

Fact Sheet: New visa protections for migrant workers who are subject to a workplace violation*

Office of the
NSW Anti-slavery
Commissioner

What are the changes?

If you are a migrant worker in Australia and have been exploited at work ('workplace exploitation'), you may now be able to stay in Australia while you take action to enforce your labour rights.

This includes situations where you have been subject to:

- Underpayment or non-payment of your wages or entitlements	- Unlawful unpaid or underpaid training or trials	- Misclassification as an independent contractor rather than employee
- Unfair dismissal	- Non compliance with workplace safety	- Bullying or sexual harassment
- Discrimination	- Coercion or undue influence	- Upfront payment/deposit to get a job

Am I eligible for the visa protections?

If you have been subject to workplace exploitation, and:

- You have an existing substantive visa with work rights: you might be protected against visa cancellation, even if you have breached a work-related condition of your visa. For example, if you hold a Student Visa and have experienced workplace exploitation, you may be protected against cancellation even if you worked more than 48 hours a fortnight, in violation of your visa conditions.
- You have an existing substantive visa with work rights but it expires in 28 days or you had a substantive visa with work rights but it expired no more than 28 days ago: you can apply for a new visa called a Workplace Justice Visa which gives you between 6 and 12 months to remain in Australia (with work rights). You can

reapply for the visa if your complaint against your employer has not resolved by the time your visa expires.

What is the process to obtain the visa protections?

If you have experienced workplace exploitation, you will need to contact one of the organisations on next page. They can confirm ('certify') that there is apparent evidence that workplace exploitation has occurred to you (and that your presence in Australia will assist to address this exploitation). That certification is required to access either of the protections.

If you are not sure which organization to contact, choose one that is specific to your sector or your State. You will not be charged any fees for this service, although the unions may require you to join first to receive this service

Who can help

Government

[Fair Work Ombudsman](#)

Trade Unions

[Australian Rail, Tram and Bus Industry Union \(ARTBIU\)](#)

[Australian Workers' Union](#)

[Australasian Meat Industry Employees' Union](#)

[Electrical Trades Union of Australia National Council](#)

[SA Unions](#)

[Unions Tasmania](#)

[UnionsACT](#)

[Transport Workers' Union of Australia](#)

[Unions NSW](#)

[UnionsWA](#)

[United Workers Union \(UWU\)](#)

[Shop, Distributive and Allied Employees' Association](#)

Legal and Migrant Worker Centres

[Redfern Legal Centre \(Sydney\)](#)

[Human Rights Law Centre](#)

[Migrant Workers Centre \(Melbourne\)](#)

[Westjustice \(Melbourne\)](#)

What are some examples of who can benefit?

- An international student who has breached their visa by working too many hours could still file a claim against their employer to recover the wages they are owed, with certainty that their visa would not be cancelled just because they worked too many hours.
- A sponsored worker who is injured at work and is too afraid to take action until the last month of his/her visa could access a short-term visa to pursue worker's compensation.
- A backpacker about to leave Australia who had not felt safe to report sexual harassment during their fruit-picking job, could access a short-term visa to hold their employer to account.

How do these changes reduce risks of forced labour and other types of modern slavery?

These new protections empower workers to safely leave exploitative workplace, knowing they can report abuse without being deported or otherwise forced to leave Australia. By reporting their abuse, workers help secure justice for themselves and other survivors, and deter future exploitative practices – benefiting all Australians.

What other changes in the law should I be aware of?

Effective from 1 July 2024, workers on the Temporary Skill Shortage visa (subclass 457 and 482, as well as subclass 494) can:

- a) leave their sponsor and remain in Australia for up to 180 days while finding a new sponsor (previously 60 days); and
- b) during this transition period can work for any employer in any industry in Australia (or choose to not work). You do not need prior approval from the Department of Home Affairs but should let them know of the change in your employment status within 28 days.

Where can I find more information?

Further information can be found on [Migrant Justice Institute](#) and the [Human Rights Law Centre](#) pages.

The Office of the NSW Anti-slavery Commissioner may also be able to provide support and assistance to victims of modern slavery. Contact 1800FREEDOM (1800 3733366) or via our website - [Help and Support](#)

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OASC Website:

