requirements ensure overseas workers bring skills which add value to the workplace and they are able to fully participate in the Australian workplace and the community.

Tables 2 and 3 demonstrate subclass 457/TSS visa application lodgements across the various high-level occupation classifications and skill level groupings. The TSS visa is available to specified occupations on the occupation list that generally fall within skill occupation classification levels 1-3; Managers, Professionals and Technicians and Trades Workers. The majority of visa lodgements continue to remain in these three occupation levels.

Table 2. Number of primary applications lodged in 2019-20 to 31 May 2020 by nominated occupation¹¹

Nominated Occupation	2018-19 to 31 May 2019	2019-20 to 31 May 2020	% Change from 2018-19	2019-20 as % of Total
1 Managers	4,570	4,760	4.2%	13.9%
2 Professionals	19,700	20,720	5.2%	60.6%
3 Technicians and Trades Workers	6,250	7,280	16.4%	21.3%
4 Community and Personal Service Workers	270	430	56.4%	1.2%
5 Clerical and Administrative Workers	220	260	16.3%	0.8%
6 Sales Workers	100	120	25.3%	0.3%
7 Machinery Operators and Drivers	20	20	0.0%	0.1%
8 Labourers	50	50	-16.7%	0.1%
Not Specified	540	570	5.0%	1.7%
Total	31,730	34,200	7.8%	100%

¹¹ Department of Home Affairs (BR0008) *Temporary resident (skilled) report* | 31 May 2020, Note: data is rounded to the nearest tenth number whereas the percentage calculations are based on the actual whole figures.

Table 3. Number of primary applications granted in 2019-20 to 31 May 2020 by skill level of the nominated occupation¹²

Nominated Occupation Skill Level ¹³	2018-19 to 31/05/19	2019-20 to 31 May 2020	% Change from 2018-19	2019-20 as % of Total
Skill Level 1	26,600	20,380	-23.4%	72.9%
Skill Level 2	4,560	3,050	-33.2%	10.9%
Skill Level 3	6,070	3,920	-35.5%	14.0%
Skill Level 4	150	130	-11.7%	0.5%
Not Specified	620	470	-23.7%	1.7%
Total	37,990	27,940	-26.5%	100.0%

1.1.2. Skilling Australians Fund levy

All businesses nominating overseas workers for temporary or permanent employer sponsored visas (a TSS visa, Employer Nomination Scheme (ENS) (subclass 186) visa, Regional Sponsored Migration Scheme (RSMS) (subclass 187) visa or a Skilled Employer Sponsored Regional (Provisional) (subclass 494) visa) are required to pay a Skilling Australians Fund (SAF) levy.

The Skilling Australians Fund (SAF) prioritises apprenticeships and traineeships in occupations that are in high demand, rely on skilled migration or have future growth potential, including in rural and regional Australia. The Department of Education, Skills and Employment is responsible for managing a national partnership that provides SAF funding to the states and territories for state and territory projects agreed in bilateral schedules.

For businesses nominating overseas workers for a TSS visa, the amount of SAF levy payable depends on:

- The size of the sponsoring business:
 - For businesses with an annual turnover of less than \$10 million the cost is AUD1200 per nominated overseas worker per annum; or
 - For businesses with an annual turnover of \$10 million or above the cost is AUD1800 per nominated overseas worker per annum; and
- The proposed period of stay of the overseas worker in Australia.

The SAF levy also applies to the Employer Sponsored Scheme and Regional Sponsored Migration Scheme (residual caseload) permanent visas. One off payments of AUD3000 for small businesses with an annual turnover of less than \$10 million or AUD5000 for businesses with an annual turnover of \$10 million or more are required to be paid when lodging a nomination application for each overseas worker.

¹² Department of Home Affairs (BR0008) *Temporary resident (skilled) report*, 31 May 2020. Note: data is rounded to the nearest tenth number whereas the percentage calculations are based on the actual whole figures.

¹³ The Australian and New Zealand Standard Classification of Occupations (ANZSCO) defines skill level as a function of the range and complexity of the tasks performed in a particular occupation. It is measured by the level or amount of formal education and training, the amount of previous experience in a related occupation, and the amount of on-the-job training. Skill level 1 occupations have a level of skill commensurate with a bachelor degree or higher qualification; skill level 2 an associate degree, advance diploma or diploma; skill level 3 a Certificate IV, or Certificate III including at least two years of on-the-job training; and skill level 4 a Certificate II or III.

1.1.3. Labour Agreements

A labour agreement is a formal agreement between an Australian employer and the Australian Government, and is an alternative option for employers seeking to access specific occupations that are not available through the standard visa programs. Labour agreements require employers to provide evidence of labour shortages including through labour market testing.

Labour agreements are generally in effect for five years and provide for visas to be granted under one or several of the following visa programs:

- Temporary Skill Shortage (TSS) (subclass 482) visa
- Employer Nomination Scheme (ENS) (subclass 186) visa
- Skilled Employer Sponsored Regional (Provisional) (subclass 494) visa

Industry specific labour agreements can be used to address workforce gaps in the Australian economy, and are currently in place for the agricultural sector in the dairy, meat, pork and fishing industries. A Horticulture Industry Labour Agreement was introduced on 1 January 2020. This increased access to skilled and semi-skilled migrant workers for the horticulture industry and is available for businesses in Australia's horticulture industry. There are currently nine types of industry labour agreements.¹⁴

In addition to industry specific labour agreements, the Global Talent Employer Sponsored program, launched on 1 July 2018, aims to allow employers to sponsor overseas workers for highly skilled niche positions that cannot be filled by Australian workers or through other standard visa programs. This program utilises labour agreements and comprises two streams; the Established Business and Startup Stream, the latter of which is restricted to applicants in STEM related fields, including digital and ICT, biomedical, Agtech and innovation.

