



## COVID-19 Temporary Visa Holders Frequently Asked Questions

Current as at 17 April 2020

- The Australian Government is committed to protecting the health of Australians, supporting businesses and jobs and securing food supply while we combat the COVID-19 virus.
  - The livelihood of Australians who become unemployed as the economic impacts deepen is paramount to the Government.
- The Government is making a number of changes to temporary visa holder arrangements during the coronavirus crisis in order to protect the health of our community, safeguard job opportunities for Australians, support critical industries, and assist with the rapid recovery post the virus.
- The priority of Government during this period is public health. All temporary visa holders should follow public health advice in respect to COVID-19.
- It is important that temporary visa holders retain a lawful status wherever possible. Whatever a person's visa status, there is no barrier to engaging with our health system if they are sick.
- Temporary visa holders who are unable to support themselves are strongly encouraged to return to their countries.
- Where this is not possible, most temporary visa holders who have worked in Australia will now be able to access some of their Australian superannuation.

### Visitor Visa Holders

- Visitor visa holders in Australia should return home if it is possible to do so.
  - There are currently over 213,000 visitor visa holders in Australia.
  - A visitor visa only allows a temporary stay and due to current circumstances associated with COVID-19, including state and territory border restrictions, business closures and social distancing requirements, all visitors are encouraged to depart Australia.

#### 1. What can I do if I cannot return to my home country?

- If you cannot return to your home country, you need to maintain a valid visa and engage with the health system when necessary.
- Visitor visa holders should apply for a new visa before their current visa expires to maintain their lawful status.
- If a visitor has a "No Further Stay" condition on their visa (including 8503, 8534 or 8535) and less than two months validity remaining, they can request a waiver of this condition to allow them to lodge a new visa application.
- Information on extending a stay in Australia if you are unable to depart is available at: <https://covid19.homeaffairs.gov.au/>

## International students

### 2. What is the Government doing to support student visa holders?

- The Government is taking a flexible approach in relation to student visa conditions where COVID-19 and associated travel restrictions have prevented conditions being met, such as attendance at class or use of online learning.
- The Government has temporarily relaxed the enforcement of the 40 hour work limitation for the following critical sectors:
  - International students who are existing workers in major supermarkets to help get stock on shelves due to high demand (implemented 7 March). These students will be required to return to the standard 40 hours a fortnight during term time from 1 May 2020.
  - International students who are existing workers in the aged care sector are able to work more than 40 hours a fortnight (implemented on 18 March 2020).
- Student visa holders who are enrolled in nursing can undertake work to help and support the health effort against COVID-19 as directed by health officials.

### 3. How will students be assured they will not jeopardise their visa?

- Written advice will be provided to approved employers setting out the temporary relaxation of working hours for student visa holders.
- Supermarkets must register with the Department of Home Affairs to be given access to the temporary relaxation of working hours for existing workers. A list of registered businesses is published on the Department's website: <https://www.homeaffairs.gov.au/news-media/current-alerts/entities-temporary-relaxation-student-working-hours>.
- Aged Care service providers should refer to the correspondence provided to them by the Department of Health for further details.

### 4. What type of work can students undertake under these arrangements?

- The temporary arrangements only apply to student visa holders working in supermarkets or aged care providers, as well as student nurses who are supporting health efforts against COVID-19 as directed by health officials.
- The arrangements only apply to existing workers in their existing roles.
- As the COVID-19 situation develops, it will be determined whether similar measures are required in other critical sectors to ensure the supply of essential goods and services to Australians.

### 5. Are these arrangements limited to students?

- Student visas holders are already permitted to work in Australia with a usual limitation of 40 hours per fortnight. In light of the current circumstances, these arrangements respond to needs raised by sectors having regard to the critical role that student visa holders play in their workforce to deliver essential goods and services to the Australian community.

### 6. How will employers access this temporary measure?

- The Department of Home Affairs has set up a form for supermarkets to request access to these temporary arrangements.
- The form "*Employer request relating to relaxation of enforcement of student visa working hours*" is available at: <https://immi.homeaffairs.gov.au/help-support/departmental-forms/online-forms>

## Unclassified

- Employers are still required to abide by all relevant Australian workplace laws. Overseas workers, including international students, have the same rights under Australian workplace law as all other employees.
- All aged care approved providers or Commonwealth funded aged care service providers that have been issued with a RACS ID or a NAPS ID have been given access to the temporary relaxation of working hours for student visa holders. These aged care providers should refer to the correspondence provided to them by the Department of Health for further details.

