

HIRING OVERSEAS WORKERS

Compliance Checklist — Australia

For employers engaging workers from overseas, whether relocating to Australia or working remotely

Employer / Organisation:		Review Date:	
Completed By:		Position/Title:	
Worker Name(s):		Visa Subclass:	

SECTION 1: PRE-RECRUITMENT PLANNING

Complete before advertising or engaging any overseas worker

✓	Compliance Item	Reference / Notes
☐	Identify genuine skill gap — confirm role cannot be filled by a suitably qualified Australian citizen or permanent resident	<i>Fair Work / Home Affairs requirement</i>
☐	Confirm the occupation is listed on the Core Skills Occupation List (CSOL) or Specialist Skills Occupation List (SSOL) for 482 visa purposes	<i>Replaced MLTSSL/STSOL from December 2024</i>
☐	Confirm the occupation has an ANZSCO classification relevant to the nominated role	<i>Needed for nomination application</i>
☐	Determine appropriate visa pathway (see Section 2) based on occupation, salary and location	<i>482 / 494 / 186 / 407 etc.</i>
☐	Assess total cost of sponsorship: application fees, SAF Levy, recruitment, relocation, and ongoing compliance obligations	<i>Budget planning — costs cannot be passed to the worker</i>
☐	Check whether a Labour Agreement applies to your industry (e.g. agriculture, meat industry, on-hire)	<i>Some industries have tailored arrangements</i>
☐	Confirm whether worker will be based in Australia or working remotely overseas (different obligations apply)	<i>In-Australia: full employment law applies</i>

SECTION 2: VISA PATHWAYS


Select the appropriate pathway and complete relevant sub-section

Visa Subclass	Purpose	Key Feature
482 — Skills in Demand (SID)	Temporary employer-sponsored skilled worker	<i>Up to 4 years; CSOL/SSOL required; pathway to PR</i>
494 — Skilled Employer Sponsored Regional	Regional employers only	<i>5 years; leads to 191 PR visa after 3 years</i>
186 — Employer Nomination Scheme (ENS)	Permanent residency via employer	<i>Permanent; TRT or Direct Entry streams</i>
407 — Training Visa	Workplace-based training	<i>Up to 2 years; for skills development, not production work</i>
417 / 462 — Working Holiday	Short-term work rights	<i>No employer sponsorship required; capped hours in same role</i>
500 — Student Visa	Limited work rights only	<i>Max 48 hrs/fortnight during semester</i>

SECTION 3: STANDARD BUSINESS SPONSORSHIP (SBS)

Required before nominating any worker under 482 or 494 visas

✓	Compliance Item	Reference / Notes
□	Apply for Standard Business Sponsorship (SBS) via ImmiAccount — do not nominate any worker before SBS approval is granted	<i>Dept of Home Affairs; \$420 application fee (as at 2026)</i>
□	Confirm business is lawfully operating — provide ABN, ACN, and current business registration documentation	<i>SBS eligibility requirement</i>
□	Provide evidence of genuine business need for the sponsored position and financial capacity to pay the nominated salary	<i>DoHA may request financial statements</i>
□	Confirm SBS is current — SBS approval is valid for 5 years; schedule renewal before expiry	<i>Lapsing SBS voids open nominations</i>
□	Note any changes to business structure, ownership, or operations that may affect SBS status and notify DoHA	<i>Reporting obligation under Migration Regulations</i>

 Note: Skilling Australians Fund (SAF) Levy: Small business (<\$10M turnover): \$1,200/yr of visa; Large business (≥\$10M): \$1,800/yr of visa. Non-refundable on refusal. Pay at nomination stage.

