



Australian Government
**Department of Education,
Skills and Employment**

Parliamentary Inquiry on Temporary Migration

Submission by the Department of Education, Skills
and Employment to the Senate Select Committee on
Temporary Migration



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Parliamentary Inquiry on Temporary Migration

1. Introduction

The Department of Education, Skills and Employment (the department) welcomes the Senate Select Committee's Inquiry into Temporary Migration (the Committee).

The department has provided a response to assist the Committee discuss the impact temporary migration has on the Australian economy, wages and jobs, social cohesion and the associated issues of workplace rights and conditions. On the issue of workplace rights and conditions, the department refers the Committee to the Attorney-General's Department.

Temporary migrants make a strong contribution to Australia's economy and many go on to become permanent citizens. As of 31 May 2020, there were 2.06 million individuals on temporary visas in Australia.¹ Those temporary visa holders with a work right include New Zealand citizens (669,364), international students (559,536), temporary skilled migrants (132,122) and working holiday makers (91,648).

The Department would like the Committee to note the information on the Seasonal Worker Programme contained in this submission supplements the information set out in the Department of Foreign Affairs and Trade (DFAT) submission published in March 2020.

2. Executive Summary

The department is in a unique position to consider the impact of Australia's temporary migration policies and programs. It has within its portfolio the newly formed National Skills Commission which has a role in providing independent advice to the Government on Australia's skilled migration occupation lists, evaluating workforce trends and undertaking skills shortage research and employment projections. The department also delivers the Seasonal Worker Programme, supports Australia's international education sector and has responsibility for advice on the Australian labour market.

The nature of Australia's Temporary Skilled Migration program (subclass 482 and previously subclass 457) is diverse, and the department considers that it delivers significant economic and social dividends for the nation. The program supports the smooth operation of the labour market by filling local vacancies that cannot be met by Australians. It also assists in building human capital locally through knowledge spill overs from migrant workers, increasing economic opportunities for businesses, and helping offset Australia's ageing population by boosting the relative size of its labour force.

The Temporary Skilled Migration program is carefully calibrated to ensure that skilled migrants do not displace Australian workers. For example, Labour Market Testing ensures that employers have first undertaken checks to ensure that local job seekers are not

¹Department of Home Affairs 2020, BP0012 – Temporary Visa holders in Australia as of 31 May 2020.

available to fill a particular vacancy. Further, the Temporary Skilled Migration Income Threshold, currently set at \$53,900 is designed to protect lower paid Australian jobs and ensure skilled migrants can support themselves while in Australia.² Finally, the review of Australia's skilled migration occupation lists ensure that it is only those occupations where there is a demonstrated workforce need that remain accessible for those looking to work in Australia on skilled visas. Together these policy settings ensure that Australians have the first opportunity to fill available positions.

The Seasonal Worker Programme enables the temporary entry into Australia of eligible workers from participating countries under the Temporary Work (International Relations) subclass 403 visa (Seasonal Worker Program stream). The program provides employment opportunities for up to nine months³ for workers from nine participating Pacific Island countries and Timor-Leste to meet seasonal labour needs in the agriculture sector, and the accommodation sector (in certain locations) where there is insufficient local labour supply available.

Another important category of temporary migrants are international students. The international education sector is of immense value to the Australian economy, drawing international talent and building capacity in Australia. In 2019 more than 750,000 international students studied in Australia⁴, which generated over \$40.3 billion in export revenue⁵ and supported nearly 250,000 jobs⁶. International students represent the second largest cohort of temporary migrants to Australia with 559,536 student visa holders in Australia (as of 31 May 2020).⁷ Australia's temporary migration policy also plays a significant role in supporting the research sector in Australian universities, providing opportunities for specialised researchers to bring their knowledge and expertise to the country. Australian universities operate in an international marketplace where there is strong competition between the best universities in the world for international students and academic talent.

The department notes that other temporary visa categories provide a work right in Australia. These include special arrangements for New Zealand citizens, working holiday makers and some holders of bridging visas. New Zealand citizens are permitted to visit, study, stay and work in Australia through the Special Category Visa (subclass 444). This builds on strong people-to-people links that have helped shape a close and co-operative bilateral relationship. The Working Holiday Maker program (subclasses 417 and 462) provides young people with an opportunity to travel and undertake short-term work in Australia to supplement their holiday experience. Lastly, some categories of bridging visa holders (subclasses 010 and 020) are granted permission to work in Australia.

²Azarias 2016, 'Review of the Temporary Skilled Migration Income Threshold', p.7.

³ In response to the COVID-19 pandemic, on 4 April 2020, the Government announced temporary changes to visa arrangements that allows Pacific workers under the SWP and the Pacific Labour Scheme to continue working in the agriculture sector to ensure it has the labour force required during the pandemic, for up to 12 months.

⁴ <https://internationaleducation.gov.au/research/International-Student-Data/Documents/MONTHLY%20SUMMARIES/2019/Dec%202019%20MonthlyInfographic.pdf>

⁵ https://internationaleducation.gov.au/research/Research-Snapshots/Documents/RS_DataSources2020.pdf

⁶ https://internationaleducation.gov.au/research/Research-Snapshots/Documents/RS_Job%20supported%202018.pdf

⁷ Department of Home Affairs 2020, BP0012 – Temporary Visa holders in Australia as of 31 May 2020.

3. The department's policy settings

The department has focused its comments on those temporary migration programs that fit wholly or partly within its portfolio.

3.1 Temporary skilled migration

The Australian Government's temporary skilled migration program is focussed on ensuring that business and industry, including those in regional Australia, can access skilled workers to fill skilled workforce needs.

The temporary skilled migration settings are managed by the Department of Home Affairs (DHA) and are the responsibility of the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs.

To assist Australia meet its labour market needs, comprehensive labour market analysis is undertaken and views are sought from across industry, employers, unions and individuals to prepare advice for the Australian Government on where skilled workforce needs exist. Only occupations for which migration is the appropriate solution to that shortage, are placed on a skilled migration occupation list, deeming them eligible for skilled migration.⁸

The skilled migration occupation lists are used to inform a range of visas including the Temporary Skill Shortage visa (TSS, subclass 482) and regional provisional visas (subclasses 491 and 494).

The lists are:

- **Short-term Skilled Occupation List (STSOL):** a short-term stream of up to two years or up to four years if an International Trade Obligation applies.⁹
- **Medium and Long-Term Strategic Skills List (MLTSSL):** a medium-term stream of up to four years, which can be renewed multiple times and incorporates a pathway to permanent residency.¹⁰
- **Regional Occupation List (ROL):** a regional stream, which is only available to those employers in rural and regional Australia and has a pathway to permanent residency.¹¹

Multiple lists allows for greater flexibility in the skilled migration system. The STSOL allows employers to temporarily fill short-term shortages while the local labour is trained or until demand decreases. This prevents the displacement of Australian workers who are currently in training. Occupations that are in long-term demand can be filled through the MLTSSL and ROL, which allows migrants to be retained for longer periods, or permanently.

