

# Covid-19 Migration Manual for Temporary Visa Holders

Hospitality and Tourism Industry Migration

15th April 2020

edupi 

Hospitality Immigration Specialists



Visas



Chef Recruit



Hospitality

## Disclaimer

The content of this booklet is for information purposes only. Whilst every effort has been made to ensure the accuracy of the materials contained here and incorporated by reference, this information is not intended to constitute legal or immigration advice or assistance. No person should act on the basis of the material contained in this presentation without obtaining advice relevant to their own circumstances and without considering and taking professional advice as may be necessary. All Home Affairs and Commonwealth material is reproduced with permission from the Commonwealth of Australia, but does not purport to be the official or authorised or most current version. All such material is copyright Commonwealth of Australia.

# Table of Contents

---

Topic	Page
<b>General Information</b>	
What restrictions has the government introduced?	4
What are your obligations to workers from overseas if you are standing down staff?	4
How do I find out what visa my staff member holds?	5
Is providing leave without pay an option to retain sponsorship?	5
What happens to sponsorship applications that are already lodged?	5
Can employees access any benefits during this time?	5
What if I need to terminate my sponsored employee?	5
<b>Temporary Visa Holder Information</b>	
What has been announced for temporary visa holders?	6
Visitor Visa Holders	6
International Students	7
Working Holiday & Work and Holiday Visa Holders	7
Graduate Visa Holders, Trainee Visa Holders and other Special Purpose Visa Holders	8
Temporary Skilled Visa Holders (457 / 482)	8
New Zealanders on 444 visas	8
Bridging Visas	9
Assistance in Returning to your Home Country	9
COVID – 19 – Subclass 408 Stream announced	9
A note on the International Workforce after lockdown	10
How can Edupi Hospitality Migration help me?	10

# Covid-19 Migration Manual for Temporary Visa Holders

## Hospitality and Tourism Industries

---

### What restrictions has the government introduced?

The Prime Minister announced a shutdown of places of public gatherings from 12:00pm (midday) on Monday 23 March 2020.

This includes hotels, bars, nightclubs, casinos, restaurants and cafes.  
The following exceptions apply:

- Bottle shops – retail bottle shops and the off-licence operations of licensed premises – further clarification is being sought in relation to how this applies to Hotels;
- Accommodation – the accommodation section of hotels, motels and resorts;
- Restaurants/Cafes – takeaway and home delivery;

A copy of the Prime Minister's statement can be accessed here: <https://www.pm.gov.au/media/update-coronavirus-measures-220320>

### What are your obligations to workers from overseas if you are standing down staff?

We understand that you may be required to stand down some staff. We recommend that terminating sponsored workers be a last resort as it is difficult to know how long the restrictions will be in place. These staff may be required when the restrictions end.

For all staff, regardless of visa status, you are required to abide by Australian employment law when reducing hours or terminating employees. Some key points to note are:

1. For foreign national employees that hold **Australian permanent residency**, you **do not** have sponsor obligations.
2. For temporary visa holders, you **do not** have sponsor obligations. These visas include:
  - subclass 400, Temporary Work (Shor Stay Specialist) visa
  - subclass 417/462, Working Holiday/Work and Holiday visa (s).
  - subclass 485, Temporary Graduate visa
  - subclass 489, Skilled Regional (provisional) visa
  - subclass 500, Student visa
  - subclass 820 or 309, Partner visas
3. If you have sponsored overseas workers under the temporary working visa programs, you **do** have sponsor obligations. These include:
  - subclass 457, Temporary Skill Shortage visa
  - subclass 482, Temporary Work (Skilled) visa
  - subclass 407, Training visa

# Covid-19 Migration Manual for Temporary Visa Holders Hospitality and Tourism Industries

---

## How do I find out what visa my staff member holds?

Visa conditions can be checked via the Department's Visa Entitlement Online System (VEVO) by the visa holder.