SECTION 4: LABOUR MARKET TESTING (LMT)

Applies to most 482 and 494 nominations — complete before lodging nomination

✓	Compliance Item	Reference / Notes
<input type="checkbox"/>	Advertise the nominated position on at least 3 approved platforms (must include Workforce Australia / Job Active and 2 other national job boards)	<i>LIN 18/036; minimum 28 consecutive days advertising</i>
<input type="checkbox"/>	Ensure job advertisements include: job title, salary or salary range, skills/experience required, and employer name	<i>Missing elements = non-compliant advertisement</i>
<input type="checkbox"/>	Confirm advertisements were placed within 4 months prior to lodging the nomination application	<i>LMT evidence must be current</i>
<input type="checkbox"/>	Retain all advertisement evidence: screenshots, URLs, run dates, and copies of responses received	<i>DoHA may request LMT evidence during assessment</i>
<input type="checkbox"/>	Document genuine attempts to recruit locally and reasons why no suitable Australian worker was found	<i>Written record recommended</i>
<input type="checkbox"/>	Check whether an LMT exemption applies: salary \geq \$250,000 p.a. (excl. super); International Trade Obligation (ITO); specific occupations (academic research, top-talent chef, elite sport)	<i>Check DoHA website for current exemptions list</i>

 **Note:** LMT does not apply under certain International Trade Obligations (ITOs) — e.g. associated entities in ASEAN nations, Canada, Chile, China, Japan, Korea, New Zealand, or WTO member countries.

SECTION 5: NOMINATION & SALARY OBLIGATIONS

Complete at nomination stage; obligations continue throughout employment

✓	Compliance Item	Reference / Notes
<input type="checkbox"/>	Confirm nominated occupation matches the ANZSCO code and is on the CSOL or SSOL	<i>Incorrect ANZSCO = refusal</i>
<input type="checkbox"/>	Verify nominated salary meets the Temporary Skilled Migration Income Threshold (TSMIT) — currently AUD \$76,515 p.a. (excl. super); expected ~\$79,499 from 1 July 2026	<i>TSMIT is indexed annually on 1 July</i>
<input type="checkbox"/>	Confirm salary also meets the Annual Market Salary Rate (AMSR) for the role — whichever is higher between TSMIT and AMSR applies	<i>Cannot pay less than equivalent Australian workers</i>
<input type="checkbox"/>	Pay superannuation at the current Superannuation Guarantee rate — 12% from 1 July 2025 — on top of base salary; cannot be absorbed into existing guaranteed earnings without new nomination	<i>ATO and KPMG GMS Flash Alert 2025-061</i>
<input type="checkbox"/>	Do not recover sponsorship costs, nomination fees, or SAF Levy from the sponsored worker — this is prohibited	<i>Migration Act 1958, s.245AR</i>
<input type="checkbox"/>	Ensure nominated position duties match the job as advertised and as approved in the nomination	<i>Worker must only work in nominated occupation</i>
<input type="checkbox"/>	Ensure worker is employed at the nominated location; notify DoHA if location changes	<i>Sponsor reporting obligation</i>
<input type="checkbox"/>	Lodge nomination application via ImmiAccount; pay SAF Levy at this stage	<i>Fees are non-refundable if refused</i>

SECTION 6: EMPLOYMENT CONTRACT & TERMS

Required for all overseas workers in Australia

✓	Compliance Item	Reference / Notes
☐	Issue a written employment contract prior to commencement — terms must be no less favourable than those for equivalent Australian employees	<i>Fair Work Act 2009, s.65+; NES minimum entitlements apply</i>
☐	Confirm contract includes: role description, salary, hours, leave entitlements, superannuation, and applicable Modern Award or Enterprise Agreement	<i>National Employment Standards (NES) apply</i>
☐	For fixed-term contracts (commenced 1 November 2025 onwards), issue the Fixed-Term Contract Information Statement (FTCIS) to the worker	<i>Fair Work Act 2009 — download from fairwork.gov.au/ftcis</i>
☐	Ensure fixed-term contracts do not exceed 2 years (or one renewal) unless an exception applies (e.g. grant funding, specific legislative provision)	<i>Anti-avoidance provisions apply</i>
☐	Provide Fair Work Information Statement (FWIS) to all new employees at or before commencement	<i>Mandatory under Fair Work Act</i>
☐	Confirm contract assigns intellectual property to the employer and includes confidentiality and security obligations	<i>Especially important for remote overseas workers</i>
☐	If worker is a contractor, verify they are not a deemed employee under Fair Work principles (set hours, direct instructions, financial dependence = employee indicators)	<i>Sham contracting is a civil penalty provision</i>

SECTION 7: TAX & PAYROLL COMPLIANCE


Obligations under the Australian Taxation Office (ATO)

