

Labour Agreement information

A Labour Agreement is a formal arrangement negotiated between an employer and the Australian Government and will only be considered where a genuine skills shortage exists and there are no suitably qualified or experienced Australians readily available.

A Labour Agreement allows an employer to recruit skilled overseas workers for occupations approved under the agreement.

The employer must be able to demonstrate, among other things, that it has genuinely attempted to recruit Australian workers for the positions and that there are no appropriately qualified Australian workers. In addition, there is an expectation that overseas workers employed under a Labour Agreement will be paid the market salary rate or the temporary skilled migration income threshold, whichever is the greater.

The Labour Agreement program is designed to address a genuine labour market need rather than to accommodate an employer's preference to employ a particular overseas worker.

A Labour Agreement defines employer obligations such as the terms and conditions of employment for the skilled overseas workers and training requirements for Australian employees.

The Labour Agreement defines the required skill and English language levels that overseas workers under the agreement must meet.

Employers requesting a Labour Agreement should provide a comprehensive submission to the Australian Government, represented by the Department of Immigration and Citizenship (DIAC). The submission will be assessed and additional information may be requested. Please note that not all Labour Agreement requests are approved.

The following information is provided to help the employer prepare a comprehensive submission. All information from the employer is treated as Commercial-in-Confidence. However, this information may be shared between relevant Commonwealth and State/Territory government agencies including the Department of Education, Employment, and Workplace Relations (DEEWR), the Office of the Fair Work Ombudsman (OFWO), Fair Work Australia, the Australian Taxation Office and the Australian Federal Police. The employer's request to access a Labour Agreement is taken as being consent for this to occur.

Please email your completed submission to
labour.agreement.section@immi.gov.au

If you do not have access to email, please send a hard copy of your submission to:

**The Director
Labour Agreements and 457 Policy Section
Department of Immigration and Citizenship
PO Box 25
Belconnen ACT 2616**

Assessment of Labour Agreements

The Department assesses Labour Agreement submissions as quickly as possible upon receipt of the documents and will generally provide the employer an opportunity to submit additional material in support of their submission.

Labour agreements take some time to negotiate due to the rigorous assessment of large amounts of information, including any requested concessions regarding salary, skill and English competency levels.

The Labour Agreement replaces the standard business sponsorship process. If a Labour Agreement is approved, the next step is to nominate overseas workers who meet the requirements agreed to in the labour agreement. The skilled overseas worker's onshore visa application may be lodged at any time after the Labour Agreement proposal is submitted but cannot be processed until the nomination is finalised.

Generally the negotiation period for a Labour Agreement is 4-6 months. However, if the employer has not provided a complete submission, including evidence of consultation with industry bodies and unions, the negotiation period will be longer. If an employer is requesting concessions regarding English levels, salary or skills, this will also increase the time taken for a Labour Agreement to be negotiated.

Employers seeking to sponsor overseas workers for occupations available under the standard Subclass 457 visa program should note that there are additional benchmarks that must be met when negotiating a Labour Agreement. As such, the Department recommends use of the standard program when applicable as this will be a quicker option.

The Department will only consider requests for expedited assessment of the Labour Agreement request if the company can demonstrate a significant benefit to the wider Australian community in addition to the employment of Australians. The decision to prioritise a request is made at the absolute discretion of the Department.

Industry Template Labour Agreements

An Industry Template Labour Agreement is a set of standards agreed to by the Minister, in consultation with key industry stakeholders which governs Labour Agreements in a particular industry. A template agreement may be considered if the department receives a number of similar submissions from an industry with evidence of labour shortages within the Australian labour market.

A template ensures a level playing field across an industry by cementing the terms, conditions, concessions and occupations which will apply to all future Labour Agreements in that industry.

There are currently four Industry Template Labour Agreements.