## Is providing leave without pay an option to retain sponsorship?

Providing leave without pay is a good option to ensure the employee remains sponsored by your organisation.

It is recommended that leave without pay does not exceed three months, unless you as the sponsor are obliged to provide the leave under Australian workplace laws.

For leave without pay the expectations are:

- the leave without pay agreement is mutually agreed by both the sponsor and employee
- a formal leave without pay application is formally approved by the employer.

It is recommended that if you agree to leave without pay for an employee, that Sponsor Notifications are aware the arrangement is in place. This can be sent to [sponsor.notifications@abf.gov.au](mailto:sponsor.notifications@abf.gov.au)

## What happens to sponsorship applications that are already lodged?

Applications that have already been lodged will be processed as normal. However, we would expect a delay in processing times due to remote working and the challenges faced by the Department to manage their workforce.

If the application is approved during the shutdown period, applicants are not required to commence work within 60 days of the visa being approved. After this period, it is recommended that leave without pay be agreed with the sponsored employee.

## Can employees access any benefits during this time?

Unfortunately, no government benefits are available to temporary visa holders other than reciprocal Medicare for eligible passport holders.

Any employees that have applied for permanent residency may be able to access Medicare depending on the application being made.

## What if I need to terminate my sponsored employee?

If this is your only option, you must do so in accordance with Australian employment law and notify the department within 28 days.

Sponsored workers can request you pay repatriation costs to their country or residence but must make this request in writing. Clearly, current travel bans may make repatriation difficult at this time. Under your sponsor obligations, you must action this request within 30 days of receipt and retain all correspondence.

# Covid-19 Migration Manual for Temporary Visa Holders

## Hospitality and Tourism Industries

---

### What has been announced for Temporary Visa Holders?

On Saturday 4th April, Minister Tudge, the acting Minister for Immigration clarified what consideration would be given for Temporary Visa Holders. It had been widely reported that there would be some relief for Temporary Visa Holders (TVH) and access to either Job Seeker or Job Keeper.

With 2.17 million presently in Australia on a temporary visa, it appears the Government have resolved that it cannot extend relief to this cohort.

It is now evident that TVH's will not have access to either of these benefits. It is also clear that there will NOT be an announcement in the immediate future providing this relief.

The Prime Minister has advised that they will not be providing any further support.

"Temporary visa holders who are unable to support themselves under these arrangements over the next six months are strongly encouraged to return home. For these individuals, it's time to go home, and they should make arrangements as quickly as possible."

To be clear, the Temporary Visa Holders covered by this statement and the immediate recommendations from the Minister are as follows:

- SC 600 Visitor Visa Holders – Depart Australia immediately
- SC 500 Student Visa – Stay if able to support yourself through family or employment, depart if you have no support
- SC 417/462 Working Holiday – Stay if able to support, extend if working in a critical sector, depart if you have no support
- SC 485 Temporary Graduate – Stay if able to support yourself through family or employment, depart if you have no support
- SC 820 / 309 – Your sponsoring partner has declared they can support you for a period of two years
- SC 407 – Stay if able to support yourself through family or employment, depart if you have no support
- SC 457 / 482 – Stay if able to support yourself through family or employment, depart if you have no support, depart if you have been terminated and not found a new sponsor in 60 days.

Visa types and conditions can be checked via the Departments Visa Entitlement Online System (VEVO) by the visa holder or through your Organisations VEVO account.

We will now break down in detail what this means for each visa class. Some information is taken from the Ministers statement.

### Visitor Visa Holders

#### Commentary:

International tourists should return to their home country immediately. We would point out if you are currently on a tourist visa awaiting its expiry for a Bridging A visa to activate, you should stay if you have prospective employment or you have access to financial support on-shore. This especially applies to applicants for SC 820 Partner applications lodged on-shore.