Home Affairs publishes a list of current labour agreements on our website which is updated quarterly. The list includes company name, labour agreement type and start and end dates. Within the TSS visa, the labour agreement stream accounted for 1,102 visa grants in 2019-20 to 31 May 2020, 3.94 per cent of the overall number of visas granted.¹⁵

1.1.4. International Trade Obligations

Australia meets its international trade obligations (ITOs) relating to the movement of natural persons within the structures of its existing visa programs. The TSS visa is the primary visa that facilitates Australia's international trade obligations on the movement of natural persons. Other obligations are met through the Temporary Work (Short Stay Specialist) visa (subclass 400) program and as business visitors under the Visitor visa (subclass 600), Electronic Travel Authority (ETA) (subclass 601) and eVisitor (subclass 651) programs.

While labour market testing (LMT) is a mandatory requirement for the Short-Term and Medium-Term streams of the TSS visa, LMT does not apply when it is inconsistent with Australia's international trade obligations. These obligations fall under two categories:

- Under some free trade agreements (FTAs) and the General Agreement on Trade and Services (GATS) (164 member countries) LMT is not required in certain circumstances for some categories of entrants (Senior Executives, Independent, Specialists and Intra-corporate Transferees)
 - Australia waives LMT for contractual service suppliers to the extent that they are "specialists" who are extending their visas and have been with the same employer and in the same position for at least 2 years. (Contractual service providers are considered "specialists" to the extent that they have trade, technical or professional skills and experience accepted as meeting the domestic standard in Australia for their nominated occupation.)

¹⁴ <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements>

¹⁵ Department of Home Affairs (BP0003).

- Only citizens of China, Chile, Japan, Korea, New Zealand and Thailand are fully exempt from LMT under FTAs.

1.1.5. Designated Area Migration Agreements

Designated Area Migration Agreements (DAMAs) are tailored agreements that enable designated regions to respond to their unique workforce shortages by accessing experienced overseas workers for vacant skilled or semi-skilled occupations that cannot be filled by Australian workers from the local labour market. The terms of each DAMA are negotiated individually and are agreed to by the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs.

A DAMA is a two-tier framework covering a defined regional area. The first tier consists of an overarching five-year deed of agreement with a designated area representative (DAR) which may be any entity including state or territory authority, regional authority or local councils. The second tier comprises individual labour agreements with employers that are entered into once the employer is endorsed by the DAR.

Through DAMA arrangements, employers in designated regions can sponsor skilled workers under the Temporary Skill Shortage (TSS) (subclass 482) visa, Employer Nomination Scheme (subclass 186) visa, and from the Skilled Employer Sponsored Regional (Provisional) (subclass 494) visa, with a range of concessions that are not available under the standard visa programs.

There is some flexibility to determine the requirements to enter into a DAMA, and in what can be included in the DAMA, such as eligible occupations and access to permanent residence. However, there are also a number of legislative requirements that must be met, including payment of the SAF levy and demonstrating there is a genuine labour market need, in addition to English, health, character and other visa requirements.

Once a DAMA is in place, labour market demand in the designated area determines the extent of the use of the DAMA.

There are currently seven DAMAs in effect with the following regions:

- Northern Territory (This is the NT's second DAMA. The initial DAMA expired in December 2018 DAR: Immigration NT) [13 December 2018 execution]
- The Goldfields, WA (DAR: City of Kalgoorlie Boulder) [21 March 2019 execution]
- Great South Coast, VIC (DAR: Warrnambool City Council) [26 March 2019 execution]
- Adelaide City; and Regional SA (DAR: Immigration SA) [3 April 2019 execution]
- Orana, NSW (DAR: Regional Development Australia – Orana NSW) [3 April 2019 execution]
- Far North Queensland (DAR: Cairns Chamber of Commerce) [4 April 2019 execution]

1.1.6. Seasonal Worker Programme and Pacific Labour Scheme

Australia operates two temporary labour mobility programs for workers from nine Pacific countries and Timor-Leste as part of Australia's ongoing commitment to promoting economic resilience and improving livelihoods in the region:

- The Seasonal Worker Programme (SWP), which provides access to short-term, seasonal work opportunities in the Australian agriculture sector, and in selected locations in the accommodation sector; and
- The Pacific Labour Scheme (PLS), which provides access to longer-term low and semi-skilled work placements in rural and regional Australia for up to three years.

Home Affairs' role in relation to these programs is to assess and facilitate travel for eligible Pacific island workers through the International Relations (subclass 403) visa. Workers must meet standard visa requirements including security, identity, health and character, and prospective employers must be approved as a temporary activities sponsor.

These programs are managed by the Department of Education, Skills and Employment (DESE) (SWP) and the Department of Foreign Affairs and Trade (DFAT) (PLS).

To participate in the SWP and PLS, a prospective employer must successfully apply to become a temporary activities sponsor through Home Affairs in order to be able to sponsor workers from participating countries to come to Australia.

To be eligible to take part in the SWP, temporary activities sponsors must also be approved by DESE to recruit seasonal workers for certain industries.

To be eligible to take part in the PLS, temporary activities sponsors must also be endorsed by DFAT.

Approved sponsors may sponsor as many subclass 403 applicants as permitted by DESE (for SWP) or DFAT (for PLS) without having to be separately approved for each applicant they sponsor.

To become an Approved Employer for the SWP, organisations must among other things, demonstrate a commitment to employing Australian job seekers first and good workplace relations and immigration practices. Approved Employers must also obtain temporary activities sponsorship status from Home Affairs before they are provided a deed of agreement for the SWP.

1.1.7. Temporary Work (Short Stay Specialist) (subclass 400) visa

The subclass 400 visa was introduced in March 2013 to provide short-term non-ongoing work for visa holders with highly specialised skills, knowledge or experience. This was in conjunction with the removal of work rights from the Business Visitor Program to restrict Visitor visas to tourism, business and family visits only.

The subclass 400 visa aims to achieve a balance between supporting Australian businesses, which require access to short-term highly specialised workers on a non-ongoing basis, while not undermining employment and training opportunities for Australians. Visa condition 8107 is imposed on this visa and prevents work by primary visa holders in any other unrelated work activities. Subclass 400 secondary visa holders do not have work rights in Australia.

