

Fact Sheet for Employers of Temporary Visa Holders during the COVID-19 Pandemic

29 April 2020

1. If I had to close my business, but I want to keep my temporary workers whilst remaining compliant with my sponsorship obligations, how best can I manage their employment?

The best way to maintain the employment of these workers whilst you are unable to run your business is to stand the employees down. This is defined in the Fair Work Act and briefly means that through no fault of the employer, there is no work available to the employee. The employer can stand down the employees until the stoppage in work is no longer there. The employer does not have to pay the employees during this time, however the employee's service continues to accrue benefits such as long service leave, sick leave, annual leave, etc.

2. I am the employer of temporary visa holders and I have decided to terminate the employment agreement, what are my obligations?

If you have terminated the employment agreement with a 457 or 482 visa holder, you must advise the Department of Immigration of this within 28 days. It is also important to keep records to show compliance. You are not required to report on the employment status of other temporary workers such as students (sc.500), graduates (sc.485) and working holiday makers (sc.417)

3. My business has closed and I have stood down all my workers including temporary visa holders, do I have to notify the Department?

There is no requirement that you need to notify the Department of stand-downs. We do encourage employers to keep written records of all changes to working conditions including stand downs.

4. For my 457/482 workers, is there a time limit they can be stood down for?

There is no limit on the timeframe that you can stand down your temporary workers.

5. Can I have my 457/482 visa holders perform other duties temporarily during the pandemic?

You can only have 457/482 visa holders perform other duties for a period that does not exceed 60 days. A longer period will mean the visa holder is in breach of their visa conditions and the employer will be in breach of sponsorship obligations. If you need the 457/482 visa holder to fill another role for longer than 60 days, a new nomination application must be submitted.

6. Can I reduce my 457/482 working hours?

Normally a 457/482 needs to be a full-time worker, however the Department are allowing a reduction of hours as long as the employer is not lowering the hourly rate, that is reducing the agreed wage to be paid to the worker.

7. If I have stood my 457/482 worker down, can they go work for another employer temporarily?

Unfortunately no, the 457/482 visa holder cannot work for any other employer and in doing so they would be breaching their visa conditions and risking visa cancellation.

8. I am not able to access Job Keeper payments for my temporary visa holders and they are not able to access Job Seeker or other social services payments, are there any schemes available to them?

Temporary visa holders (excluding first year student visa holders) are permitted to access up to \$10,000 of their superannuation this financial year. If you are an employer in the NT, the government have just introduced the "Worker and Wellbeing Fund" for temporary visa holders residing in the Northern Territory. We encourage temporary visa holders in the NT to visit the information published by the NT government. <https://coronavirus.nt.gov.au/updates/items/2020-04-02-worker-and-wellbeing-fund>

The Red Cross has announced it will receive Australian Government funding for the next six months to deliver emergency relief and casework support to temporary visa holders who have urgent needs and no way to support themselves.

Red Cross has not received the funding yet. It will work as quickly as possible with the Department of Social Services to finalise the funding details and expand its assistance to people experiencing significant vulnerability. Assistance will include food, medicine and crisis accommodation costs. Read more here: <https://www.redcross.org.au/news-and-media/news/help-for-migrants-in-transition>

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