#### Access to Funds:

NIL

# Covid-19 Migration Manual for Temporary Visa Holders

## Hospitality and Tourism Industries

---

### International Students

#### Commentary:

Students are encouraged to rely on family support, part-time work where available, and their savings to sustain themselves in Australia. As part of their visa application, international students have had to demonstrate that they can support themselves in their first year.

Students who have been here longer than 12 months who find themselves in financial hardship will be able to access their Australian Superannuation.

The Government will undertake further engagement with the international education sector who already provide some financial support for international students facing hardship. For example, we understand some education providers are providing fee discounts to international students.

The Government will also be flexible in cases where Coronavirus has prevented international students from meeting their visa conditions (such as not being able to attend classes).

- International students can work up to 40 hours per fortnight.
- International students working in aged care and as nurses have had these hours extended to support these critical sectors.
- International students working in the major supermarkets had also had these hours extended to help get stock on shelves during the high demand. From 1 May, their hours will return to the maximum 40 hours a fortnight as more Australians are being recruited into these roles.

#### Access to Funds:

Access to Superannuation for holders who have been in Australia for 12 months of up to \$10,000 this financial year and \$10,000 next financial year.

Visa conditions can be checked via the Department's Visa Entitlement Online System (VEVO) by the visa holder.

### Working Holiday & Work and Holiday Visa Holders

#### Commentary:

To support the critical sectors of health, aged and disability care, agriculture and food processing, and childcare, some limited flexibility will be provided.

In particular, working holidaymakers who are working in these critical sectors will be exempt from the six-month work limitation with the one employer and eligible for a further visa to keep working in these critical sectors if their current visa is due to expire in the next six months.

In general, working holidaymakers that do not have the ability to sustain themselves over the next six months should make arrangements to leave the country.

Further announcements will be made with the Deputy Prime Minister and Agriculture Minister concerning supporting the agricultural sector, including the operation of the Seasonal Worker Program and Pacific Labour Scheme.

#### Access to Funds:

Access to Superannuation of up to \$10,000 this financial year and \$10,000 next financial year.

# Covid-19 Migration Manual for Temporary Visa Holders Hospitality and Tourism Industries

---

## Graduate Visa Holders, Trainee Visa Holders and other Special Purpose Visa Holders

### Commentary:

There are 185,000 other temporary visa holders in Australia. They are advised to return home unless they can support themselves through family or employment. Visa conditions restricting Training Visa holders to the sponsoring employer apply.

### Access to Funds:

Access to Superannuation of up to \$10,000 this financial year and \$10,000 next financial year.

## Temporary Skilled Visa Holders (457 / 482)

### Commentary:

There are around 139,000 temporary skilled visa holders, on either a two year or four-year visa. They were provided with the visa to fill a skills shortage – a shortage that may still be present when the crisis has passed.

Consequently, those 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 condition.

These visa holders will also be able to access up to \$10,000 of their Superannuation this financial year. Those visa holders who have been laid off due to Coronavirus should leave the country in line with existing visa conditions if they are unable to secure a new sponsor. However, should a 4-year visa holder be re-employed after the coronavirus pandemic, their time already spent in Australia will count towards their permanent residency skilled work experience requirements.

In summary, if you are stood down and can provide for yourself, then you should stay as your sponsorship will remain valid and you WILL be able to renew it. The Minister did indicate in a press conference that 457/482 workers will be essential to the recovery when we are allowed out again, which is very encouraging news. Temporary Visa holders will accrue time towards their 186 Transitional Visa application if eligible.

Do not expect any further announcements of support in the immediate future.

### Access to Funds:

Access to Superannuation of up to \$10,000 this financial year and \$10,000 next financial year.

## New Zealanders on 444 visas

### Commentary:

New Zealanders and Australians have reciprocal arrangements whereby we can each stay and work in each other's country. There are more than 672,000 New Zealanders in Australia on a subclass 444 visa.

### Access to Funds:

New Zealanders who are on 444 visas and arrived before 26 February 2001 will have access to welfare payments and the JobKeeper payment.