The subclass 400 visa provides for a maximum period of stay of up to six months in exceptional circumstances. This reduces any financial incentive for employers to engage overseas workers instead of employing Australians (if such workers are reasonably available to undertake the work). The percentage of subclass 400 visas granted for stays of three months or less was 76 per cent in the 2019-20 program year to 31 May 2020.¹⁶

Applicants from an Australian 'proposer' (i.e. a registered Australian business), must provide a letter of support and/or offer of temporary employment to the applicant showing:

- Details of the position;
- The duration of the work;
- The applicant's role or duties; and
- The reason why the applicant is required in Australia.

Home Affairs requests information from the Australian 'proposer' to ensure that there is no adverse impact on the employment and training opportunities for Australians. A range of factors may be considered, as are outlined in the procedural instructions for the subclass 400 visa, some of these include:

- Whether the work is highly skilled (that is, occupations in ANZSCO Major Groups 1 to 3 - Managers, Professionals, Technicians and Trades Workers) or otherwise highly specialised (for example, whether the applicant has proprietary knowledge) the applicant is receiving remuneration and conditions of employment equal to those that Australians would receive working in that occupation;

¹⁶ Department of Home Affairs (BR0194.02).

- Evidence of the nature, size, duration and importance of the project to the local community, and any potential impacts on the business/community should the project not be able to proceed, including employment opportunities for Australian workers;
- The number of Australians being employed on the project and/or by the business;
- Evidence provided by the applicant's proposed employer that they have made efforts to hire an Australian for the proposed work (for example, evidence of job search, training programs);
- Any arrangements for an Australian worker to be trained to do the proposed work over a longer period; and
- Evidence the employer is not attempting to engage overseas workers in order to reduce costs by circumventing local labour salaries and standards, rather than because of the genuine non-availability of Australian workers.

1.1.8. Temporary Work (International Relations) (subclass 403) visa

The subclass 403 visa allows people to come to Australia on a temporary basis if they meet the requirements of one of the six streams within the visa. These streams are:

- Government Agreement: allowing a person to work in Australia under the terms and conditions of a bilateral agreement between the Australian Government and a government of another country;
- Foreign Government Agency: allowing an individual to come to Australia for specific activities, including working in Australia employed by a foreign government as a foreign language teacher or as a representative of a foreign government agency;
- Domestic Worker (Diplomatic or Consular): allowing a person aged 18 years or older do temporary full-time domestic work in Australia in the household of someone who holds a Diplomatic (Temporary) visa (subclass 995);
- Privileges and Immunities: allowing a person to enter Australia if they have, or expect to have, privileges and immunities under relevant legislation;
- Seasonal Worker Programme (SWP); and
- Pacific Labour Scheme (PLS).

Subclass 403 visa holders must comply with all visa conditions and Australian laws. Primary visa holders may only undertake work in the position for which the visa was granted.

The SWP and PLS streams are described in 1.1.6 above.

1.1.9. Temporary Activity (subclass 408) visa

The subclass 408 visa comprises ten categories and allows a stay between three months and two years depending on the activity. These categories are:

- Special program, for activities including youth exchange, cultural enrichment or community programs, school language assistants or "gap year school volunteering";
- Religious Work, for individuals undertaking full-time religious work for a religious institution in Australia;
- Research Activities, for individuals observing or taking part in a research project at a research or tertiary institution in Australia;
- Invited Participant, for individuals invited to participate in a community-based event, including sporting events;
- Sporting Activities, for an individuals to play, coach, instruct, or adjudicate for an Australian team, or do high level sports training with a sporting organisation;

- Entertainment Activities, for individuals to work in the entertainment industry on film, television or live productions as a performer, production or support staff;
- Superyacht Crew, for individuals in Australia as a crew member of a superyacht;
- Exchange Arrangements, as part of a staff exchange with an Australian organisation;
- Australian Government Endorsed Events (AGEE), for individuals to participate in events which are endorsed by the Australian Government; and
- Domestic Work for Executives, for individuals to perform full-time domestic work in the household of certain senior foreign executives.

Temporary Activity visa applicants must have the skills to undertake the activity to be carried out in Australia, be supported or sponsored, and meet additional requirements of the relevant activity of the visa for which they apply.

Primary visa holders are provided with specific permission to work in the activities as set out in their visa application, for example, a religious worker, entertainer, sports person, visiting academic or for major events such as the Commonwealth Games. Visa condition 8107 that is imposed on this visa prevents work by primary visa holders in any other unrelated work activities.

The Supporting Innovation in South Australia (SISA) program operates under the subclass 408 AGE stream and is a program designed to attract foreign entrepreneurs to take forward innovative ideas and launch seed stage startups. The program recognises that startups are important for the future prosperity of the Australian economy, as they can lead to the generation of new jobs, drive innovation and bring in opportunities to help diversify our economy.

1.1.10. Sponsored Parent (Temporary) (subclass 870) visa

The subclass 870 visa was implemented on 1 July 2019 to provide an alternative pathway for parents to live in Australia on a temporary basis. This program enables Australian citizens, permanent residents and eligible New Zealand citizens to sponsor their parents to visit Australia for up to five years for each visa, and for a total period of 10 years. This visa provides an important cultural link for migrants, and recognises the social-economic benefits of visiting parents, including providing opportunities for their sponsors to participate in the workforce while providing childcare assistance for their grandchildren.

Visa holders cannot work on this visa unless they have express permission from the Minister to undertake a specified activity for a specified time. Providing in-home care for their own children and family is allowed; work or assistance for a family business or other work which would ordinarily be remunerated is not allowed. There were 1,104 Sponsored Parent (Temporary) visa holders in Australia at 31 May 2020.¹⁷

Applications for a Sponsored Parent (Temporary) visa must be made outside Australia unless compelling and exceptional circumstances exist and the applicant has been permitted by the Minister to apply for this visa while in Australia.