On-hire:

The On-hire Template provides a pathway for the temporary entry of primary sponsored persons to work in Australia where the on-hire firm can demonstrate that there is no appropriately qualified Australian worker readily available. The On-hire Labour Agreement mandates for the training of Australian workers and sets the skill level and salary for primary sponsored persons.

The business seeking access to an on-hire Labour Agreement must nominate occupations that are currently listed on the [Gazetted List of Occupations](#) for the Subclass 457 visa program.

If you have any further questions regarding the On-hire template please email:

On-hire.industry@immi.gov.au

Meat:

The meat industry template provides a pathway for the temporary and permanent entry of 'skilled meat workers' to work in Australian meat processing establishments. To be approved for a labour agreement, the sponsoring meat processing company must demonstrate that there are no appropriately qualified Australian workers readily available.

If you have any further questions regarding the Meat template please email:

meat.mining.construction@immi.gov.au

Snowsports:

The Snowsports industry template provides a pathway for snowsports operators in Australia to access foreign labour to fill specialised positions in this industry. Visas granted under this template are restricted to a maximum length of six months. For more information regarding this template please email:

labour.agreement.section@immi.gov.au

Tourism:

The Tourism template was designed to assist the Tourism industry meet its labour needs for bi-lingual tour guides. If you have any further questions regarding the Tourism template please email: labour.agreement.section@immi.gov.au

Occupations and number of positions

The Labour Agreement program is targeted at skilled or specialised occupations. Where the necessary skill for an occupation can be developed in a short time-frame, it is expected that workers are sourced from the Australian labour market.

Businesses seeking access to a Labour Agreement will need to demonstrate that there is demand for the nominated occupations and that this demand cannot be met from within the Australian labour market. The expectation is that the number of skilled overseas workers requested under the Labour Agreement will represent a minority proportion of the business' workforce.

Submission Requirements

Please provide details of the occupations sought and of the estimated number of positions you are seeking for each year of the labour agreement. Please include the Australian and New Zealand Standard Classification of Occupation (ANZSCO) Code. For information on the ANZSCO please see:

www.immi.gov.au/employers/anzsco/

Occupation	ANZSCO Code	Year 1	Year 2	Year 3	Total

Note: the Australian Government retains the right to make the final decision on the occupations and the number of positions approved under a labour agreement.

Skills and Job Description

Labour Agreements generally require that overseas workers have a qualification of at least equivalent to an AQF Certificate III and three years' recent relevant experience. Overseas workers are expected to be highly skilled and experienced and will need to meet all industry registration requirements to ensure they have skills to Australian standards.

An independent skills assessment is usually processed by the Australian assessment authority or a qualified workplace assessor engaged by an Australian registered training organisation acceptable to the Commonwealth.

Please provide information on:

- minimum qualifications for the nominated occupation(s);
- minimum experience required for the nomination occupation(s);
- registration or licensing requirements for the nominated occupation(s);
- the independent skills assessment process undertaken to ensure primary sponsored persons possess skills for the nominated occupations to the Australian standard;
- a list of tasks that will be performed by an employee working in this occupation.

Workforce Profile and Projections

Please provide a current workforce profile and projections for the next three years.

Year	Australians (citizens & permanent residents)	457 visa holders	Other temporary visa holders	Total workforce
Current				
End of Year 1				
End of Year 2				
End of Year 3				

As stated above, an employer must demonstrate that overseas workers are only supplementary to their ongoing Australian workforce. Over the life of a Labour Agreement, there is an expectation that the employer will make ongoing efforts to reduce its reliance on overseas workers.

Training

Businesses requesting a Labour Agreement need to demonstrate that they have a satisfactory record of, and an ongoing commitment to, the training of Australians. This requirement supports the Government's position that temporary migration arrangements should complement, not substitute for, investment in training initiatives for Australians.

During the term of the agreement, the employer must maintain a good record of training Australians through the provision of employment, training and career progression.