444 visa holders who arrived after 2001 have access to the JobKeeper payment. Those who have lived in Australia for 10 years or more have access to JobSeeker payments for six months.



# Covid-19 Migration Manual for Temporary Visa Holders

## Hospitality and Tourism Industries

---

### Bridging Visas

#### Commentary:

Essentially most Bridging Visa holders are subject to the conditions of their previous visa. In nearly all instances this will mean either a restriction on work rights of some sort. Our understanding is that if there is an allowance made to the visa class you previously held that will follow through. We are attempting to get clarity around this.

Note that any application for a Skilled Permanent Visa and a Partner visa will likely have NIL conditions which means you may take employment with any employer and not restricted to the sponsor.

#### Access to Funds:

Please see the access for the visa you previously held.

### Assistance in Returning to your Home Country

If you are a temporary visa holder (e.g. 457, 482, Bridging Visa) or hold no visa, and you are unable to support yourself while in Australia, you can get some help in returning to your home country.

Usually the first port of call is to contact your local diplomatic mission (embassy, consulate, or high commission), however, if you are unable to contact them or if they are unable to render assistance to you in this situation, there are still other options.

- Homeward Return Program: <https://www.assistedreturns.com.au/>
- International Organisation for Migration Assisted Voluntary Return and Integration Program: <https://australia.iom.int/assisted-voluntary-return-and-reintegration-program>

### COVID – 19 – Subclass 408 Stream announced

We have just received notification from the Migration Institute of Australia that the special 408 visa has been announced and the Ministerial Instrument allowing it is now active. From the MIA:

“The purpose of the instrument is to provide a pathway for certain former and current holders of temporary visas to lawfully remain in Australia and who would otherwise be required to depart Australia who, but for the COVID-19 pandemic, are unable to leave Australia.

#### Criteria

- Must hold a visa that is 28 days or less from ceasing to be in effect
- Or, held a visa that is no more than 28 days from ceasing to be in effect
- And, are unable to apply for the same temporary visa they hold or held or any other subclass of temporary visa other than the Subclass 408 visa
- Must be part of response to workforce shortages during the COVID-19 pandemic in relation to areas including, but not limited to, agriculture, aged care and public health.
- Allow holders of temporary visas who are engaged in or have the relevant skills to undertake critical work relating to supply of essential goods and services

#### VAC

- Nil

The Instrument commenced the day after it was signed 4 April 2020.”

# Covid-19 Migration Manual for Temporary Visa Holders Hospitality and Tourism Industries

---

## A note on the International Workforce after lockdown

In regard to staff retention, we did some number crunching and came up with some interesting results.

If we work on the basis that our borders are closed for the next 6 months, we will experience a massive shortfall in casual overseas labour. Roughly 600,000 workers a year enter the border and 30% of them work in the hospitality industry. That is about 90,000 workers (10% of the workforce) who will not be available when the lockdown is over in 5 month's time regardless of when we can open the doors. This doesn't account for the Working Holiday Visa and Student Visa holders who have already left.

We realise it is hard to keep your sponsored and international workforce engaged while there is no relief for them, but strongly suggest you stay in touch as you may need them sooner than you think.

## How can Edupi Hospitality Migration help me?

Whilst we are still busy processing renewals and other visa classes we have time to answer your questions. As associate members of the AHA for 5 years we are more than happy to field any questions you may have as publicans and managers of licensed venues, whether you are an Edupi client or not.

Many of your valued employees will undoubtedly have questions about their individual situations and we have 5 registered migration agents on hand to assist them.

Justin Browne  
RMA and CEO – Edupi Hospitality Migration



Hospitality Immigration Specialists

## Edupi Migration

Suite 402, 191 Clarence Street,  
Sydney, NSW, 2000

**p: 02 9235 0919**

**w: [www.edupi.com.au](http://www.edupi.com.au)**

**e: [info@edupi.com.au](mailto:info@edupi.com.au)**

**MARN: 1169631**