A key requirement of the Sponsored Parent (Temporary) visa program is that sponsors are held liable for any public health debt incurred by their sponsored parents while in Australia.

1.1.11. International Students

According to DESE, international education was worth \$37.6 billion to the economy and supported nearly 250,000 jobs in 2018-19. The purpose of the international student visa is to enable students to pursue their chosen course of studies. Student visa requirements ensure that international students are enrolled in courses that are subject to Australia's quality assurance framework for international education, set out under the Education Services for Overseas Students Act.

¹⁷ Department of Home Affairs (BP0012).

There were 559,536 student visa holders in Australia as at 31 May 2020.¹⁸ Table 4 shows primary and secondary visa grants by sector since the 2005-06 program year.

¹⁸ Department of Home Affairs (BP0012).

Table 4. Number of Student program visa grants over time.¹⁹

Program Year (F/Y)	Higher Education Sector		VET Sector		Other Sectors		All Sectors Total
	Primary	Dependent	Primary	Dependent	Primary	Dependent	
2005-06	86,976	7,060	27,493	2,541	62,331	4,917	191,318
2006-07	102,019	10,016	39,810	4,038	69,427	5,484	230,794
2007-08	115,403	14,961	59,950	8,621	72,993	6,776	278,704
2008-09	118,289	15,570	83,694	20,095	74,289	7,693	319,630
2009-10	107,183	11,819	58,360	13,669	70,640	8,822	270,493
2010-11	100,114	12,451	53,533	13,873	62,259	8,205	250,435
2011-12	99,421	13,739	53,628	16,316	60,817	9,125	253,046
2012-13	112,790	14,479	46,102	12,461	64,007	9,439	259,278
2013-14	134,139	18,205	48,652	11,996	69,323	9,745	292,060
2014-15	132,870	18,843	54,266	11,424	72,655	9,482	299,540
2015-16	139,864	18,297	59,520	10,647	74,311	8,206	310,845
2016-17	155,285	20,670	65,878	10,712	82,255	8,235	343,035
2017-18	174,934	24,182	78,357	12,332	79,723	8,764	378,292
2018-19	189,477	27,247	86,121	14,784	78,996	9,117	405,742
2019-20 to 31 May 2020	145,876	21,967	74,872	15,361	58,124	7,322	323,522

International students are able to work up to 40 hours per fortnight while their course is in session and full time during scheduled course breaks. Working in Australia provides students with an opportunity to gain professional and cultural experience, improve their English language skills and supplement their discretionary income.

1.1.12. Temporary Graduates

The Temporary Graduate (subclass 485) visa provides eligible international students who have graduated from an Australian education provider with the opportunity to work in Australia.

There were 99,951 Temporary Graduate visa holders in Australia as at 31 May 2020.²⁰ While Temporary Graduate visa holders have the right to work, they are not required to do so, and may travel and undertake limited study as well. The Temporary Graduate visa provides an incentive for international students to choose Australia as a study destination and supports Australia's attractiveness as an international education destination.

The 2018 International Student Survey, supported by DESE, indicates the availability of a post-study work visa is a factor for 76.9% in choosing Australia as a study destination.²¹

The Temporary Graduate visa was not designed to address skills shortages, nor does the visa provide a guaranteed pathway to permanent skilled migration.

The Temporary Graduate visa has two streams:

- Graduate work stream which requires an applicant to nominate an occupation on the Medium and Long-term Strategic Skills List (18 months validity); and

¹⁹ Department of Home Affairs (BP0015) *Student visas granted report* | 31 May 2020. Includes all Student subclasses.

²⁰ Department of Home Affairs (BP0012).

²¹ <https://internationaleducation.gov.au/research/Pages/Data-and-Research.aspx>

- Post-study work stream for applicants who have completed a Bachelor qualification or above (validity between two and four years based on qualification).

From 2021, international students who graduate from a regional education campus may be eligible for additional time on a Temporary Graduate visa (post-study work stream), providing they maintain ongoing residence in regional Australia.

1.1.13. Working Holiday Maker

The objective of the Working Holiday Maker (WHM) program is to promote cultural exchange and strengthen people-to-people links by creating opportunities for young people to travel and undertake short-term work to supplement their holiday experience.

There were 91,648 working holiday visa holders in Australia as at 31 May 2020.²² Table 5 shows primary visa grants since 2005-06 program year.

Table 5. Number of Working Holiday Maker program visa grants over time²³

Program Year (F/Y)	First Visa	Second Visa	Third Visa	Total
2005-06	112,752	2,692		115,444
2006-07	128,983	7,822		136,805
2007-08	146,001	11,826		157,827
2008-09	172,541	21,775		194,316
2009-10	157,853	25,315		183,168
2010-11	170,422	22,500		192,922
2011-12	192,491	30,501		222,992
2012-13	219,386	38,862		258,248
2013-14	193,642	45,950		239,592
2014-15	185,473	41,339		226,812
2015-16	178,319	36,264		214,583
2016-17	176,505	34,506		211,011
2017-18	174,289	36,167		210,456
2018-19	165,817	43,219		209,036
2019-20 to 31 May 2020	112,110	32,354	1,916	146,380

The Working Holiday Maker program provides young people with the opportunity to have an extended holiday in Australia and to work here if they wish.

The Working Holiday (subclass 417) and Work and Holiday (subclass 462) visas allow young people to holiday and work in Australia for up to 12 months. Visa holders may choose to undertake three months of specified work in regional areas to become eligible to apply for a second 12-month visa. From 1 July 2019, second visa holders may choose to undertake six months of specified work in regional areas to become eligible to apply for a third 12-month visa.

The International Visitor Survey reports that for the year ending March 2020, Working Holiday Maker arrivals spent \$3.1 billion while in Australia. On average, Working Holiday Makers spend \$10,200 per trip and generally stay longer, spend more money in Australia and travel further into regional areas than most other

²² Department of Home Affairs (BP0012).

