

New prohibition rules penalise employers who exploit migrant workers

Employers can now be barred from hiring temporary visa workers.

It is illegal to exploit migrant workers. Every employee in Australia has basic rights and protections in the workplace, including minimum pay and conditions, regardless of their visa status.

No employment contract can take away these rights, regardless of what the worker has agreed to.



As part of Australia's new migrant worker protections, the government has introduced a powerful enforcement tool: the **Prohibited Employer Register**.

From 1 July 2024, employers, sponsors and labour hire firms who seriously exploit or repeatedly mistreat migrant workers can now be officially banned from employing more migrant on temporary visas for a period of time.

Why this matters

The new Prohibited Employer Register protects migrants by deterring employers who are considering exploiting temporary migrant workers, and preventing those who exploit migrant workers from repeating this conduct in the future. It also protects honest employers from being undercut by unethical businesses.

The consequences for a business placed on the Prohibited Employer Register

The register provides a public list of employers, sponsors and labour hire intermediaries who have seriously, deliberately or repeatedly broken the law, and have been prohibited from employing additional temporary visa holders for a set period of time—up to 5 or even 10 years.

Being placed on this register means:

- A business cannot hire or arrange work for any additional temporary visa holders
- A business cannot sponsor workers for temporary visas

A prohibited employer's business name, ABN, business location and duration of the ban will be published on the Australian Border Force website which is publicly visible—clients, partners and workers will know.

After the prohibition ends, the business can hire temporary migrants again but must comply with special reporting requirements for 12 months. **The prohibition may in fact be indefinite – for modern slavery type offences.**

How is an employer placed on the Prohibited Employer Register

The Department of Home Affairs can make a declaration prohibiting a business from hiring migrant workers.

The declaration can be made if the employer seriously, deliberately or repeatedly exploits temporary migrant workers. This includes breaching relevant parts of the Migration Act 1958, Fair Work Act 2009 or Criminal Code Act 1995 that relate to treatment of temporary migrant workers.

Examples include:

- underpaying a worker;
- sexual harassment;
- using a worker's visa status to pressure or threaten them;
- pressuring or coercing a worker to breach a visa condition;
- pressuring a worker to hand over their passport; and
- not following compliance notices, enforceable undertakings or sponsorship obligations



It is not only individuals who can be placed on this Prohibited Employer Register – labour hire firms, contractors, and intermediaries involved in recruitment can also be placed on the Register.



It is possible that a person may be on the Sponsor Employer Sanctions register and then be declared a prohibited employer. Please refer to the [Sponsor Employer Sanctions register](#) for more information.

What happens once an employer is on the Prohibited Employer Register

The employer will be prohibited from employing additional migrant workers for a period of time, depending on the nature and severity of the breach.

Where the migrant worker sanction involves a criminal offence, the prohibition may last for up to 10 years (other than those offences relating to human trafficking and modern slavery, where the prohibition may be indefinite). For all other migrant worker sanctions, the duration is up to 5 years.



It is a criminal offence to breach a prohibition declaration by hiring more temporary visa holders during the prohibition period. There may be criminal penalties of up to:

Examples include:

- 2 years' jail, 360 penalty units (currently a \$118,800 fine) or both for an individual,
- or
- up to 1,800 penalty units (currently a \$594,000 fine) for a body corporate.



There may be civil penalties of up to:

- 240 penalty units (currently a \$79,200 fine) for an individual,
- or
- up to 1,200 penalty units (currently a \$396,000 fine) for a body corporate.



How an employer knows they have been declared a prohibited employer

Where the Department of Home Affairs is considering an employer for a prohibition declaration, it will provide the employer notice in a letter giving them 28 days to make a written submission as to why they should not be declared a prohibited employer.

Contesting a prohibition

A prohibited employer may seek review of the prohibition declaration in the Administrative Review Tribunal.

No penalties for migrants working for a prohibited employer

There is no penalty for migrant workers if their employer is placed on the Prohibited Employer Register. The employer's existing employees can choose whether they want to continue working for that employer.

Every employee in Australia has basic workplace protections

Every employee in Australia has basic rights and protections in the workplace, including minimum pay and conditions, regardless of their visa status. No employment contract can take away these rights, regardless of what the worker has agreed to.

How to report exploitation

The [Fair Work Ombudsman](#) is an independent statutory body that monitors, investigates and enforces compliance with Australian workplace laws for every worker in Australia, including migrant workers, regardless of visa status.

Anyone can report exploitation anonymously to the [Fair Work Ombudsman](#).

Any business in Australia can help a worker stand up for their rights.



Reporting workplace exploitation early means a worker can get the support they need as soon as possible, and it helps to create a level playing field for all businesses in Australia.



For more information

<https://www.abf.gov.au/about-us/what-we-do/prohibited/prohibited-employer-register>

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