⁸The responsibility for temporary skilled migration visa settings sits with the Department of Home Affairs. Their submission to this inquiry provides further background detail on temporary skilled migration visa settings.

⁹<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-skill-shortage-482/short-term-stream>

¹⁰<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-skill-shortage-482/medium-term-stream>

¹¹A definition of regional Australia can be found at <https://immi.homeaffairs.gov.au/visas/working-in-australia/regional-migration>

Within this department's portfolio the newly formed National Skills Commission plays an important role in ensuring that Australia's skilled migration occupation lists reflect the skills needs of the Australian labour market. The National Skills Commission will be responsible for the labour market analysis that informs advice to the Government on the workforce needs of the Australian economy and labour market, including the skilled migration occupation lists.

The Minister for Employment, Skills, Small and Family Business will then write to the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs providing formal advice on the composition of the skilled migration occupation lists. The Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs is the decision maker on the composition of these lists.

Prior to the establishment of the National Skills Commission on 1 July 2020 the department undertook the analysis function described above.

3.2 Seasonal Worker Programme

The Seasonal Worker Programme (SWP) provides employment opportunities for up to nine months¹² for workers from nine participating Pacific Island countries and Timor-Leste to meet seasonal labour needs in the agriculture sector, and the accommodation sector (in certain locations) where there is insufficient local labour supply available. The program commenced in 2012 after a successful pilot.

The program is led by the department in partnership with other relevant agencies, including DFAT, Fair Work Ombudsman (FWO) and the DHA.

The SWP operates under Memoranda of Understanding with participating countries. In addition, Implementation Arrangements set out the joint management of the program between Australia and participating countries.

Employers seeking to participate in the program are subject to vetting to meet eligibility requirements and enter into a Deed of Agreement with the department and hold a Temporary Activities Sponsorship issued by DHA in order to recruit workers.

The SWP has two key objectives:

- To contribute to the economic development of the participating Pacific Island countries (Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu) and Timor-Leste; and
- To assist Australian employers to meet seasonal labour needs in the agriculture sector, and the accommodation sector, in selected locations, subject to local labour market testing.

¹² In response to the COVID-19 pandemic, on 4 April 2020, the Government announced temporary changes to visa arrangements that allows Pacific workers under the SWP and the Pacific Labour Scheme to continue working in the agriculture sector to ensure it has the labour force required during the pandemic, for up to 12 months.

The SWP delivers a beneficial program for both Australian employers and participating workers, their families and communities.

Prior to the closure of Australia's international borders in response to the COVID-19 pandemic, the SWP has grown at an average annual rate of around 42 per cent. From the start of the program on 1 July 2012 the number of visas granted under the SWP increased from 1,473 in 2012-13 to 12,202 in 2018-19. Following the closure of Australia's international borders on 20 March 2020 as a result of COVID-19 there have been no arrivals of seasonal workers. At that time there were close to 7,000 seasonal workers in Australia.

In response to the COVID-19 pandemic, on 4 April 2020, the Government announced temporary changes to visa arrangements that allows Pacific workers under the SWP and the Pacific Labour Scheme to continue working in the agriculture sector to ensure it has the labour force required during the pandemic, for up to 12 months.

For those SWP workers who remain in Australia, the department is working to assist with redeployment, both within and between states and territories, to meet ongoing agriculture labour needs and provide employment opportunities. In accordance with relevant local public health requirements, some workers may have been required to quarantine.

3.3 International students

The international education sector is of immense value to the Australian economy, drawing international talent and building capacity in Australia. In 2019, a total of more than 750,000 international students studied in Australia.¹³ They represent our second largest cohort of temporary migrants, with 559,536 student visa holders currently in Australia (as of 31 May 2020).¹⁴

Migration policy settings, employment options and career pathways are important for international students, particularly postgraduate students, in choosing to come to Australia. Enabling Student Visa holders (subclass 500) to work up to 40 hours per fortnight while their course is in session allows them to gain valuable work experience, gives them exposure to Australian culture and fills important gaps in the labour market.

Australia's post-study work rights regime plays a key role in attracting international students. Those who graduate from Australian institutions may be eligible for between two and four years of post-study work rights by applying for a Temporary Graduate Visa (subclass 485). This arrangement provides international students with the opportunity to work in their field of study after graduation and supplements their formal studies with practical experience.

While international students are permitted to undertake work in Australia, the international education sector also makes a significant contribution to job creation across the entire

¹³ <https://internationaleducation.gov.au/research/International-Student-Data/Documents/MONTHLY%20SUMMARIES/2019/Dec%202019%20MonthlyInfographic.pdf>

¹⁴ Department of Home Affairs 2020, BP0012 – Temporary Visa holders in Australia as of 31 May 2020.

economy by supporting nearly 250,000 jobs. Research indicates that, on average, one job is created for every three international students in Australia¹⁵. This equates to nearly 100,000 jobs in New South Wales, over 10,000 jobs in South Australia and more than 3,000 jobs in Tasmania¹⁶.

4 The impacts of temporary migration on Australians and the Australian labour market

4.1 Temporary skilled migration

Temporary skilled migrants are highly-educated, highly-skilled people who tend to be in their prime working years. They accrue significant positive economic impacts for Australia's labour market. On average across all industries and occupations, the stock of primary TSS and subclass 457 visa holders in Australia represent less than 1 per cent of employed persons. In most states and territories, the stock of primary TSS and subclass 457 visa holders comprise a low percentage of the employed workforce in skilled (managerial, professional, trade and technical) occupations.¹⁷

In the context of COVID-19, temporary skilled migration to Australia has reduced. There were around 7,209 fewer temporary skilled visa holders (primary and secondary) in Australia at the end of May 2020 than there was at the end of March 2020.¹⁸ The decrease is assumed to be the result of Australia closing its borders to non-citizens and non-residents as a result of COVID-19.¹⁹ Looking in to the future, Australia's Temporary Skilled Migration program will need to take in to account the substantial changes to Australia's labour market, prioritise high value visa streams that drive growth and economic recovery and ensure that recruiting and employing Australian workers remains the Government's first priority.

4.1.1 Australians are not displaced by skilled migration

Temporary skilled migrants act to fill shortages in Australia's labour market. The Temporary Skilled Migration program supports Australian businesses to access critical skills in a timely way if workers are unavailable locally. With the nature of work becoming more complex and the demand for specialised skillsets growing, temporary skilled migrants remain important for Australian businesses to stay competitive and access talent quickly.