²³ Generated from Department of Home Affairs departmental data on 31 May 2020. Includes subclass 417 and subclass 462 visa grants

international visitors, supporting Australian jobs in tourism and hospitality. Working Holiday Makers who undertake 'specified work' in regional or Northern Australia may apply for a second or third visa to assist regional employers in addressing labour needs in specified industries.

1.1.14. Special Category Visa (subclass 444) for citizens of New Zealand

Australia has free movement of New Zealand citizens into Australia under Australia - New Zealand Trans Tasman Travel Arrangements. New Zealand citizens do not have to apply for a visa before travelling. They are granted a Special Category Visa (SCV) on arrival in Australia, provided they meet health and character requirements. The SCV is a temporary visa that allows New Zealand citizens to visit, live and work in Australia.

New Zealand citizens who do not meet the character requirements may not be eligible to be granted a SCV on arrival in Australia. New Zealand citizens with a criminal history must contact Home Affairs or inquire with their closest Australian High Commission to determine whether they are eligible for a SCV on arrival in Australia. Depending on an individual's circumstances, they may need to apply for alternative visas prior to travelling.

At 31 May 2020, there were 669,364 SCV holders in Australia.²⁴

1.1.15. Relationship between temporary and permanent visas

Australia's migration system does not offer automatic progression from temporary to permanent visas. Each permanent visa has distinct requirements that must be met by an applicant before a visa can be granted. Increasing numbers of permanent migrants utilise temporary programs as a pathway to gaining permanent residency in Australia in a two-step process. At 31 May 2020, 64 per cent of permanent visas for the 2019-20 financial year were lodged onshore.²⁵

Australia's permanent Migration Program has been designed to meet Australia's economic, demographic and labour market needs, with a strong focus on skilled migration particularly to regional Australia.

The permanent Migration Program has been a predominantly skilled program since the mid-90s, with current planning levels allocating approximately two-thirds of the Migration Program to skilled visa categories, recognising the significant economic benefits skilled migrants bring. Skilled migration improves labour force participation and productivity, and helps businesses to source skills that are difficult to develop at short notice. Skilled migrants contribute more to Government revenue through taxation than they receive through government services and benefits.

A joint report by Home Affairs and the Commonwealth Treasury in 2018, *Shaping a Nation*,²⁶ found that 'migrants deliver an economic dividend for Australia due to current policy settings which favour migrants of working age who have skills to contribute to the economy. This leads to higher rates of workforce participation and likely productivity benefits. This, in turn, increases Australia's GDP and GDP per person, with positive flow-on effects for living standards'.²⁷

The permanent Migration Program has been set at a planning ceiling of 160,000 places for the year 2019-20.

The permanent Migration Program consists of three streams:

- Skill stream – improves the productive capacity of the economy and fills skill shortages in the labour market, including those in regional Australia. The Skill Stream planning ceiling for 2019-20 is 108,682 places.

²⁴ Department of Home Affairs, 2020 (BP0012).

²⁵ Department of Home Affairs, (BP0001),

²⁶ Department of Home Affairs, The Commonwealth Treasury, *Shaping a Nation*, <https://research.treasury.gov.au/external-paper/shaping-a-nation/>

²⁷ Department of Home Affairs, The Commonwealth Treasury, *Shaping a Nation*, p 1, <https://research.treasury.gov.au/external-paper/shaping-a-nation/>

- Family stream – allows Australian citizens and permanent residents to reunite with close family members, including partners, and certain dependent relatives. The Family stream planning ceiling for 2019-20 is 47,732 places.
- Special Eligibility stream - provides visas for those in special circumstances, including former residents. The Special Eligibility stream is a small component of the overall permanent Migration Program. The Special Eligibility stream planning ceiling for 2019-20 is 236 places.

The Child category within the permanent Migration Program is demand-driven. The Child category is estimated at 3,350 places for the year 2019-20.

1.1.16. Visa measures introduced in response to COVID-19

The Government has made a series of changes to enable temporary visa holders to work and remain in critical sectors including health and aged care, disability services, agriculture and food processing and child care during the COVID-19 crisis. Additionally, Home Affairs and the Australian Border Force have applied flexibility for visa conditions and sponsorship requirements for those impacted by COVID-19.

A COVID-19 Pandemic Event visa was made available within the existing Temporary Activity (subclass 408) visa for temporary visa holders in Australia with expiring visas who are unable to depart and are not able to apply for any other visa or have evidence from an employer that they have ongoing work in a critical sector.

1.2. Migrant worker exploitation

Migrant worker exploitation can take many forms and generally involves employers contravening workplace laws and mistreating workers. Offences commonly include violations of workplace rights and protections, failure to meet legal minimum wage entitlements, unsafe work practices, and instances of threatening, unethical or abusive behaviour and coercion.

The Australian Government accepted the recommendations of the Migrant Workers Taskforce Report released in March 2019 (see 1.2.5) and Home Affairs is part of a group of agencies implementing these recommendations.

1.2.1. Employee Obligations

All temporary visa holders with a work right are subject to the same workplace laws, entitlements and protections as Australian citizens and permanent residents. These include minimum employment conditions, access to superannuation, workers' compensation and workplace safety laws.

Home Affairs promotes voluntary compliance by visa holders and considers a spectrum of responses for those who do not comply with their visa conditions. Home Affairs provides a Visa Entitlement Verification Online system (VEVO) which allows visa holders, employers, education providers and other registered organisations to check visa conditions, including work rights.

Home Affairs works with the Fair Work Ombudsman (FWO) on a range of communication approaches to increase awareness of Australia's workplace laws among overseas workers, as well as educating employers about their obligations. This includes high level messaging at key points in an overseas worker's journey, SMS nudge notifications, providing messages about workplace rights and protections, reviewing communications across government for simplicity and consistency, messaging across government websites and products, and promoting messages in locations visited by overseas workers. Home Affairs and the FWO have established an Assurance Protocol to encourage migrant workers to report exploitation in the workplace (see 1.2.4.1).