One of the following benchmarks must be met:

- the equivalent of two per cent of gross wages (all employees – Australians and overseas workers) provided by the business to an industry training fund; or
- the equivalent of one per cent of gross wages (all employees) spent on structured training for the Australian employees of the business;

Please provide evidence of a commitment to the training of Australians. This may include:

- the employment of recent Australian graduates;
- evidence of internal and/or external training;
- participation in Australian Apprenticeships or traineeships;
- expenditure on formal courses of study for Australians at TAFE or university;
- expenditure on training for Australians; and
- expenditure on scholarship programs.

Labour Market Shortage

The employer must demonstrate that there is a labour market need for the requested occupation and that there are no appropriately qualified Australian workers readily available. Please attach evidence that there is demand (that cannot be met from the local labour market) for the occupations that have been nominated under the proposed labour agreement. Evidence may include but is not limited to:

- recent efforts to recruit from the Australian labour market for each occupation sought including copies of advertisement/s, the medium used, and the dates and length of time each advertisement ran;
- the number of responses to the advertisement/s, the number of positions filled by Australians and general reasons for non-suitability of Australian applicants;
- the location of the unfilled positions advertised;
- evidence of participation in job and career expos, including any associated fees, the dates and locations of these and whether any positions were filled as a result;
- written evidence from clients demonstrating demand for the nominated occupations. This may include service contracts, unfilled client orders or letters of support from client organisations;
- relevant industry (or other) research released in the last 12 months related to labour market trends;
- State Government authorities with the responsibility for employment;
- Retention strategies for retaining Australian workers.

If the employer has consulted with DEEWR, please provide evidence of strategies to fill vacant positions, including copies of emails or agreed minutes of telephone conversations or meetings with Job Services Australia providers, about options to fill the vacant positions.

Please include the number of positions filled as a result of these consultations. Details of Job Services Australia providers can be found on the DEEWR website at: <http://www.deewr.gov.au/Pages/default.aspx>

The employer must submit sufficient evidence for the Minister, or his representative, to be satisfied that the employer has made genuine attempts to recruit workers from the Australian labour market.

Industry Association membership

If you are a member of an Industry Association please identify the association, and whether this association has a code of conduct/ethics or other membership conditions which:

- provide/s protections for employees in the industry in the form of guidelines for terms and conditions of employment or other form; and/or
- outline(s) responsibilities for the development and implementation of quality national training strategies for members of the association.

Stakeholder consultation

The Government is committed to improving the transparency and accountability of the temporary skilled migration program, to ensure that employment and training opportunities for Australians are not undermined and that the risk of exploitation of overseas workers is mitigated. Therefore, as part of the Labour Agreement negotiations, the employer is required to consult with relevant industrial stakeholders.

Relevant industrial stakeholders include:

- The industry body which best represents the interests of the employer;
- The union which best represents the interest of the employee noting the union must be consulted even if none of the current employees of the business is a union member; and
- Any other agency or community group that may be impacted by the proposed labour Agreement, for example schools or health services.

The following information must be provided in writing (email is acceptable) when seeking feedback and follow up from industrial stakeholders:

- the requested number of skilled overseas workers under the proposed labour agreement;
- the requested occupations of the skilled overseas workers under the proposed labour agreement;
- the locations where you propose to place skilled overseas workers;
- details of any concessions to the standard program sought by the business. For example this may include concessions relating to English language, skills or salary;
- the proposed salary for the overseas workers; and
- any other information deemed relevant by the employer.

The employer should provide the stakeholder with two opportunities to respond to the Labour Agreement proposal. Stakeholders should be advised that their views will not provide a veto to the progress of a Labour Agreement and if a response is not received, the Labour Agreement negotiation process will continue.

Copies of the employer's written request(s) for comment on the proposed Labour Agreement and the response(s) should be sent to the Department. If there is no response from the stakeholder, the employer will need to provide the Department with a copy of the follow-up request.