The program is carefully designed to ensure that it does not have a negative impact on the employment prospects of Australians. The employment prospects of Australian citizens and permanent residents are protected through the legislative requirements that ensure there is no financial advantage to an employer through sponsoring a TSS visa holder rather than recruiting and employing Australian workers. The intent of the TSS is that employers should look to the local labour market prior to sourcing overseas workers to fill vacancies. To

¹⁵ https://internationaleducation.gov.au/research/Research-Snapshots/Documents/RS_Job%20supported%202018.pdf

¹⁶ https://internationaleducation.gov.au/research/Research-Snapshots/Documents/RS_Job%20supported%202018.pdf

¹⁷ Departmental analysis of Australian Bureau of Statistics (ABS) and Department of Home Affairs data.

¹⁸ Department of Home Affairs 2020, BP0012 – Temporary Visa holders in Australia as of 31 May 2020.

¹⁹ <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F7250182%22>

support this intent, the labour market testing requirements introduced on 23 November 2013 for the then subclass 457 program were replaced with strengthened requirements on 18 March and 12 August 2018.

Implementing these measures alongside a focus on filling skilled workforce needs ensures that skilled migrants do not displace Australians in the labour market. This finding is affirmed by *Shaping a Nation* (2018), a report jointly prepared by the Treasury and the DHA on population and migration. The report found almost no negative outcomes for those born in Australia caused by migrant flows. The report's findings revealed that "migrant labour had no effect on Australian workers across a range of skill levels (from those who had not completed secondary school to university graduates). This included no effect on youth or low-skilled cohorts"²⁰.

This built on the Productivity Commission (2016) who found "on balance and in aggregate, recent immigration had negligible effects on the labour market outcomes of the local labour force"²¹. In fact, it found immigration (particularly highly skilled migration) had a positive impact on productivity growth through spill over effects.²² This conclusion is consistent with the department's own experience engaging stakeholders who have revealed how temporary skilled migrants are meeting local labour market needs, transferring knowledge and skills and fostering innovation.

4.1.2 Increases the depth of human capital in the labour market

Beyond filling vacancies, temporary skilled migrants also improve Australia's stock of human capital. According to Bittman et al (2007), "overall, migrants have attained higher education qualifications than Australian-born prior to migration, thus raising the national levels (on a per capita basis) of human capital"²³. This provides the labour market with more highly skilled workers, increasing its ability to adapt to the evolving needs of the economy. This finding is illustrated through the practice of intra-corporate transfers facilitated by temporary skilled migration. Intra-corporate transfers enable foreign companies to share knowledge and experience with another branch or associated entity in Australia to either deliver a project or train local employees. This transfer of knowledge improves the human capital of Australian born workers through access to training. Some studies have suggested that "over three-quarters (76 per cent) of skilled visa holders [were] helping to train or develop other workers, [with] 68.5 per cent of employers saying they were using skilled visa holders to train Australian counterparts"²⁴. This transfer of skills and experience enables Australia to improve its local knowledge pool and for Australians to gain new capabilities.

²⁰The Treasury and the Department of Home Affairs (2018), 'Shaping a Nation: Population growth and immigration over time', p.38.

²¹Productivity Commission 2016, 'Migrant Intake into Australia', p.191.

²²Ibid.

²³Michael Bittman et al 2007, 'Human Capital: the social costs and benefits of migration into Australia', p.34.

²⁴Migration Council Australia 2013, 'More Than Temporary: Australia's 457 Visa Program', p.22.

4.1.3 Helps address demographic changes caused by an ageing population

Temporary skilled migrants also assist in offsetting labour market challenges driven by Australia's ageing population. An ageing population increases the demand for government-funded health care, while at the same time reducing the size of the workforce.²⁵ Temporary skilled migrants are generally young, with more than half of all primary Temporary Resident (Skilled Employment) visa holders aged between 25 and 34 years of age.²⁶ Younger migrants typically have longer working lives and are therefore likely to better offset the decreasing labour force.

4.1.4 Promotes social cohesion through effective integration

Australia is an inclusive society that promotes social cohesion. Over time migrants have integrated well in to Australian society. The Productivity Commission (2016) found that multicultural attitudes supported the acceptance of Australia's migration program.²⁷ It referred to a Scanlon Foundation survey that found a large majority of respondents agreed that multiculturalism had been good for Australia.²⁸ The Commission also found that "English language, education and employment"²⁹ helped determine how well a migrant would integrate in to Australia. For this reason, skilled migrants (primary visa holders) are well placed from the perspective of social cohesion, as they tend to have high levels of education and English language competency. An example of how effectively skilled migrants integrate was illustrated through the description of skills exchanges discussed at Section 4.1.2. These exchanges build Australia's local capital and improve the productivity of workplaces.

4.1.5 Evolving with changes to technology and social developments

Technology and social developments are producing significant changes to how the labour market operates. At a micro level, the department has noticed trends that indicate that individual jobs are becoming more sophisticated as skillsets expand and evolve. New jobs are emerging, workers are increasingly expecting flexibility and lifelong working relationships between an organisation and their employees are reducing. At a macro-level the geography of work is changing. Location is increasingly becoming less relevant to the ability of an individual to complete their work.

This has ramifications for Australia's Temporary Skilled Migration program. Workers need to be tech-compatible, multi-disciplined and be able to work across and outside traditional job descriptions to foster innovation and bring in new ideas. To support this evolution, there are multiple pathways for temporary skilled migrants to enter Australia and adapt to its growing needs. This includes labour agreements (to meet company specific labour needs),

²⁵Productivity Commission 2016, 'Migrant Intake into Australia', p.294.

²⁶Department of Home Affairs 2020, BP0012 Temporary Visa holders in Australia as of 31 May 2020.

²⁷Productivity Commission 2016, 'Migrant Intake into Australia', p.247.

²⁸Ibid.

²⁹Ibid.

Designated Area Migration Agreements (to meet labour needs in specific regions) and the Global Talent Scheme (to recruit for highly-skilled and specialised positions).