✓	Compliance Item	Reference / Notes
<input type="checkbox"/>	Register as an employer with the Australian Taxation Office (ATO) if not already registered	<i>ATO registration required before paying wages</i>
<input type="checkbox"/>	Register for PAYG Withholding – withhold tax from employee wages and remit to the ATO each pay period	<i>ATO obligation for all employees in Australia</i>
<input type="checkbox"/>	Determine worker's Australian tax residency status – affects applicable withholding rates	<i>ATO tax residency rules; seek advice if uncertain</i>
<input type="checkbox"/>	Assess whether hiring remote overseas workers creates a 'permanent establishment' risk in the worker's home country – may trigger foreign tax obligations	<i>Seek specialist tax advice</i>
<input type="checkbox"/>	Enrol worker in superannuation with an approved super fund – provide Choice of Fund form; make contributions by quarterly due dates	<i>Superannuation Guarantee (Administration) Act 1992</i>
<input type="checkbox"/>	Ensure payroll system is updated to reflect the 12% Superannuation Guarantee rate effective 1 July 2025	<i>ATO compliance requirement</i>
<input type="checkbox"/>	Comply with Single Touch Payroll (STP) Phase 2 reporting obligations – report wages, PAYG and super information to ATO each pay event	<i>ATO STP Phase 2 – in effect for most employers</i>
<input type="checkbox"/>	Consider currency exchange compliance if paying remote overseas workers in foreign currency	<i>Tax and banking obligations may apply</i>
<input type="checkbox"/>	Obtain a Tax File Number (TFN) from the worker; withhold at highest marginal rate if TFN not provided	<i>ATO TFN withholding rules</i>

SECTION 8: ONGOING SPONSOR OBLIGATIONS

Continuous obligations for the duration of sponsorship

✓	Compliance Item	Reference / Notes
<input type="checkbox"/>	Notify the Department of Home Affairs within 28 days of: changes to worker's employment (role, location, duties); changes to business structure or ownership; end of employment	<i>Migration Regulations 1994 – sponsor reporting obligation</i>
<input type="checkbox"/>	Pay return travel costs to the worker's home country if the sponsorship or visa is cancelled (where requested by worker and DoHA)	<i>Sponsor obligation under Migration Act 1958</i>
<input type="checkbox"/>	Cooperate with any compliance audits or monitoring activities conducted by the Department of Home Affairs or the Fair Work Ombudsman	<i>Inspectors may enter premises without prior notice</i>
<input type="checkbox"/>	Maintain employment records for all sponsored workers: contracts, payslips, timesheets, and performance records – retain for minimum 7 years	<i>Fair Work Act 2009 and ATO obligations</i>
<input type="checkbox"/>	Treat sponsored workers no less favourably than equivalent Australian employees in all terms and conditions	<i>Anti-discrimination and sponsorship obligations</i>
<input type="checkbox"/>	Do not require or allow the worker to perform work outside their nominated occupation without obtaining a new nomination approval	<i>Breach = civil penalties under Migration Act</i>
<input type="checkbox"/>	Monitor expiry dates of worker visas and sponsorship approvals; initiate renewal processes well in advance	<i>Lapsed visa = unlawful worker = employer liability</i>
<input type="checkbox"/>	Review TSMIT annually (indexed each 1 July) and ensure sponsored worker salaries continue to meet the current threshold – submit new nomination if salary needs to be adjusted	<i>Non-compliance with indexed TSMIT = sponsor breach</i>

 Note: Failure to meet sponsor obligations can result in: civil penalties, bar from future sponsorship, cancellation of existing sponsorships, and potential criminal liability. Penalties can exceed \$93,900 per contravention (Migration Act).