### **7. I am unable to support myself in Australia, what can I do?**

- If you are unable to support yourself, you should make arrangements to return to your usual country of residence, noting that it is a condition of all student visas that holders have access to funds to support themselves for the duration of their stay in Australia.
- If you have held a student visa for 12 months or longer and are unable to meet your immediate living expenses, you will be able to access up to \$10,000 of your Australian superannuation tax-free in the 2019-20 financial year.
- The Government will continue to engage with the international education sector which is providing some financial support for international students facing hardship.

### **New Zealand 444 Special Category Visa (SCV)**

- New Zealanders and Australians have reciprocal arrangements whereby we can each stay and work in each other's country. There are over 670,000 New Zealand citizens in Australia on a TY444 visa.

### **8. Am I able to access any support in Australia?**

- If you are a protected SCV New Zealand citizen and meet other eligibility requirements, you will be eligible for all welfare payments, including the Job Seeker and Job Keeper payments.
- If you are not a protected SCV New Zealand citizen and you hold a TY444 visa, you will still be eligible for the Job Keeper payments through your employer.

### **9. What is a protected New Zealand citizen?**

- A person is a protected SCV New Zealand citizen holder if they fall within one of the following groups:
  - in Australia on 26 February 2001
  - in Australia for 12 months in the 2 years immediately before this date
  - assessed as a protected SCV by Services Australia holder before 26 February 2004.
- More information and advice on protected SCV holders can be found at [www.servicesaustralia.gov.au/individuals/topics/residence-descriptions/30391#scvholder](http://www.servicesaustralia.gov.au/individuals/topics/residence-descriptions/30391#scvholder)

### **10. What should I do if I am unable to support myself in Australia and am not eligible for one of the above payments?**

- Under recently announced measures, New Zealand citizens and permanent residents are able to access up to \$10,000 of their Australian superannuation tax-free in 2019-20 and a further \$10,000 in 2020-21.
- If you are unable to support yourself, are not eligible for any of the above payments, and unable to find any employment, you should consider returning to New Zealand.

## Unclassified

### Employer sponsored temporary work visas

#### 11. I am a Temporary Skill Shortage visa holder - what should I do if I have been stood down or my hours are reduced?

- Temporary Skill Shortage visa holders who have been stood down, but not laid off, will maintain their visa validity and businesses will have the opportunity to extend their visa as per normal arrangements.
  - Businesses will also be able to reduce the hours of the visa holder without the person being in breach of their visa conditions or the business being in breach of their employer obligations.

#### 12. I have lost my job due to the COVID-19 pandemic, what are my options?

- Those who are laid off (that is, they are unemployed) should find another employer within 60 days or make arrangements to depart Australia, where this is possible.

#### 13. I can't find another employer what should I do?

- Those visa holders who have been laid off due to coronavirus and who cannot find another employer to sponsor them, should make arrangements to depart Australia.

#### 14. What can I do if I cannot return to my home country?

- If you cannot return to your home country, you need to maintain a valid visa and engage with the health system when necessary.
- Where you have been stood down by your employer, but not laid off, you will be able to access up to \$10,000 of your Australian superannuation tax-free in the 2019-20 financial year.
- Information on extending a stay in Australia if you are unable to depart is available at: <https://covid19.homeaffairs.gov.au/>

### Working holiday makers

#### 15. What is the Government doing to support industries that rely on Working Holiday Makers?

- To support the critical sectors of health, aged and disability care, agriculture, food processing, and childcare, the Government is providing flexible arrangements with regard to ongoing employment of Working Holiday Makers (WHMs).
- WHMs working in these critical sectors will be exempt from the six month work limitation with one employer and will also be eligible for a further visa to continue working in these sectors if their current visa is due to expire in the next six months.
- If a WHM is working in the critical sectors of health, aged and disability care, agriculture, food processing or childcare but is not eligible for a further WHM visa and is unable to return to their home country, they can apply Temporary Activity (subclass 408) Australian Government Endorsed Event (AGEE) stream visa.
- Employers are still required to abide by all relevant Australian workplace laws. Overseas workers have the same rights under Australian workplace law as all other employees.