4.1.6 Contributes to Australia's permanent migration flows

Temporary migrants are likely to become permanent migrants. Nearly half of the individuals granted permanent residency are already in Australia on a temporary visa.³⁰ The department notes that a range of studies and analysis find that permanent migration has strong positive impacts on Australia's economy.³¹ A valuable source of evidence on the long-term effects of permanent migration is provided by the DHA's Continuous Survey of Australia's Migrants (CSAM).³²

CSAM measures the labour market integration of a randomly selected group of recently arrived migrants in the skilled and family streams. The respondents are either on a permanent residence visa or a provisional visa on a pathway to permanent residency. Migrants taking part are surveyed on three occasions to capture changes in their labour market status and measure how they have integrated over time into the Australian labour force. The survey is conducted every 12 months, with information captured at the six-month, 18-month and 30-month stages of settlement.³³

CSAM findings indicate positive employment outcomes for skilled migrants on a pathway to permanent residency, and by extension, positive economic contributions to the Australian economy. The latest surveys (2018, Cohort 5³⁴ and 6 Reports³⁵) found that employment outcomes for permanent skilled migrants (primary applicants) were strong both at the six-month and 18-month stages of settlement.

These findings include³⁶:

- Skilled migrants outperformed Australia's general population in terms of full-time employment and attainment of highly skilled roles.
- Employer-sponsored migrants reported full-time employment (93.7 per cent), full-time participation (95.6 per cent) and above average wages in highly-skilled jobs.
- Onshore independent migrants (points tested migrants who submitted a visa application from within Australia) also reported high rates of full-time time employment (93.5 per cent) and participation rates (97.4 per cent). Living and possibly working in Australia

³⁰The Treasury and the Department of Home Affairs 2018, 'Shaping a Nation: Population growth and immigration over time', p.20.

³¹Productivity Commission 2016, 'Migrant Intake into Australia' and The Treasury and the Department of Home Affairs 2018, 'Shaping a Nation: Population growth and immigration over time'.

³²<https://www.homeaffairs.gov.au/research-and-statistics/research/live/continuous-survey-australia-migrant>.

³³Ibid.

³⁴ Department of Home Affairs 2018, 'Continuous Survey of Australia's Migrants – Cohort 5 Report – Change in outcomes 2018', <https://www.homeaffairs.gov.au/research-and-stats/files/csam-cohort5-change-outcomes-2018.pdf>

³⁵ Department of Home Affairs 2018, 'Continuous Survey of Australia's Migrants – Cohort 6 Report – Introductory Survey 2018', <https://www.homeaffairs.gov.au/research-and-stats/files/csam-cohort5-change-outcomes-2018.pdf>

³⁶Ibid.

prior to gaining permanent residency may explain their labour market integration success.

- While offshore independent migrants (points tested migrants, who submitted visa applications from overseas) had an unemployment rate of 13.6 per cent, interestingly, they reported higher average earnings than other skilled migrants.

The CSAM study finds that most skilled migrants migrate to Australia either to improve the future for themselves and their family, or for work and business opportunities.³⁷ This intrinsic motivation, combined with the emotional and financial investment associated with relocating countries of residence, would undoubtedly increase their level of commitment to achieving long-term positive economic outcomes.³⁸

4.2 Seasonal Worker Programme

4.2.1 Australians have first access to job opportunities

Labour market testing is a critical element of the SWP ensuring Australians have access to job opportunities first. The SWP operates to respond to the genuine needs of employers who cannot find enough local workers to meet their labour needs during the seasonal peaks. Approved Employers must demonstrate that they have attempted to recruit local workers and offer vacant positions to any suitable Australian job seeker before applying to recruit seasonal workers under the SWP.

Workers in the program have the same rights as Australian workers. They are entitled to the same pay, safety at work and superannuation contributions.

4.2.2 The program benefits Australian employers and the economy

The SWP program provides Approved Employers with access to a reliable returning workforce where they are unable to meet their seasonal labour needs with local Australian workers. The program is recognised by the agriculture sector as providing growers with certainty when they are planning for upcoming plantings and harvest and supports business continuity.

The number of Approved Employers increased from 36 in 2012-13 to 172 as at 26 June 2020. Of these, 67 per cent are small to medium sized growers employing seasonal workers directly and around 32 per cent are either labour hire companies or contractors supplying labour to smaller farmers and growers.

Seasonal workers are a reliable returning source of labour for growers, enabling them to plan their workforce requirements and be assured of workers to harvest crops and undertake seasonal agriculture work where they are unable to meet their labour needs with

³⁷Department of Home Affairs 2015, 'Continuous Survey of Australia's Migrants – Cohort 3 Report – Introductory Survey 2015', <https://www.homeaffairs.gov.au/research-and-stats/files/cohort3-report-introductory-survey-2015.pdf>.

³⁸Ibid.

local workers. Further, regional communities benefit financially from seasonal workers purchasing food and other items while working in Australia.

An Australian Bureau of Agriculture and Resource Economics and Sciences (ABARES) report of 6 February 2018³⁹ found:

- On average, seasonal workers are 20 per cent more productive than working holiday makers and that returning seasonal workers are 15 per cent more productive than new seasonal workers.
- ABARES noted that non-wage labour costs for seasonal workers are 2.3 times higher per hour than for working holiday makers, and that much of this difference is attributable to the “requirements of the Seasonal Worker Programme designed to protect seasonal workers”⁴⁰.
- Despite increased non-wage costs, ABARES found growers generally reported greater reliability and fewer disruptions.
- The report’s findings were based on data for 150 seasonal workers and 109 working holiday makers between the 2013-14 and the 2015-16 financial years.

4.2.3 The program benefits SWP workers

The SWP program provides an opportunity for Pacific Islanders and Timorese people to work in Australia for up to nine months and return to their home countries with money that can be used to support their family and community, including to send their children to school, build a house or start a small business.

A World Bank report released in 2018⁴¹ found that between 2012 and 2017, the earnings of workers under the SWP contributed approximately \$144 million in net income gains for the Pacific region. This was for 17,320 SWP workers. Since the release of the report, the number of workers that have participated in the SWP has more than doubled to over 47,000 visa grants. Correspondingly, financial benefits will have also grown.

The World Bank report also found:

- On average, workers sent home around \$9,000 over a six-month period.
- 86 per cent of seasonal workers reported a high level of satisfaction with their experience in Australia.
- 95 per cent of seasonal workers surveyed said they would return in future seasons.
- 91 per cent felt the skills they had learned improved their employment prospects on returning home.
- 91 per cent were willing to recommend the program to others in their village.

³⁹Australian Bureau of Agriculture and Resource Economics and Sciences (6 February 2018) “What difference does labour choice make to farm productivity and profitability in the Australian horticulture industry? A comparison between seasonal workers and working holiday makers” <https://www.agriculture.gov.au/abares/research-topics/productivity/productivity-drivers/seasonal-workers-report>.

⁴⁰Ibid.

⁴¹ <https://www.worldbank.org/en/news/press-release/2018/03/28/pacific-seasonal-worker-programme-set-for-bigger-impact>.

- Female seasonal workers highlighted positive changes from participating—gaining new skills and knowledge, including increased levels of financial literacy and English language proficiency.