The employer may choose to provide the stakeholder with a copy of the Labour Agreement submission. The Department recommends that the stakeholder is advised that the information contained in the submission is “**in confidence**” and should not be disclosed to any other party without the employer's permission.

Please provide details of consultation with stakeholders, the occupations covered and the date the response was received.

Industry Stakeholder	Contact Name	Date(s) Consulted & Followed up	Date response received
<i>for example, a Chamber of Commerce</i>			
<i>for example, the Australian Workers' Union</i>			
<i>for example, the local primary school</i>			

English

The Department requires the skilled overseas worker to have English language competency of 5 in each of the four test components (reading, writing, speaking and listening) of the International English Language Testing System (IELTS) which is consistent with the standard program.

Concessions to the English language requirement will only be considered in very exceptional circumstances. An employer seeking to employ overseas workers with an English competency of less than IELTS 5, should confirm how they will:

- ensure that the proposed variation to the English competency requirement would not constitute an OH&S risk;
- ensure that skilled overseas workers can access workplace relations protections;
- ensure that skilled overseas workers can participate in the community;
- ensure that skilled overseas workers are able to transfer skills to Australians; and
- any proposed remedial training to improve the English language levels of skilled overseas workers.

Salary

Market salary rates were introduced on 14 September 2009. Information on these changes may be found at the following links:

www.immi.gov.au/skilled/457-market-salary-rates.htm

www.immi.gov.au/skilled/457-market-rates-faq-sponsor.htm

www.immi.gov.au/skilled/457-market-rates-faq-visa-holder.htm

The employer is required to confirm:

- salary arrangements for the skilled overseas worker in each occupation requested under the labour agreement;
- salary arrangements for Australian workers in the same occupation(s), performing equivalent work at the same location;
- the amount and purpose of deductions (if any) to be made from the skilled overseas workers' and Australian workers' salaries;

- the amount and purpose of any allowances paid to the skilled overseas worker;
- confirmation that the terms and conditions of employment will be no less favourable than the terms and conditions that are provided, or would be provided, to an Australian performing equivalent work in the sponsor's workplace at the same location;
- confirmation that the skilled overseas worker will be paid either the market salary rate or the temporary skilled migration income threshold, whichever is the greater;
- the relevant industrial instrument covering the skilled overseas worker's occupation; and
- the letter of offer or appointment that will be provided to overseas employees.

Financial Viability

The employer must provide a letter of support from a registered Chartered Accountant or a Certified Practising Accountant stating that the business has financial capacity to meet the migration obligations for the number of positions sought and for the period of the labour agreement.

About your business

Please provide a brief description of your business which includes:

- core business activities;
- clients;
- contracts;
- structure;
- reasons for seeking access to a Labour Agreement;
- the impact on the business if a Labour Agreement is not approved; and
- the name of each director.

Industrial arrangements (where relevant), the Fair Work Act 2009 and information on the National Employment Standards are available from the [Fair Work Australia](#) website. These conditions apply to all employees in Australia covered by the national workplace system, including skilled overseas workers.

Registration details

- Legal registered name of business:
- Australian Business Number (ABN):
- Australian Company Number (ACN) (if applicable):
- Australian Registered Body Number (ARBN) (if applicable):
- Australian Stock Exchange Code (if applicable):
- State or Territory in which the legal name is registered:
- Registered trading name/s:
- Business structure (sole trader, partnership, company, other entity):
- Years of operation:

Employer contact details

- Name:
- Position:
- Phone:
- Email:
- Street Address:
- Suburb:
- State:
- Postcode:
- Postal address if different from above:

If using the services of a migration agent, please complete and attach [Form 956](#)

Operational locations of business

Please provide the address details for all operational locations of the employer where skilled overseas workers are expected to be placed. If different from the head office location, please provide address/postal details.