1.2.2. Sponsor Obligations

Sponsorship obligations apply to all sponsors of 457/Temporary Skill Shortage (TSS) visa holders. Some obligations can apply beyond the term of sponsorship approval. Sponsors must:

- Not engage in discriminatory recruitment practices;
- Only sponsor workers in occupations found to be in shortage in the Australian labour market;
- Ensure equivalent terms and conditions of employment;
- Pay the approved salary – above the Temporary Skilled Migration Income Threshold (TSMIT) of \$53,900;
- Ensure the visa holder participates in the nominated occupation, program or activity;
- Not recover from, transfer or charge certain costs to another person;
- Keep records;
- Provide training to Australians and permanent residents (457 visa program only).
- Pay travel costs to enable sponsored workers to leave Australia;
- Cooperate with inspectors from Australian Border Force (ABF) and the FWO;
- Provide records and information as requested; and
- Pay costs to remove unlawful non-citizens.

1.2.3. Immigration Compliance and Enforcement Framework

Home Affairs and the ABF administer three sanction frameworks under the Migration Act that provide a legislative basis to respond to the exploitation of migrant workers:

- **Employer sanctions** – for businesses which employ / contract, allow or refer non-citizens to illegal work in Australia without taking reasonable steps to confirm that they have a valid visa and permission to work. Illegal work includes lawful non-citizens working in breach of their visa conditions, or unlawful non-citizens working.
- **Sponsor obligations** – for sponsors who do not comply with legally binding sponsorship obligations that aim to protect temporary visa holders in Australia from exploitation, including existing subclass 457 visa holders and TSS visa holders.
- **Paying for visa sponsorship** – sanctions for any person or business entity who asks for, receives, offers or provides a benefit in return for a visa sponsorship, or employment that requires a visa sponsorship.

Each of these frameworks has graduated tiers of sanctions to encourage employers and other entities to comply with migration legislation. Current sanctions that may be applied under these frameworks include:

- Issuing a warning;
- Serving an infringement notice;
- Barring or cancelling a sponsor from engaging in the program;
- Pursuing a civil penalty through the courts; or
- Referring evidence to the Commonwealth Director of Public Prosecution to pursue criminal prosecution.

These requirements uphold the integrity of Australia's migration system and protect Australian workers and employers who employ and pay their workers in accordance with their obligations under the *Fair Work Act 2009*.

1.2.3.1. Monitoring

The ABF monitors the compliance of sponsors with their obligations and whether their sponsored visa holders are upholding their visa conditions. Sponsors are monitored for up to five years after they cease being a sponsor.

Monitoring occurs in three main ways:

- Writing to sponsors to request information in accordance with the obligation to provide records and information;
- Site visits, with or without notice; and
- Exchanging information with other Commonwealth, state and territory government agencies, including the FWO and the ATO.

A register of employers sanctioned for failing to comply with their obligations to sponsored workers, including existing subclass 457 visa holders and TSS visa holders, is published on the ABF website. This acts as a deterrent to sponsors and assists visa holders to make more informed decisions about potential employers.

1.2.4. Fair Work Ombudsman Framework

The Fair Work Act has provisions in place to effectively deter the exploitation of workers. The law includes protections such as:

- a category of 'serious contraventions' with penalties ten times higher than previously applied for deliberate and systematic contraventions of specified workplace laws;
- increased penalties for breaches of record-keeping and payslip obligations;

- expressly prohibiting employers from unreasonably requiring employees to make payments (ie 'cash-back' arrangements); this also includes prospective employees unreasonably required to pay their own money to get a job;
- strengthened evidence gathering powers of the FWO to ensure that the exploitation of vulnerable workers can be properly investigated; and
- provisions to make franchisors and holding companies responsible for breaches of the Fair Work Act in certain circumstances.

FWO also continues to develop tools and resources to enable migrant workers to understand and act on their workplace rights. This includes:

- a suite of resources tailored to migrant workers on key issues in over 35 different languages, including videos and storyboards;
- an in-language anonymous reporting tool that enables migrant workers to raise concerns anonymously in their own language, available in 16 languages other than English; and
- the Record My Hours app, which allows employees to automatically track and record their hours and save information about their employment. The App is available in 17 languages other than English.

1.2.4.1. Assurance Protocol

Home Affairs and the FWO have established an Assurance Protocol to encourage migrant workers to report exploitation in the workplace.

Under the protocol, Home Affairs will generally not cancel a temporary visa with a work entitlement attached in circumstances where:

- the visa holder has sought advice or assistance from FWO and is assisting the Ombudsman with their inquiries;
- the visa holder has not complied with the work-related conditions only and there is no other basis for visa cancellation (such as national security, character, health or fraud grounds) and;
- the visa holder commits to abiding by visa conditions in the future.

1.2.5. Whole of Government Initiatives to combat migrant worker exploitation

A number of Commonwealth agencies have responsibilities that extend to temporary work visa holders. The ABF works with agencies such as the Australian Federal Police, Australian Criminal Intelligence Commission and Australian Taxation Office to target persons involved in the exploitation of migrant workers.

The Government has taken significant action to address migrant worker exploitation over the past few years by boosting penalties under migration, workplace, superannuation and taxation laws, cracking down on the black economy and illegal phoenixing, and tackling serious forms of exploitation through ABF initiatives. For example, the ABF established Operation Battenrun on 3 December 2018, to detect, deter and disrupt labour hire intermediaries responsible for the exploitation of foreign nationals in Australia.

To complement these measures, the Government has increased measures to ensure visa holders have the information they need to understand their workplace rights, including providing information on workplace rights and entitlements in visa grant letters and conducting targeted information campaigns, including the Fair Work Ombudsman's Horticulture Showcase.

The Attorney-General's Department is establishing and leading a Departmental level Inter-agency Working Group, which includes the Department, the Australian Taxation Office, the Fair Work Ombudsman and the Department of Education to guide the implementation of 22 recommendations of the Migrant Workers Taskforce Report released in March 2019.

