

Mobility: Immigration alert

October 2020



Australia

Migration program positives and negatives from COVID-19 policy conundrums

Executive summary

Agility and preparedness for the unexpected are now as central to government policy making as they are to business strategy. Longstanding tensions between competing goals in Australia's immigration policy are now overlaid with the conflicts inherent in policy responses to the pandemic.

Australia's competing immigration policy goals are:

- ▶ reliance on skilled migration for economic growth; and
- ▶ protection of the local labour market.

Tensions between these goals is relatively stable and managed by detailed eligibility frameworks and compliance measures.

In contrast, the tensions inherent in COVID-19 policy responses are more difficult to reconcile. Governments will continue to struggle to balance the competing priorities of:

- ▶ protecting public health and
- ▶ minimising the impact on the economy.

Developments in Australia's immigration landscape including the 2020-21 Federal Budget initiatives, need to be understood in the context of this complex dynamic. In this alert we provide an overview of the following:

1. migration program planning for 2020-21
2. encouraging high value skilled migration
3. protecting the local labour market
4. incremental relaxation of border restrictions
5. refunds and waivers of visa application charges for temporary visa holders impacted by COVID-19.

More routine policy changes such as increases to application charges and amendments to skilled occupation lists are not expected until 2021.

2020-21 Federal Budget and migration program planning

The pandemic has disrupted Australia's annual migration program planning process. The 2020-21 migration program was released following the delayed Federal Budget. The annual cap of 160,000 permanent migrants is unchanged.

However, the cap is symbolic as restrictions on international travel mean that:

- ▶ net overseas migration is expected to fall significantly from around 154,000 in 2019-20 to around negative 72,000 by the end of 2020-21 - the first time net overseas migration will be negative since 1946
- ▶ Australia's population growth is expected to fall to 0.2 per cent in 2020-21 and 0.4 per cent in 2021-22 - the slowest growth in over a century.

In this context, immigration initiatives in the 2020-21 Federal Budget are designed to boost economic recovery and generate employment growth by attracting innovators, investors and *JobMakers*:

- ▶ AUD29.8 million will be invested in a task force to attract international business and exceptional talent
- ▶ three high value skilled visa programs have been significantly expanded and will be prioritised.

A novel focus of the 2020-21 migration program is on converting temporary residents to permanent residents by prioritising applications in all categories for applicants in Australia. Additional priority will be given to those in a designated regional area (outside Brisbane, Sydney or Melbourne). The allocation of places to specific programs is atypical. Skilled visas in the independent, regional and state/territory nominated programs have been cut significantly. Family migration has been increased on a one-off basis. Places in the employer sponsored permanent visa program are reduced. However, these latter applications will be prioritised.

2020-21 Migration Program Planning Highlights

*Priority program for 2020-21

Visa program	2020-21 places	2019-20 grants	EY Comment
*Global Talent <i>Streamlined permanent visa program to attract the best global talent in one of seven technology related sectors</i>	15,000	4109	Based on our very positive experience with the Global Talent program, EY encourages employers and individuals to consider this option. Most successful applicants in 2019-20 have skills in Quantum Information, Advanced Digital, Data Science and ICT, MedTech, and Energy and Mining Technology. The tripling of the target for 2020-21 should further encourage potential candidates
*Employer sponsored	22,000	29,261	The reduced numbers <i>may</i> result in a pause in visa grants toward the end of the financial year depending on the number of applications
*Business Innovation and Investment Program (BIIP)	13,500	4420	Requirements will be streamlined and visa application charges for BIIP visas will increase on 1 July 2021
Family			
Total	77,300	41,961	The significant increase for 2020-21 is a one-time increase. The Partner allocation addresses the large backlog of applications, with most applicants already in Australia. Additional measures to be implemented in the Partner visa program include a requirement for sponsorship approval before a visa application can be lodged and English language requirements
Partner	72,300	37,118	
Skilled Independent	6500	12,986	This program reduction may signal a changing emphasis in the skilled migration program. Priority will be given to applicants in Australia, particularly in regional areas

Employer sponsored visas - scrutinising the need for overseas workers to protect the local labour market

Whilst employer sponsored visa programs may be prioritised, in the context of growing unemployment in Australia, closer attention is being paid to employer nominations for Temporary Skill Shortage (TSS) and permanent residence visa applications.

- ▶ *Mandatory advertising on the government's jobactive page*
 - required for TSS nominations from 1 October 2020 and must meet all the labour market testing requirements
 - the Department of Home Affairs also announced that it is 'expected' the employers nominating a position for permanent residence will also advertise on *jobactive* although this is not a formal requirement. EY has sought clarity on the details of this 'expectation' and will keep you informed. In the meantime, we recommend that permanent positions be advertised on *jobactive* for at least four weeks before the nomination application is lodged
- ▶ *Genuine need for an overseas worker*
 - changes to work arrangements for temporary visa holders and local employees are being closely scrutinised in both the TSS and permanent visa programs
 - if any of the following have occurred in the previous 12 months, employers will need to establish why a nominated position must be filled by an overseas worker:
 - ▶ retrenchments, reduction of hours worked or reduction in pay and conditions
 - ▶ employment of a temporary visa holder on conditions less favourable than for Australians
 - ▶ recruitment of temporary visa holders beyond the ordinary scope of the business.

