



Important information for employers of foreign nationals

As an employer, you have a range of obligations when employing workers, regardless of their citizenship or visa status. It is your responsibility to ensure workers are paid the right pay rate for all time worked, provide the correct entitlements and a safe working environment. Employers must also comply with Australian laws including tax, migration and workers' compensation.

Australian employers can be penalised, fined and face possible time in jail if caught exploiting workers. The Australian Government expects employers to take reasonable steps to make sure they are not employing, referring or contracting illegal workers.

The Department of Home Affairs works with the Fair Work Ombudsman to support and encourage foreign nationals to come forward with evidence or information about exploitation.

Who has the right to work in Australia?

Not all visas allow people to work. Some visas have restrictions that may include not being able to work at all or only being able to work with a certain employer or for a certain number of hours.

Only Australian citizens, permanent residents and New Zealand nationals holding Special Category (subclass 444) visas have an unrestricted right to work in Australia. Temporary visas such as Student, Working Holiday Maker, and Temporary work (skilled) 457 and Temporary Skill Shortage visas have limited rights to work.

For more information about workplace rights for all visa holders in Australia, go to www.homeaffairs.gov.au/workplace-rights.

Before you employ a non-citizen

Before you employ a foreign national, it is your responsibility to check they have a visa with permission to work in Australia. You can check a person's visa details by registering for our free, online system — Visa Entitlement Verification Online (VEVO) at www.homeaffairs.gov.au/vevo.

Work rights are not negotiable

It is your responsibility to pay your workers the correct minimum rate of pay for all time worked and to comply with workplace laws, including the requirement to keep time and wages records for each worker. Visit the Fair Work Ombudsman's website www.fairwork.gov.au to check the pay and entitlements for your workers and to access resources to help you meet your workplace obligations. For tips and resources on hiring foreign nationals, visit the Home Affairs website at www.homeaffairs.gov.au/legalworkers.

What happens if you don't comply?

The Fair Work Ombudsman enforces workplace laws and this can result in financial penalties against businesses, directors and accessories who do not follow the law. Individuals can be penalised up to \$126,000 and companies up to \$630,000 per serious contravention.

It is your responsibility as an employer to ensure that you do not hire illegal workers. Employers face civil and even criminal penalties of up to \$315,000 and/or five years imprisonment per illegal worker.

It is an offence to participate in or run a business involving slavery-like offences, such as forced labour and debt bondage. The Australian Border Force is actively targeting businesses and labour hire intermediaries who are exploiting foreign workers.

Dos and don'ts for employers

Do:

- Hire only foreign nationals who are permitted to work legally in Australia.
- Take all reasonable steps to ensure a non-citizen is permitted to work in Australia by using the free online system — Visa Entitlement Verification Online (VEVO) at www.homeaffairs.gov.au/vevo.
- Check VEVO before or shortly after an employee commences and within two days of the visa expiry date to ensure a non-citizen still holds a visa with work rights.
- Look at the tips and resources for hiring foreign nationals at www.homeaffairs.gov.au/legalworkers.
- Provide the correct pay and workplace entitlements to your workers and comply with all other workplace obligations. For more information check the Fair Work Ombudsman's website www.fairwork.gov.au.
- Report any suspected human trafficking, slavery or slavery-like offence to the Australian Federal Police on 131 237 or complete the online form at www.afp.gov.au/contact-us.
- Register with the Australian Taxation Office (ATO), if you are employing Working Holiday Makers, as you must withhold tax at the working holiday maker tax rate before making your first payment to them. Penalties may apply if you fail to register. For more information visit www.ato.gov.au/business/your-workers/in-detail/employers-of-working-holiday-makers/.

Don'ts:

- Assume that a labour hire company has checked a foreign worker's right to work in Australia — employers can still be held responsible for hiring illegal workers even if they use a contractor or labour supplier to source their workers.
- Assume a Medicare card, Tax File Number or driver's licence is proof to work.
- Pay with goods. Workers must be paid money for all time worked.
- Pay below minimum rates of pay, make unlawful deductions from pay or require workers to unreasonably pay cash back.
- Threaten to cancel a worker's visa. Only the Department of Home Affairs can grant, refuse or cancel visas
- Ask for money in exchange for a visa sponsorship.
- Confiscate a worker's passport.

More information

For information on employing foreign nationals go to www.homeaffairs.gov.au/legalworkers

For information on workplace entitlements go to www.fairwork.gov.au