1.3. Social Cohesion

Australia is a diverse and cohesive society, with a successful record of integrating people from all around the world. According to the 2016 Census, almost half of our population is either born overseas or with at least one parent born overseas²⁸. Our diversity is a source of strength because we are – and expect everyone to be – committed to the shared values of freedom, the rule of law, mutual respect, and a ‘fair-go’ for all. Social cohesion underpins Australia’s unity, prosperity and security.

1.3.1. Social cohesion policy

Home Affairs is responsible for social cohesion and multicultural policy. Home Affairs supports a multicultural Australia by bringing communities together, promoting Australian unity and an inclusive national identity that creates a sense of belonging and a shared understanding of Australian values. This includes welcoming and integrating people from many cultures from all parts of the world and promoting and celebrating Australian citizenship and the value of active citizenship across Australian society. The promotion of social cohesion is important for our resilience against terrorism, violent extremist ideologies or ethno-religious intolerance, or foreign actors that seek to interfere with Australia’s sovereignty and democracy.

Home Affairs programs support Australia’s integrated approach to multiculturalism. This approach supports migrants to embrace the Australian national identity, actively participate in the community and achieve their aspiration. Indicators of integration include English language acquisition (a key enable for labour market and academic success), participation in the social and economic life of the nation, obtaining permanent residence and ultimately citizenship, developing an understanding of our democratic institutions and systems, and welcoming communities.

The values that underpin Australian society are outlined in the Australian values statement. All applicants for visas and citizenship are required to sign the Australian values statement, confirming that they will respect Australian values and obey Australian laws during their stay in Australia.

The Government has invested in a number of social cohesion programs to create a stronger, more cohesive Australia (see 1.3.3).

The Government’s multicultural statement, *Multicultural Australia: United, Strong, Successful*, launched in March 2017, supports social cohesion by setting out the Government’s vision for our future as a strong and successful multicultural nation. The statement highlights that our culturally and linguistically diverse workforce is broadening business horizons and boosting Australia’s competitive edge in an increasingly globalised economy. Our cultural diversity is one of our greatest assets - it sparks innovation, creativity and vitality. Our economy is strengthened by the skills, knowledge, linguistic capabilities, networks and creativity of our diverse workforce. Our productivity and competitiveness are enhanced through our ability to recognise and seize opportunities for international economic engagement.

The statement acknowledges the important contribution that temporary residents make to the Australian economy and society while they are here. Many settle permanently in Australia, while others return to their home country or move to another country, further strengthening our cultural, trade and economic opportunities overseas.

The Multicultural Access and Equity Policy is a policy that ensures that Australian Government programs and services meet the needs of all Australians, regardless of their cultural and linguistic backgrounds. The policy contains six commitments essential to the effective delivery of government programs and services in a multicultural society. It includes: leadership, engagement, performance, capability, responsiveness, and openness. Australian Government departments and agencies are responsible for applying these commitments to their work so that Australians of all backgrounds have the opportunity to participate in, and contribute to, our society. Home Affairs offers support to departments and agencies to implement the Policy.

²⁸ Australian Bureau of Statistics, (27 June 2017), Census reveals a fast changing, culturally diverse nation, <https://www.abs.gov.au/ausstats/abs@.nsf/lookup/Media%20Release3>.

The Australian Multicultural Council (AMC) is a ministerially appointed body representing a broad cross-section of Australian interests that provides independent advice to Government on multicultural affairs, social cohesion and integration policy and programs. In particular, the AMC will focus on:

- strengthening public understanding of a shared 'Australian identity' as a unifying characteristic of Australia;
- harnessing the economic and social benefits of our diverse population;
- advancing programs and policies aimed at building harmonious and social cohesive communities;
- promoting the importance of mutual respect and responsibility, which foster our shared Australian values, identity, and citizenship;
- building stronger and more cohesive communities and addressing barriers to participation, including racism and discrimination; and
- promoting greater intercultural and interfaith understanding and dialogue.

1.3.2. Information and services for temporary residents

Temporary residents bring important, longer-term benefits to Australia, in much the same ways as permanent migration and the diversity of the Australian population. They help to establish and reinforce people-to-people and institutional links, and increase Australian knowledge and intercultural awareness.

This not only contributes to Australia's ability to do business and have broader influence internationally, but also supports innovation and enlivens and enriches Australian society socially and culturally.

Support for temporary residents to become an active part of the Australian community is provided through a number of the Home Affairs' long standing programs, including:

- The *Life in Australia* book which provides temporary visa applicants with information on Australian values so that they are able to affirm, under the Australian Values Statement, that they will conduct themselves appropriately while in Australia. The book points to other government information, such as the *Beginning a life in Australia* book, an online resource (translated into 37 different languages), and the citizenship test information booklet, *Citizenship—our common bond*, and refers to organisations like the Fair Work Ombudsman;
- A free Translating and Interpreting Service (TIS National) which provides interpreting services to people who do not speak English and to agencies and businesses that need to communicate with their non-English speaking clients. These services enable non-English speakers to independently access services and information in Australia;
- The Adult Migrant English Program (AMEP) which provides up to 510 hours of English language tuition to eligible migrants and humanitarian entrants, including holders of eligible temporary visas,²⁹ to help them learn foundation English language and settlement skills to enable them to participate socially and economically in Australian society; and
- Home Affairs' network of Community Liaison Officers (CLOs) engage with a wide range of cultural, religious and ethnic communities around Australia, to build positive and trusting relationships and, in turn, strong and resilient communities. The CLOs' efforts to build trust, provide information, facilitate an open dialogue and establish respect between the community and civil society helps to ensure that Australia continues to be safe, prosperous and socially cohesive.

²⁹ Visas eligible for AMEP include: Skilled – Independent Regional (Provisional) (Class UX); Skilled – Regional Sponsored (subclass 475); Skilled – Regional Sponsored (subclass 487); Skilled – Regional Sponsored (subclass 489); Temporary (Humanitarian Concern) (Class UO); and Temporary protection (Class XD).