## Unclassified

### **16. I am on a WHM visa and am unable to support myself in Australia, what can I do?**

- If you are unable to support yourself, you should make arrangements to return home.
- If you are unable to meet your immediate living expenses, you will be able to access up to \$10,000 of your Australian superannuation tax-free in the 2019-20 financial year.

### **17. Can I extend my current visa to stay in Australia if I am unable to return to my home country?**

- You can apply for a further WHM visa if you have undertaken specified work for three months on your first WHM visa or six months on your second WHM visa.
- The following industries and areas are approved as specified work for subclass 417 (Working Holiday) visa holders:
  - plant and animal cultivation in regional Australia;
  - fishing and pearling in regional Australia;
  - tree farming and felling in regional Australia;
  - mining in regional Australia;
  - construction in regional Australia; and
  - bushfire recovery work in declared bushfire affected areas only, carried out after 31 July 2019.
- The following industries and areas are approved as specified work for subclass 462 (Work and Holiday) visa holders:
  - plant and animal cultivation in northern Australia and other specified areas of regional Australia;
  - fishing and pearling in northern Australia only;
  - tree farming and felling in northern Australia only;
  - tourism and hospitality in northern Australia only;
  - construction in northern Australia and other specified areas of regional Australia; and
  - bushfire recovery work in declared bushfire affected areas only, carried out after 31 July 2019.
- You must apply for a new visa before your current visa expires. You may be eligible to be granted a bridging visa that will keep you lawful until a decision is made on your visa application.

### **18. Can I count work in critical sectors in response to COVID-19 as 'specified work' for the purpose of applying for a second or third WHM visa?**

- Existing arrangements for specified work will remain in place but the Australian Government has announced temporary measures to assist WHMs working in critical sectors who are not eligible to apply for a further WHM visa.
- If you are working in the health, aged and disability care, agriculture, food processing or childcare sectors and are unable to return to your home country you can apply for the Temporary Activity (subclass 408) Australian Government Endorsed Event (AGEE) stream visa.
  - This visa will allow you to remain lawfully in Australia and continue working until it is safe and practicable to return to your home country.
- Further information is available on the Department of Home Affairs website at <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-activity-408/australian-government-endorsed-events>

## Unclassified

### **19. I have applied for my second or third WHM visa. Can I keep working while I am waiting for a decision on my application?**

- While your new application is being processed, a bridging visa will come into effect which generally carries the same conditions as your previous visa, including in relation to work rights. You and your employer can check Visa Entitlement Verification Online (VEVO) at any time to confirm your work rights.

### **20. Due to COVID-19, I couldn't complete the specified work I need to apply for my second or third WHM visa. Can I extend my visa to give me more time to look for work?**

- If you have not completed the 3 or 6 months of specified work required to apply for a second or third WHM visa, you should apply for another visa to remain lawfully in Australia until you are able to depart.
- If you are working in the health, aged and disability care, agriculture, food processing or childcare sectors and are unable to return to your home country, you can apply for the Temporary Activity (subclass 408) Australian Government Endorsed Event (AGEE) stream visa.
  - This visa will allow you to remain lawfully in Australia, and continue working until it is safe and practicable for you to return to your home country.

## **Seasonal Workers**

- There are around 8,000 Seasonal and Pacific workers in Australia.
- Seasonal and Pacific workers whose visas are expiring will have their visas extended for up to six months to support the agriculture sector, subject to Labour Market testing. This is consistent with the principle that visa settings should not displace job opportunities for Australians.
- Seasonal Worker Program and Pacific Labour scheme workers, as well as Working Holiday Makers and other visa holders working in agriculture, will be able to extend their stay in Australia to support the agriculture sector.
  - Seasonal Worker Programme workers with visas due to expire will be able to apply for a Temporary Activity (subclass 408) visa in the Australian Government Endorsed Event (AGEE) stream.
  - Pacific Labour Scheme workers with visas due to expire can apply for a new Temporary Work (International Relations) (subclass 403) Pacific Labour scheme stream visa.
  - Workers currently in Australia under these programs will also be exempt from the requirement to work for a single employer and be able to move between approved employers, allowing flexibility and continued support for the agriculture sector in meeting seasonal workforce demands.
  - Seasonal Worker Programme and Pacific Labour Scheme arrangements, including those relating to employers, will be carried over to the new visa arrangements, continuing the link with the agricultural sector.
- More information about these temporary arrangements is available on the Department's website: <https://covid19.homeaffairs.gov.au/>
- Seasonal Worker Program and Pacific Labour scheme workers who are unable to meet their immediate living expenses will be able to access up to \$10,000 of their Australian superannuation tax-free in the 2019-20 financial year.