4.2.4 The program promotes social cohesion

There are a number of anecdotal reports that suggest Pacific seasonal workers contribute to the social fabric of Australia. Pacific seasonal workers are often keen sports players and enjoy playing during their free time, including participating in local teams. Church and community participation is also important for many Pacific Islanders. It is the responsibility of Approved Employers to ensure that seasonal workers have the opportunity to engage in the local community including attending church, and participating in local activities, outside of work hours, if they wish. Approved Employers must also engage a welfare and wellbeing support person to provide support for seasonal workers both at work and outside of work.

The DFAT submission provides examples of how both SWP and Pacific Labour Scheme workers connect in their local communities providing benefits for the workers and the local towns and regions. Further information on the welfare and wellbeing support and protections for workers is set out at Section 5.2.

4.3 Harvest Trail Services and the Harvest Trail Information Line

The department also manages the Harvest Trail Services (HTS) and the Harvest Trail Information Service (HTIS), formerly the Harvest Labour Services (HLS) and National Harvest Labour Information Service.

The HLS was introduced by the Government in 1998 to respond to horticulture industry concerns that crops were not being picked due to labour shortages. The program has continuously operated since then, delivering job placement services for the horticulture industry that aims to link workers (both temporary working visa holders and Australian job seekers) with seasonal harvest jobs to meet seasonal peaks in employer demand in harvest regions across Australia.

From 1 July 2020, the services were renamed under the common Harvest Trail brand. HTS providers will operate in 16 horticulture regions across Australia under the Harvest Trail Services Deed 2020-23 and will continue to link workers, including Australian job seekers and working holiday makers, with seasonal harvest jobs to meet seasonal peaks. The objectives of HTS are to address harvest employers' recruitment needs in harvest areas and increase the number of Australians employed in harvest work.

In the 2019–20 Budget, the Government announced reforms to encourage more Australians to take-up seasonal work. HTS providers will receive new financial incentives when they place and keep Australian job seekers in seasonal work. To assist Australian job seekers, including recent workers displaced due to the impact of COVID-19, HTS providers will work in partnership with jobactive and other employment service providers who could assist with additional support. They will work to build the job seeker's skills that would allow them to

continue being employed and could help address some misconceptions of the harvest work as short-term job opportunities for backpackers and other temporary working visa holders.

The HTIS continues to provide a national information service about harvest related work opportunities across Australia and build harvest employers' awareness of how HTS can meet their recruitment needs.

Australian farmers have had a challenging year, with current COVID-19 restrictions placing additional pressures on the supply of workers. The expansion of HTS into every major horticulture region is expected to result in more placements.

HTS providers continue to report that supply of job seekers outweighs demand from growers. For example, Harvest Trail Information Service reported 98 per cent of all calls to their 1800 number were from people looking for harvest work.

There is a small reduction (seven per cent) in harvest placements in 2020 compared with the same period in 2019. This reduction is likely a result of the travel restrictions between different states and territories and also compounded by some employers unwilling to accept workers from other regions due to COVID-19 concerns.

4.4 International students and the research workforce

The Australian Government welcomes international students to study and work in Australia. In 2019, the international student sector supported the Australian economy to the value of \$40.3 billion⁴² and brought more than 750,000⁴³ students to study in Australia. As the country's fourth largest export industry, international education supports nearly 250,000 jobs⁴⁴.

The benefits of international students are not just economic. International students bring a diversity of perspectives, cultures and languages, enriching the experiences of domestic students on campus, as well as the Australian communities in which they live and work. The connections made through international education also helps Australia to become increasingly connected and competitive globally. International student graduates can play key roles in facilitating relationships with trading partners, suppliers and customers in their home country and elsewhere. These connections facilitate Australian business access to overseas markets and provide opportunities for Australian industry to expand its footprint overseas.⁴⁵

Many international students live in major capital cities. A priority for the government and the Council for International Education has been to look at ways to share the benefits of international education across regional Australia. To this end, the Australian Government has developed the Destination Australia program which assists eligible tertiary education

⁴² https://internationaleducation.gov.au/research/Research-Snapshots/Documents/RS_DataSources2020.pdf

⁴³ <https://internationaleducation.gov.au/research/International-Student-Data/Documents/MONTHLY%20SUMMARIES/2019/Dec%202019%20MonthlyInfographic.pdf>

⁴⁴ https://internationaleducation.gov.au/research/Research-Snapshots/Documents/RS_Job%20supported%202018.pdf

⁴⁵ The Department of Education and Training, Value of International Education to Australia, 2015, p.51.

providers to deliver scholarships to both domestic and international students to study and live in regional Australia.

The Australian Government provides limited work rights for international students (40 hours per fortnight) in recognition of the economic contribution they make. International students pay tax, continue to consume goods and services and make a significant contribution to Australia's economy while in the country, which contributes to domestic job creation across a range of sectors and industries.⁴⁶ International students have comparatively less success in the job market and with their employability post-graduation compared with Australian graduates. In 2019, 49.7 per cent of international graduates available for work were in full-time employment approximately four months after graduation. This compares with 72.2 per cent of domestic graduates⁴⁷.

In terms of the transition to employment, international graduates face additional barriers compared to their local counterparts. These include a lack of local networks, issues surrounding communication skills and cultural differences as well as limited knowledge of, and exposure to, the local labour market⁴⁸.

Of the international students that chose to come to Australia between 2000-01 and 2013-14, only 16 per cent transition to permanent residency⁴⁹. This is despite international students being desirable migrants—they are young, educated, have superior English language skills and fill niches in the Australia's labour market. International students, by virtue of spending time in education institutions, are also already exposed to Australian culture and values.

COVID-19 has had a significant impact on Australia's international education sector with the progressive border closures having prevented many international students, particularly those from China, from arriving in Australia for the commencement of their studies in Semester 1, 2020. COVID-19 restrictions then saw education providers moving their teaching online, with international students having to adjust to online study.

The full long-term impact on the sector is yet to be seen, however, it is anticipated that a decline in the number of inbound students will continue through Semester 2, 2020. The Prime Minister's Roadmap to a COVID-safe Australia makes clear that the government supports the return of international students, when arrivals can be managed in a COVID safe way.

Australian universities operate in an international marketplace where there is strong competition between the best universities in the world for international students and academic talent. In order to grow the economy, innovate and continue to develop the

⁴⁶The Treasury and the Department of Home Affairs 2018, 'Shaping a Nation: Population growth and immigration over time', p.37.