Head Office

- Street address:
- Suburb/Town:
- State:
- Postcode:
- Postal address, if different from above:
- Name of industry

Information on Australian and New Zealand Standard Industrial Classification is available at the following website: [ANZSIC](#)

Related entities (if applicable)

Please provide the following details of any related entities to the business: (Please note a Labour Agreement cannot be negotiated with a trust, but may be negotiated with a trustee.)

- Legal registered name of business:
- ABN:
- Relationship to employer (parent, subsidiary, trust, other):
- Street address:
- Suburb/Town:
- Postcode:

Workplace relations compliance record

Please provide a statement advising whether the business or any related entities have been investigated in the last five years by the Office of the Fair Work Ombudsman (OFWO), or former authority with this function, or relevant State Government authority, in relation to compliance with workplace relations provisions. If so, please provide details of the outcome of these investigations.

Occupational health and safety compliance record

Please provide a statement advising whether the business or any related entities have been investigated or audited by the relevant State Government authority in relation to its compliance with occupational health and safety provisions in the last five years. If so, please provide details of the outcome of these investigations.

Migration compliance record

Please advise if the business or any related entities are currently or have previously been an approved sponsor and/or a party to a labour agreement. If so please provide the following details:

- Date of approval;
- Approval or agreement number; and
- Associated business name

Please provide a statement confirming whether the business or any related entity has been investigated or audited in the last five years by the relevant Australian or State/Territory Government authority in relation to its compliance with migration provisions. If so, please provide evidence of the outcome of these investigations.

Contact us

If you have any questions about the Labour Agreement process or its requirements please send an email to: labour.agreement.section@immi.gov.au

Checklist

Employer Details	
Registration details	<input type="checkbox"/>
Employer contact details	<input type="checkbox"/>
Migration agent details and form 956 (if applicable)	<input type="checkbox"/>
Operational locations of business	<input type="checkbox"/>
Related entities	<input type="checkbox"/>
Workplace relations compliance record	<input type="checkbox"/>
Occupational health and safety record	<input type="checkbox"/>
Migration compliance record	<input type="checkbox"/>
Workforce profile and projections	<input type="checkbox"/>
Occupations and Position Details	
Occupations and number of positions	<input type="checkbox"/>
Job descriptions	<input type="checkbox"/>
Skills and assessment information	
Skills and assessment	<input type="checkbox"/>
Training	
Commitment to Training	<input type="checkbox"/>
Employment and labour market	
Evidence of domestic recruitment	<input type="checkbox"/>
Industry association membership	<input type="checkbox"/>
Industrial arrangements	<input type="checkbox"/>
Evidence of stakeholder consultation	<input type="checkbox"/>
English requirements (no documentation required)	<input type="checkbox"/>
Salary	<input type="checkbox"/>
Financial Viability Statement	<input type="checkbox"/>

Useful website links

Department of Immigration and Citizenship

<http://www.immi.gov.au/>

<http://www.immi.gov.au/skilled/skilled-workers/la/>

Market Salary Rates requirements

<http://www.immi.gov.au/skilled/457-market-salary-rates.htm>

<http://www.immi.gov.au/skilled/457-market-rates-faq-sponsor.htm>

<http://www.immi.gov.au/skilled/457-market-rates-faq-visa-holder2.htm>

Skills Assessment

<http://www.immi.gov.au/asri/a-z.htm>

<http://www.deewr.gov.au/Skills/Programs/TRA/Pages/default.aspx>

<http://www.aei.gov.au/AEI/QualificationsRecognition/default.htm>

English Language Proficiency

http://www.immi.gov.au/skilled/whats_new_457.htm#k

Health Insurance

<http://www.immi.gov.au/skilled/skilled-workers/sbs/457-health-insurance.htm>

Department of Education, Employment and Workplace Relations

<http://www.deewr.gov.au/Pages/default.aspx>

Workplace (employment & workplace relations services Australia)

<http://www.workplace.gov.au/>

Fair Work Australia

<http://www.fwa.gov.au/>