The Department of Home Affairs has also implemented online reporting of changes to work arrangements for primary sponsored temporary visa holders. There is no legal obligation to do so and each case should be discussed with your EY advisor.

Incremental adjustments to Australia's international border restrictions

The 2020-21 Federal Budget assumed that restrictions on international travel are expected to remain in place until the latter half of 2021. However, as Australia seeks a sustainable response to the pandemic international border restrictions are being eased incrementally.

- ▶ *Travel restriction exemptions - critical skills or compassionate and compelling reasons*
 - exemption requests continue to be a highly scrutinised but viable option for travellers
 - from 20 March 2020 to 20 August 2020 36,426 Australian citizens and permanent residents were approved to depart in the same period over 15,000 inward travel exemptions were approved - excluding automatically exempt categories such as immediate family members of Australian citizens and permanent residents
 - of the 4700 inward travel exemptions approved between 1 and 20 August 2020, the majority came from New Zealand, United Kingdom, United States of America and India, countries experiencing high rates of COVID-19 infection and transmission, with the exception of New Zealand
 - the criteria for approval of exemption requests have been expanded, refined and clarified including through the publication of [official guidelines](#)
 - the [Priority Migration Skilled Occupation List \(PMSOL\)](#) provides some much needed certainty to business as skilled workers in these occupations can be confident they will be permitted to travel to Australia as their skills are critical
 - at the same time, differing state and territory requirements for entry and additional quarantine requirements further disrupts travel and need to be taken into consideration when planning any travel or relocation
- ▶ *Caps on international arrivals in Australia lifted*

The cap on international arrivals into Australia is being lifted from 4000 to 6000 per week through incremental increases during October 2020. Airlines will be expected to prioritise flights for Australian citizens and permanent residents. The higher caps will also improve the availability of flights for temporary residents who have been approved to travel to Australia.

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. For more information about our organization, please visit ey.com.

Ernst & Young LLP is a client-serving member firm of Ernst & Young Global Limited operating in the US.

© 2020 Ernst & Young LLP.
All Rights Reserved.
EYG no. 006961-20Gbl

2005-3488310
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

ey.com

▶ *Pilot travel programs - Student and Seasonal Workers*

The government remains committed to a pilot program for around 350 international students to travel to South Australia sometime in 2020. A group of approximately 160 workers from Vanuatu travelled to Australia in September to pick mangoes in the Northern Territory. These pilot programs may soon provide a model for safe pathways for essential business travel

▶ *Additional exemption for BIMP provisional visa holders*

Provisional subclass 188 visa holders have been granted an automatic exemption to travel to Australia

▶ *Safe Travel Zones*

Passengers from New Zealand will be able to travel to New South Wales, Australian Capital Territory and the Northern Territory from 16 October 2020 without undergoing quarantine on arrival. Other states and territories may participate in the future. Quarantine capacity and flights into Australia for around 325 other passengers a week are expected to be freed up by this arrangement. We understand that travellers will be required to quarantine on their return to New Zealand. No date has been set for reciprocal arrangements for Australians to travel to New Zealand.

Talks are continuing with countries with comparable rates of COVID-19 infection including Japan, Singapore, South Korea and some Pacific nations.

▶ *Home quarantine under consideration*

Allowing Australian citizens and permanent residents to quarantine at home with surveillance measures to ensure compliance is under consideration.

Refunds and waivers of temporary visa application charges

EY welcomes the refunds and waivers of visa application charges for temporary visa holders affected by travel restrictions.

Temporary Skilled Shortage visa holders and Working Holiday Makers who have not entered Australia or returned home due to the pandemic will be eligible for a waiver of the charge for a new application. Working Holiday Makers who exceed the age limit for a new Working Holiday Makers visa may seek a refund. Holders of visitor visas with an expiry date between March 2020 and December 2021 may apply for a new visitor visa without charge.

Next steps

EY will continue to keep you informed about these developments and continue to engage constructively with government on policy enhancements such as the economic benefit of providing for a refund or waiver of the Skilling Australians Fund levy in addition to visa application charges.

If you need help to adapt your thinking and your mobility program in this evolving environment take a look at EY's [Mobility compass](#).

What are you doing for the holidays? If interstate or overseas travel exemptions are required, contact your EY advisor to discuss options and any of the issues raised in this alert.

Linda Rowe
APAC Global Immigration Leader
+61 2 9248 4748
Linda.Rowe@au.ey.com

Merryn Rider
MARN 0214531
+61 3 9288 8208
merryn.rider@au.ey.com

Wayne Parcell PSM
MARN: 9790656
+61 7 3011 3285
Wayne.Parcell@au.ey.com

Katrin Wilkinson
MARN: 0317375
+61 2 9248 5148
Katrin.Wilkinson@au.ey.com

Elizabeth Le
MARN: 0849776
+61 7 3243 3658
Elizabeth.Le@au.ey.com

Alice Chen
MARN: 0640895
+61 8 9217 1171
Alice.Chen@au.ey.com