⁴⁷ 2019 Graduate Outcomes Survey. Refer to: <https://www.qilt.edu.au/docs/default-source/gos-reports/2019-gos/2019-gos-national-report.pdf>

⁴⁸Australian International Graduates and the transition to employment: Final report 2014. Jill Blackmore, Cate Gribble, Lesley Farrell, Mark Rahimi, Ruth Arber, Marcia Devlin..

⁴⁹ The Treasury and the Department of Home Affairs 2018, 'Shaping a Nation: Population growth and immigration over time', p.21.

ability to leverage the latest in technology, Australia must remain competitive in attracting international research talent. It is therefore important that visa settings do not have negative consequences for Australia's capacity to secure international researchers and consequently for Australia's research effort.

Australia is an attractive destination for researchers due to the quality, depth and international recognition of the higher education system. Changes in visa settings can affect the ability of universities and research institutes to attract global research talent. The research sector requires flexibility to respond to emerging areas of research and this includes recruiting expertise that is not readily available in Australia.

The ability to employ international experts in emerging fields ensures that higher education students, both international and domestic, have access to the latest developments wherever they occur. In turn, this means that the training and research conducted by Australian universities remains among the best in the world.

International researchers make up a very important, albeit relatively small, section of Australia's broader research workforce:

- In 2018 (the most recent comparable data available), there were 1,207 temporary visa holders in the university lecturer occupation – around two per cent of the entire academic workforce⁵⁰
- In 2018 (the most recent data available) there were 66,455 students enrolled in a Higher Degree by Research program – of these 23,061, or 35 per cent, were international students.⁵¹

Many Australian Government funded research schemes, such as the Australian Research Council's (ARC) National Competitive Grant Program (NCGP), have key objectives linked with international collaboration and competitiveness. All NCGP schemes are open to international researchers to undertake research in Australian universities regardless of their nationality and require long periods of time to be spent living in the country.

4.5 Other temporary visa categories

The department acknowledges that other temporary visa categories provide a right to work in Australia. These include special arrangements for New Zealand citizens, working holiday makers and some holders of bridging visas.

⁵⁰ Department of Education, Skills and Employment (DESE) analysis of Department of Home Affairs visa data made available at <https://data.gov.au/dataset/ds-dga-2515b21d-0dba-4810-afd4-ac8dd92e873e/details>, accessed on 9 July 2020 and DESE university staffing data made available at <https://www.education.gov.au/selected-higher-education-statistics-2019-staff-data>, accessed on 9 July 2020.

⁵¹ Selected Higher Education Statistics – 2018 student data, <https://www.education.gov.au/selected-higher-education-statistics-2018-student-data>, accessed on 6 July 2020.

New Zealand citizens are permitted to visit, study, stay and work in Australia through the Special Category Visa (subclass 444).⁵² This builds on strong people-to-people links that have helped shape a close and co-operative bilateral relationship. The Productivity Commission (2016) found that New Zealand citizens have made a positive contribution to Australia's labour force. The 2011 census found that they had labour market outcomes that were comparable to (or better than) those for Australia born or overseas born people, including higher participation rates.⁵³

The Working Holiday Maker program (subclasses 417 and 462) provides young people with an opportunity to travel and undertake short-term work in Australia to supplement their holiday experience for up to a year.⁵⁴ A second year is available to 417 and 462 visa holders who work for three months in a specified field or industry in a regional area. Those with a 462 visa can complete three months of work in a regional area if working in Northern Australia, and other specified regional areas if working in plant and animal cultivation. Changes announced in November 2018 allow working holiday makers to qualify for a third-year visa by undertaking an additional 6 months of specified work.

Finally, some categories of bridging visa holders (subclass 010 and 020) are given permission to work in Australia. Subclass 010 allows a person to stay in Australia after the current substantive visa ceases and while the new substantive visa application is being processed.⁵⁵ Subclass 020 allows a person to leave and return to Australia during a specified travel period while a substantive visa application is being processed.⁵⁶

5 Temporary migrant worker exploitation

The Australian Government has no tolerance for the exploitation of migrant workers. Protecting migrant workers from exploitation rests within the portfolio responsibilities of the Attorney General's Department (AGD). The department refers to the AGD's March 2020 submission to the Committee for further detail. This section provides some background in relation to skilled migrants, participants of the Seasonal Worker Programme, and international students.

5.1 Temporary skilled migration

Temporary visa holders with a work right, including those sponsored by Australian businesses on TSS visas, are entitled to the same basic rights and protections as Australian citizens and permanent residents under applicable workplace laws. For visa holders covered by the federal workplace relations system, these include minimum employment conditions, access to superannuation, workers' compensation and workplace safety laws. These are enforceable under legislation.

⁵²<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/special-category-visa-subclass-444>

⁵³Productivity Commission 2016, 'Migrant Intake into Australia', p.428.

⁵⁴<https://immi.homeaffairs.gov.au/what-we-do/whm-program>

⁵⁵<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/bridging-visa-a-010>

⁵⁶<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/bridging-visa-b-020>

It is important to note that sponsors and visa applicants are required to meet other TSS requirements including the market salary rate, TSMIT and migration sponsorship obligations that ensure primary TSS visa holders receive equivalent terms and conditions of employment as Australian employees. The market salary must also satisfy applicable Australian workplace law.

To help ensure compliance with Australian workplace relations and work health and safety laws, TSS visa holders must hold any relevant registration, licensing, certification or professional membership necessary to perform the duties of their nominated occupation in that specific location in Australia. This requirement ensures TSS visa holders are subject to the same standards as Australian employees and supports the integrity of Australian workplace and safety laws.

The work health and safety laws in the Commonwealth and all Australian states and territories apply to all employers and all employees are afforded the same protection under these laws, irrespective of their status as Australian citizens, permanent residents or temporary visa holders. Compliance is through Commonwealth, state and territory work health and safety regulators.

Workers' compensation laws in the Commonwealth and all Australian states and territories apply equally to all employers and all employees have the right to access compensation under the laws, irrespective of their status as Australian citizens, permanent residents or temporary work visa holders and irrespective of whether they are employed on a casual basis or under labour hire arrangements.

5.2 Seasonal Worker Programme

The Australian Government has zero tolerance for the exploitation of workers and underpayment of wages and entitlements. Workers in the SWP have the same rights as Australian workers. They are entitled to the same pay, safety at work, and superannuation contributions.

5.2.1 Support for SWP workers in Australia

The program is designed to ensure workers are supported through their journey from seeking to participate in the SWP in their home country, preparation for departure, through their arrival and stay in Australia, and return and reintegration home.

A map of the seasonal worker journey is attached (Attachment A) and details of key elements is provided below.