SECTION 9: WORKPLACE HEALTH & SAFETY

Applies to all workers regardless of visa or overseas origin

✓	Compliance Item	Reference / Notes
□	Provide mandatory workplace health and safety (WHS) induction and training to all overseas workers before they commence duties	<i>WHS Act 2011 and state/territory equivalents</i>
□	Ensure WHS obligations apply equally to overseas workers — visa status does not limit WHS protections	<i>Fair Work Act and Safe Work Australia guidelines</i>
□	Register with WorkCover / workers compensation insurer in the relevant state or territory — cover must include all overseas workers in Australia	<i>State/territory WorkCover legislation</i>
□	Provide overseas workers with WHS information in a language they can understand where necessary	<i>Safe Work Australia — multi-language obligations</i>
□	Assess risks specific to overseas workers: unfamiliarity with Australian workplace norms, equipment, or safety standards	<i>Risk assessment and control obligation</i>

SECTION 10: PRIVACY & DATA PROTECTION

Particularly relevant when workers are based overseas

✓	Compliance Item	Reference / Notes
□	Ensure your Privacy Policy reflects international data handling practices — covers cross-border disclosure of personal information	<i>Privacy Act 1988 (Cth) — APP 8 (cross-border disclosure)</i>
□	Prepare or update a Data Processing Agreement with any third-party tools or offshore partners handling employee personal information	<i>APP 11 — security of personal information</i>
□	Implement access controls, IP assignment clauses, and security expectations in contracts for remote overseas workers	<i>Protects confidential and proprietary information</i>
□	Ensure employee data collected or transferred overseas complies with both Australian and the worker's home country data protection laws	<i>May require local legal advice in worker's jurisdiction</i>
□	Obtain internal approval before any worker changes their working location (including temporary overseas moves)	<i>Relevant for tax residency and data security compliance</i>

SECTION 11: ANTI-DISCRIMINATION & WORKER RIGHTS

Obligations under Australian anti-discrimination and workplace law

✓	Compliance Item	Reference / Notes
□	Ensure all workers (including overseas workers) are free from unlawful discrimination on grounds including race, national origin, religion, disability, age, and sex	<i>Racial Discrimination Act 1975; Sex Discrimination Act 1984; Disability Discrimination Act 1992</i>
□	Inform overseas workers of their workplace rights — including minimum wage, leave entitlements, and right to join a union	<i>Fair Work Act 2009 — employee rights apply to all workers in Australia</i>
□	Do not use immigration status to coerce or underpay overseas workers — this is a serious criminal offence	<i>Migration Act 1958; Fair Work Act 2009</i>
□	Ensure workers know how to contact the Fair Work Ombudsman and that they will not face adverse action for doing so	<i>Protected rights under Fair Work Act s.340</i>
□	Provide access to dispute resolution and grievance procedures in plain English (or translated as necessary)	<i>Best practice and employer obligation</i>

SECTION 12: OFFBOARDING & END OF SPONSORSHIP

Complete when sponsored worker's employment ends

✓	Compliance Item	Reference / Notes
☐	Notify the Department of Home Affairs within 28 days that the sponsorship has ended	<i>Migration Regulations 1994 – sponsor reporting</i>
☐	Arrange (and pay for) the worker's return travel to their home country if they request it and have no other legal basis to remain in Australia	<i>Sponsor obligation; enforceable by DoHA</i>
☐	Issue a Certificate of Employment or reference letter to the worker upon request	<i>Fair Work and professional courtesy</i>
☐	Ensure all final pay, leave entitlements, and superannuation are settled accurately upon termination	<i>Fair Work Act 2009 – final pay obligations</i>
☐	Retain all employment records for minimum 7 years post-termination	<i>ATO and Fair Work record-keeping requirements</i>
☐	Conduct an internal compliance review to identify any gaps for future sponsorship arrangements	<i>Continuous improvement best practice</i>

AUTHORISATION & SIGN-OFF

Authorising Officer:		Date:	
Signature:		Next Review:	
Migration Agent / Legal Adviser (if applicable):		MARN:	

Key References

- Department of Home Affairs: homeaffairs.gov.au
- ImmiAccount (visa and sponsorship applications): immi.homeaffairs.gov.au
- Fair Work Ombudsman: fairwork.gov.au | Fair Work Commission: fwc.gov.au
- Australian Taxation Office: ato.gov.au | WorkSafe / SafeWork (state/territory)
- Migration Act 1958 (Cth) | Migration Regulations 1994 (Cth) | Fair Work Act 2009 (Cth)
- Superannuation Guarantee (Administration) Act 1992 | Privacy Act 1988 (Cth)
- Skills in Demand (SID) Visa — Subclass 482 (replaced TSS from December 2024)
- Core Skills Occupation List (CSOL) and Specialist Skills Occupation List (SSOL) — replace MLTSSL/STSOL