## Bridging visa holders

- If your visa has expired, or is about to expire you should consider returning to your home country as quickly as possible if you are able to, particularly if you do not have family support.
- Temporary visa holders who are unable to support themselves over the next six months are strongly encouraged to return home and to make arrangements as quickly as possible to do so.
- If you cannot depart Australia, you need to apply for a Bridging visa in order to regularise your visa status. You will be expected to depart Australia when travel restrictions are lifted.
- More information about Bridging visas can be found Information on Bridging Visas is available at: <https://covid19.homeaffairs.gov.au>

### 21. What services are available to assist me?

- If you cannot resolve your visa status, the Department of Home Affairs' Status Resolution Service (SRS) can help.
- SRS officers can explain your visa options and tell you how decisions you make now can affect your options later on. They can also help you plan your departure from Australia, and refer you to other services where necessary.

### 22. I am a Bridging visa holder in Australia and my substantive application is pending a decision. What does this mean for my Bridging visa?

- Your Bridging visa will keep you lawfully in Australia until a decision has been made on your substantive visa application. If your substantive visa is not granted, and you are unable to depart Australia, you will need to apply for a further Bridging visa to keep you lawful.

### 23. Bridging visa holders with ongoing matters at Merits or Judicial Review?

- Your Bridging visa will keep you lawfully in Australia until the review decision has been finalised. If your substantive visa is not granted, and you are unable to depart Australia, you will need to apply for a further Bridging visa to keep you lawful.

### 24. My Bridging visa expires on a specific date. What should I do?

- If your Bridging visa specifies a validity date, and you are unable to depart Australia, you should apply for a further Bridging visa before it expires.

### 25. I am a Bridging Visa holder and want to depart Australia. What should I do?

- The Department's Status Resolution Service can assist eligible individuals wishing to depart from Australia (where this is currently possible). The Department contracts the International Organisation for Migration (IOM) and Serco (Homeward) as service providers to facilitate its voluntary return and reintegration programs.

Returns assistance may be available and may provide an eligible recipient with one, or any combination of assistance, including:

- independent returns counselling
- plane ticket
- assistance to obtain travel documents
- reception assistance in country of return
- travel assistance to final destination

## Unclassified

To be considered eligible for returns assistance, you must:

- be a non-citizen;
- not hold a visa that permits re-entry to Australia;
- elect to voluntarily return to a country-of-origin or a country where you have a right of entry and stay; and
- demonstrate you are unable to self-fund their return.

### **26. I am a Bridging visa holder but need some temporary support. Is there any available?**

- Status Resolution Support Services (SRSS) provides support for certain non-citizens who are in the Australian community temporarily while their immigration status is being determined. The SRSS program provides short-term, tailored support to individuals who are unable to support themselves while they engage with the Department of Home Affairs to resolve their immigration status. It is not an ongoing welfare entitlement.
- People who are actively engaged with the Department to resolve their immigration status and need assistance to overcome barriers to that resolution, may be eligible to be provided with short term support in order to resolve that barrier.
- Individuals on a bridging visa with work rights, and who have the capacity to work, are expected to support themselves while their immigration status is being resolved.
- During the COVID-19 period, applications for support under SRSS will be assessed on a case-by-case basis.

### **27. I am a Bridging visa holder. Am I able to work?**

- You might be allowed to work in Australia depending on the conditions of your Bridging visa. Your grant letter will tell you about these conditions. See if you have work restrictions by using the Visa Entitlement Verification Online Service (VEVO).

If your Bridging visa does not let you work, or has restrictions on working, you can apply for another Bridging visa that lets you work. This is only available in some circumstances and you will usually have to demonstrate that you are in financial hardship.

- Bridging visa holders who have been able to work while in Australia and are unable to meet their immediate living expenses will be able to access up to \$10,000 of their Australian superannuation tax-free in the 2019-20 financial year.