5.2.1.1 Pre-departure briefings

Workers recruited under the SWP participate in a briefing prior to departing for Australia. The briefing is provided by their home country's Labour Sending Unit (LSU) and covers a broad range of information to help workers understand, among other things, their employment contract (Offer of Employment) including their pay and deductions, Australian workplace law, visa arrangements, and workplace health and safety.

At this point, workers are also provided with a pre-departure booklet in their local language (provided by the department). The booklet includes information to help workers understand their visa arrangements, their Offer of Employment letter, working conditions, role of unions, taxation and superannuation, sending money home, and general information on living in Australia. Workers are encouraged to pack the booklet, which is also available in English and other participating country languages on the SWP website.⁵⁷ Refer to Attachment A.

The role of the Pacific Labour Facility (contracted to DFAT) includes capacity building for partner countries' LSU, improving pre-departure briefing practices and labour sending office practices as well as assisting partner countries to market themselves to Australian industries and employers.

5.2.1.2 Welfare and Wellbeing Support Person

Approved Employers are required to nominate a welfare and wellbeing support person for each recruitment. This person must reside within 300 kilometres of the placement and conduct, at a minimum, fortnightly discussions with the workers.

These discussions are required to help build trust, establish rapport, and deal with everyday issues. They help to keep communication channels open and provide opportunities for issues to be identified and resolved early. Attendance by workers at the discussions is voluntary.

Approved Employers are also required to provide the workers with a 24/7 (24 hours a day, seven days a week) emergency contact number and ensure the workers know how to contact emergency services in the event of an emergency.

5.2.1.3 Arrival briefings and connection with local communities

The Approved Employer must give seasonal workers a face-to-face, in person, briefing when they arrive. The arrival briefing provides the seasonal workers with easy to understand information to help them to settle in.

The Approved Employer must invite the FWO and the relevant union to the briefing.

The arrival briefing is required to cover the following:

- information on the seasonal workers' accommodation
- employment arrangements (hours of work and pay)
- payments, deductions, and understanding payslips (including health insurance, tax and superannuation)
- transport arrangements
- importance of keeping certain records of their employment, including their Australian tax file number, and to keep these somewhere safe
- how seasonal workers can remit money they earn home, above what they need for living expenses

⁵⁷ <https://www.employment.gov.au/resources-seasonal-workers>.

- welfare and wellbeing information on:
 - shopping and the local area
 - banking
 - access to medical facilities
 - health insurance
 - communicating with home
 - Australian wildlife and plants
 - Australian law, driving and cultural differences, and
 - essential contacts (emergency services - 000, FWO, SWP Information Line, 24/7 Approved Employer contact)
- Approved Employers must also assist seasonal workers to connect with local community groups (e.g. churches, Pacific Islander and Timor-Leste groups or other community fellowships and sporting groups.).

This helps to provide workers with multiple channels to seek support or raise concerns.

The FWO has also published on its website a number of story boards (short videos) on Australia's workplace laws and worker rights. These have been designed for overseas workers and are available in English and languages of SWP participating countries. Approved Employers can use these in the arrival briefing to assist in explaining workers' rights and responsibilities in Australia.⁵⁸

5.2.1.4 Approved Employer ongoing support to workers

Approved Employers' obligations extend beyond the initial arrival briefing. Approved Employers' obligations include:

- ensuring all seasonal workers have, and maintain, adequate arrangements for health insurance during the period of their stay in Australia, consistent with the workers' visa conditions—in accordance with DHA's requirements, the health insurance must include cover for in-patient and out-patient care
- assisting seasonal workers to access medical and allied health services, when/if required
- monitoring the progress, placement and well-being of all seasonal workers (further details as per the welfare and wellbeing support person discussed at Section 5.2.1.2)
- complying with, and ensuring seasonal workers comply with, all work health and safety legislation and approved codes of practice relating to work health and safety
- providing accommodation for workers that meets the minimum requirements set down by the department, and which must meet relevant state or local laws, and
- providing an average minimum of 30 hours of work per week for the duration of their employment in Australia.

⁵⁸ <https://www.fairwork.gov.au/language-help/language-storyboards>.

5.2.1.5 Role of community groups and unions

The department has a close and ongoing connection with community groups and unions in delivering the SWP.

Unions and community groups are members of the SWP Advisory Group, which is a consultative forum providing a mechanism for members, including SWP Approved Employers, the department, partner agencies, community groups and unions to:

- identify, discuss and assist in the resolution of program issues
- focus on operational, policy and strategic program matters, and
- share information and ideas for program improvements.

5.2.1.6 Country Liaison

A number of SWP participating countries have employed Pacific Labour Mobility liaison officers. The department maintains ongoing engagement and liaison with these officers in delivering the SWP. These officers support workers in person or over the phone and are another avenue for receiving information on the program.

5.2.2 Program assurance

The department has an Assurance Framework (framework) that ensures the SWP is operating as intended, including that accommodation provided to workers is consistent with what has been approved by the department. An overview of the framework is attached (Attachment B).

There are three elements of the framework:

1. Prevention and deterrence.
2. Detection.
3. Correction.

As part of this, the department operates the SWP Information Line (+61 2 6240 5234) and the SWP mailbox (seasonalworker@dese.gov.au) where concerns regarding the SWP can be reported. In addition to the SWP Information Line, the Pacific Labour Facility operates a dedicated after-hours worker welfare phone line.

To assist, 'SWP Online' supports employers using the SWP by simplifying and streamlining administrative requirements. The SWP Online provides quick access to all Approved Employer records, supports transparency of all transactions with the department, and reduces red tape. Improvements to the system continue to ensure that it effectively operates as a single channel for Approved Employers' transactions with the department.

Concerns relating to an Approved Employer, host business, or other program stakeholder may be received from a wide range of sources including:

- seasonal workers
- other Approved Employers

- participating country representatives
- family members of seasonal workers
- unions
- community members
- community organisations
- accommodation providers, and/or
- government departments/agencies and authorities.

Where the department receives such a report, it is reviewed and responded to in accordance with the SWP assurance framework.

If information received or obtained by the department, such as through a monitoring visit, relates to an area of responsibility for another agency such as the FWO or DHA, the department will refer the matter along with the evidence obtained to the responsible agency.

5.3 Exploitation of international students

The department has worked through the Australian Government's Migrant Workers' Taskforce and Council for International Education to address issues relating specifically to the exploitation of international students. Responses include developing resources and information on preventing workplace exploitation, enhancing minimum standards for student support staff and surveying students on their experiences of workplace exploitation.

Both the Migrant Workers' Taskforce Report (recommendation 15, 17) and the Package of Actions on Student Workplace Exploitation of the Council for International Education (items 1, 2, 6, 7, 9) recommended providing accessible and timely information to international students at every stage of the enrolment and study cycle.

