

Mobility: Immigration alert

March 2022



Australia

Flexible work visa options to support economic recovery

Executive summary

EY welcomes some further adjustments to visa rules to support economic recovery in the short-term. A large number of temporary visa holders in Australia are now eligible for a streamlined subclass 408 "Pandemic visa" to work in Australia for six to 12 months.

However, with a Federal election expected to be announced shortly important substantial reforms which will have a lasting impact, such as amending skilled occupation lists, have been deferred.

Work rights and eligibility for a subclass 408 'Pandemic visa' expanded

The subclass 408 visa has been available during the pandemic to enable temporary visa holders to remain in Australia where:

- ▶ they intended to work in a critical sector (agriculture, food processing, health care, aged care, disability care, child care, and tourism and hospitality) or
- ▶ they could not depart Australia due to the disruption of international travel.

The subclass 408 visa now permits work in any sector for the following periods:

- ▶ 12 months if the work is in a critical sector, and
- ▶ six months for work in any other sector.

This is a streamlined and cost-effective alternative to a sponsored Temporary Skill Shortage (TSS) visa where a short-term further stay is intended. Benefits include:

- ▶ no sponsorship or nomination which generally involve labour market testing and the Skilling Australians Fund levy
- ▶ nil visa application charge.

Key eligibility requirements may be summarised as:

- ▶ be in Australia
- ▶ apply on or after 21 February 2022
- ▶ be working or have an offer to work in Australia
- ▶ hold a temporary visa that will cease in 90 days or less, or have held a temporary visa that ceased not more than 28 days before applying
- ▶ if the temporary visa does not have work rights (business travellers, tourists etc) have last arrived in Australia before 21 February 2022.

If the temporary visa has work rights, (TSS visas, subclass 400 visas, working holiday makers, student visa, Temporary Graduate visas etc), there is no requirement regarding the date of arrival in Australia.

Circumstances where a subclass 408 visa may be a preferred option include:

- ▶ a short-term extension is required for a TSS visa holder to complete a project
- ▶ additional time is required secure eligibility for another visa, such as obtaining a skills assessment, English test results or work experience for a TSS visa
- ▶ external hire for a short-term project.

It is now also confirmed that the subclass 408 visa will provide an interim work visa for TSS short-term stream visa holders whose TSS visa will cease before they can apply for permanent residence under the new pending pathway and who are restricted from applying for a further TSS visa in Australia.

To date subclass 408 visa application processing by the Department of Home Affairs has been unpredictable and generally prolonged, effectively extending stay in Australia further. EY anticipates that this may change as resources are likely to be redirected.

Work rights expanded for other visa holders

The temporary lifting of work limitations for students and working holiday makers remains in place:

- ▶ [Student visa holders](#) may work more than 40 hours each fortnight until at least April 2022 when the arrangement will be reviewed
- ▶ [Working holiday makers](#) may work for more than 6 months with one employer until the end of 2022.

Skilled Migration in 2022 - 2023

EY understands that the Migration Program for 2022-2023 will be announced shortly and contrary to earlier messaging from Government, the numbers are not likely to return to pre-pandemic levels.

Trans-Tasman border

The New Zealand government has brought easing border and immigration restrictions forward. The New Zealand border will open to:

- ▶ fully vaccinated Australian citizens and permanent residents located anywhere in the world from 11.59 pm on 12 April 2022
- ▶ fully vaccinated travellers from visa-waiver countries and existing holders of valid visitor visas from 11.59 pm on 1 May 2022.

Ukraine

Australia visa applications from Ukrainians have been fast-tracked with over 4000 visas granted. EY understands that most of these visas are visitor visas. While no specific humanitarian visa pathway has been utilised to date, this option is under consideration.

EY is actively supporting business to relocate impacted employees across the globe.

Next steps

EY will continue to keep you informed about developments in skilled migration. Contact your EY advisor to discuss any of the issues raised in this alert.

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