1.3.3. Social cohesion investment

In 2019 the Government funded a \$71 million package of initiatives to create a stronger, more cohesive Australia. This package, led by Home Affairs, invests in programs that: embrace Australia's cultural diversity, and help all community members, including temporary residents, to become actively part of, and benefit from, Australia's economic and social development. It includes the following programs:

- The National Community Hubs Program, helping migrants and refugee women with young children to connect with their community through developing new skills, learning English, finding employment and accessing support provided by Commonwealth, State and Local Governments;
- A pilot Youth Hubs initiative, using the successful approach used in the National Community Hubs Program to support migrant and refugee young people aged 13 to 21 years, and their mothers;
- The Community Languages Multicultural Grants Program, to help young Australians learn another language and connect people to new languages and cultures;
- Implementing Sport 2030, which includes a range of initiatives supporting Australian sport and the role it plays in promoting social inclusion;
- The Fostering Integration Grants Program, which helps local community organisations assist migrants to integrate into life in Australia;
- Digital initiatives through the Enhanced Community Engagement Program, to help young people to understand and counter online hate; and
- Grants to community organisations with a record of delivering successful grassroots programs to enhance integration, mutual understanding and respect for diversity.

Attachment A

Visa work conditions

Visa conditions	Condition summary
8101 – No work	You must not work in Australia.
8102 – Not work other than in relation to study or training	You can only work if it is related to your course of study or training.
8103 – No paid work	You cannot receive a salary in Australia unless you have received permission in writing from the Department of Home Affairs. Subclass 870 visa holders are not allowed to undertake work in Australia.
8104 – Work restriction: 40 hours a fortnight	You can only work 40 hours a fortnight (that is, the period of 14 days starting on a Monday).
8105 – Work restriction	<p>You must not work in Australia before your course of study commences. You must not work in Australia for more than 40 hours a fortnight when your course of study or training is in session.</p> <ul style="list-style-type: none"> • This does not apply to work that is specified as a requirement of the course when the course particulars were entered in the Commonwealth Register of Institutions and Courses for Overseas Students; and • In relation to a student visa granted in relation to a masters degree by research or doctoral degree if the holder has commenced the masters degree by research or doctoral degree.
8106 – Work limitation	You cannot work in Australia unless it is relevant to the business or tasks specified in the visa application.
8107 – Work limitation	<p>The visa you hold was granted to either allow you to be employed by a particular employer, or to undertake specific activities in Australia.</p> <p>You must not stop working for your employer. You must not work in a different position, occupation or with another employer or for yourself.</p> <p>You must not stop doing the activity the visa was granted for. You must not do other activities or do the activity for yourself or anyone else.</p> <p>You must hold a licence, registration or membership if it is mandatory to perform the occupation for which you were nominated.</p>
8108 – Work limitation	You cannot work in Australia for the same employer for more than 3 months without first seeking and obtaining permission in writing from the Department of Home Affairs.
8109 – Work limitation	In your visa application, you told us where and when you will be working during the visa period. You must not change details of times and places of engagements specified in your visa application unless the Department of Home Affairs has given prior permission in writing.

Visa conditions	Condition summary
8110 – Work limitation	<p>You must not work in Australia except in the household of the employer in relation to whom the visa was granted.</p> <p>You must not work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted</p> <p>You must not work for another person or yourself while undertaking the employment in relation to which the visa was granted</p> <p>You must not cease to be employed by the employer in relation to which the visa was granted, and</p> <p>You must not remain in Australia after the permanent departure of that employer from Australia.</p> <p>If you want to stay in Australia after your employer leaves Australia, you must get written permission from the Australian Minister for Foreign Affairs.</p>
8111 – Work limitation	You cannot work in Australia except in the household of the visa holder's sponsor. You cannot stay in Australia once the sponsor has permanently left Australia.
8112 – Must not engage in work that might otherwise be carried out by an Australian citizen or permanent resident	You cannot perform work in Australia that an Australian citizen or permanent resident could do.
8113 – Not to work other than as crew member of non-military ship	You can only work in Australia as a crew member of a non-military ship on an international voyage.
8114 – Superyacht crew	You can only work in Australia as a member of the crew of a superyacht.
8115 – Limited activities	<p>The holder must not work in Australia other than by engaging in a business visitor activity. Means any of the following activities undertaken by a person:</p> <ul style="list-style-type: none"> (i) making a general business or employment enquiry; (ii) investigating, negotiating, entering into, or reviewing a business contract; (iii) an activity carried out as part of an official government to government visit; (iv) participation in a conference, trade fair or seminar in Australia unless the person is being paid by an organiser for participation; <p>It does not include either of the following activities:</p> <ul style="list-style-type: none"> (i) an activity that is, or includes, undertaking work for, or supplying services to, an organisation or other person based in Australia; (ii) an activity that is, or includes, the sale of goods or services directly to the general public.

Visa conditions	Condition summary
8116 – Specified work only	The holder must not work in Australia other than by engaging in an activity specified in a legislative instrument made by the Minister for this clause.
8117 – Work limitation	The holder must not work in Australia other than as a member of the crew on one or more of the following: (a) the flight on which the holder travels to Australia; (b) one flight from the proclaimed airport at which the holder enters Australia to another proclaimed airport; (c) the flight on which the holder leaves Australia; (d) one flight from a proclaimed airport to the proclaimed airport from which the holder leaves Australia.
8607 – Must only work in nominated occupation	You must work only in the occupation nominated in your most recent Subclass 482 (Temporary Skill Shortage) visa application. You cannot work in a different occupation unless you apply for and are granted a new Temporary Skill Shortage visa.
8608 – Must work only in the nominated occupation	You must work only in the occupation nominated in your most recent Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa application. You cannot work in a different occupation unless you apply for and are granted a new Skilled Employer Sponsored Regional (Provisional) visa.

Source: <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/conditions-list#>