The department's response has included developing a suite of information and resources for students, providers and agents on preventing workplace exploitation. This work recognises that international students may have particular vulnerabilities, in part due to gaps in their knowledge on workplace rights and entitlements, and lack of familiarity with pathways for seeking redress. The products were published on the Study in Australia website in December 2019.

During development of the products, more than 30 representatives were consulted. This included representatives from the FWO, agent organisations, student bodies, subject matter experts, education regulators; Commonwealth, State and territory governments; and other Commonwealth agencies such as the DHA, Austrade, the Australian Tax Office and then-Department of Employment.

The Council for International Students Australia was engaged at a number of touchpoints during the process. Consultation was rounded out with a number of focus groups with international students to test the effectiveness and usability of the products.

Consultation offered valuable insights as the products were developed. As a consequence, the materials:

- are presented in a number of different formats (print and digital checklists, flyers, state-based directories of assistance, case studies and animations)
- are designed to be disseminated at key points of the study and enrolment cycle
- go beyond the provision of more information, and are designed to empower students to take action, make informed choices and provide pathways for seeking redress
- are sympathetic to the challenges for international students of working while studying and are relatable to the lived experience of an international students.

Digital content has since been translated into four languages (Hindi, Indonesian, Simplified Chinese and Traditional Chinese) and will be published in the near future alongside the English-language originals.

As part of this project, agents and provider toolkits, which packaged the student-focused products meaningfully for agents and providers were also developed, alongside provider best-practice guidance on preventing student workplace exploitation.

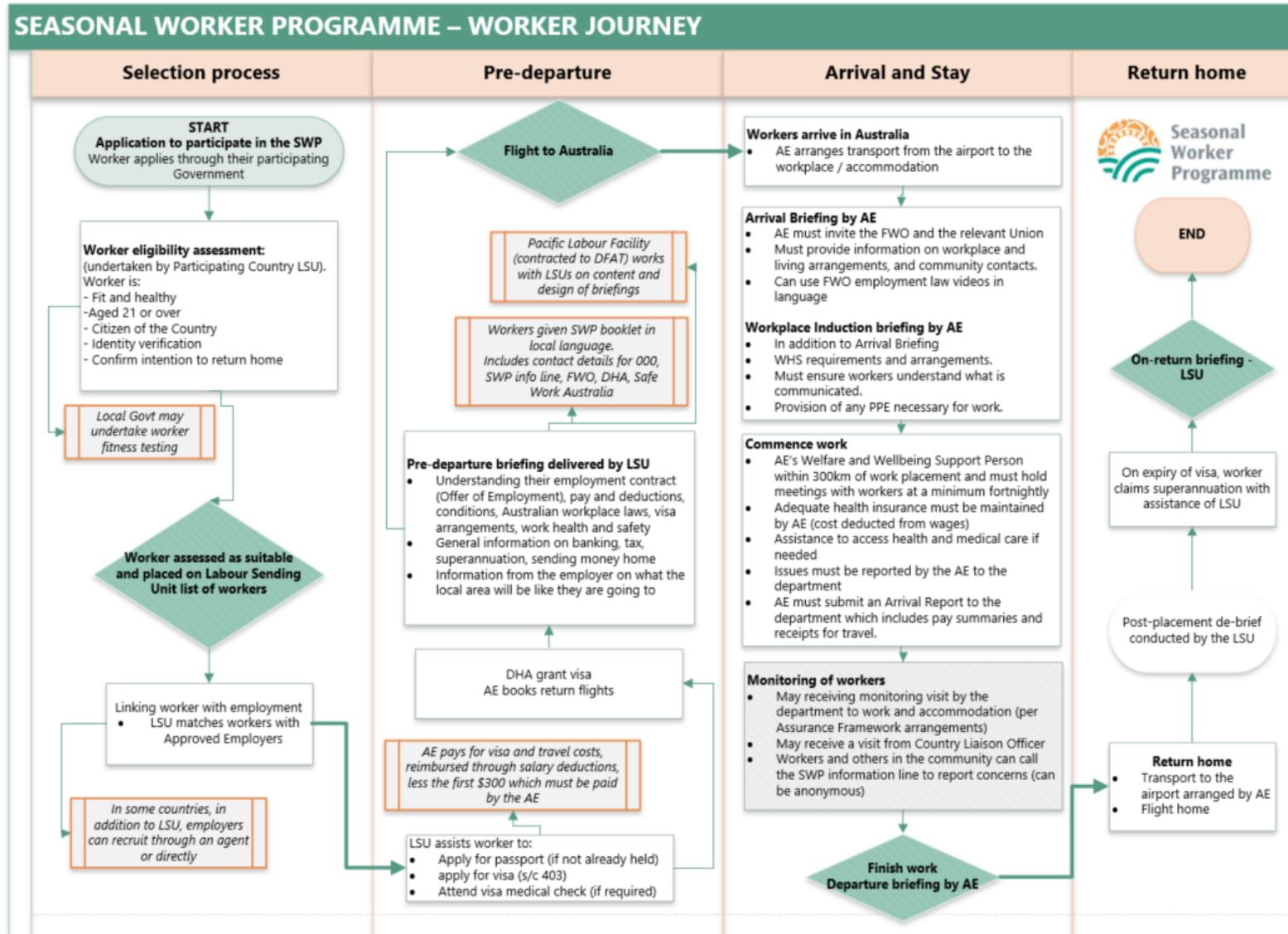
The department is working closely with key stakeholders to distribute the resources to students, providers and agents across the international education sector. The department's social media channels, including Facebook, YouTube and Twitter are being used to help distribute and promote digital and print materials to students.

In addition, the department has enhanced minimum standards for student support, required under the National Code of Practice for Providers of Education and Training to International Students 2018. This addresses Recommendation 16 of the Migrant Workers' Taskforce report.

The department has sought to capture better data on student workplace exploitation through the Student Experience Survey, to better understand the prevalence and nature of workplace exploitation faced by international students. This will be piloted in 2020, with a view to inclusion in the full survey in 2021. The data will be used to inform and better target policies and procedures that help stop student workplace exploitation. The department is working with the sector to identify further mechanisms to collect information on students' work experiences in Australia, to respond to Recommendations 22a and 22b of the Migrant Workers Taskforce report.

The department is working with the sector to improve conditions at on-campus workplaces and, with the FWO, increase provider and student awareness of workplace rights. This will help continue the focus on the Council for International Education's Package of Actions on Student Workplace Exploitation.

Attachment A – SWP Worker Journey



Attachment B – SWP Program Assurance



AUSTRALIAN GOVERNMENT SEASONAL WORKER PROGRAMME – PROGRAM ASSURANCE FRAMEWORK

