



## Temporary Activity Visa Workplace Justice Pilot)

In July 2024, the Australian Government created a new visa to help some temporary residents who are experiencing workplace exploitation and are pursuing avenues for justice in relation to that. This fact sheet explains what this visa does and who can apply for it.

**PLEASE NOTE: This factsheet is not a suitable replacement for legal advice. If you are experiencing workplace exploitation or are needing advice regarding your visa, seek legal advice from a lawyer.**

### What is workplace exploitation?

Workplace exploitation can come in many forms. Usually, it will be a person in power like your boss or someone responsible for your position such as a labour hire intermediary (e.g. an employment agency) doing the exploiting. Workplace exploitation is defined under Div 270 of the Criminal Code as a spectrum of behaviours from slavery-like practice to poor working conditions i.e. conditions which do not fulfil the National Employment Standards (NES) and the minimum wage provisions.

**Common examples** of workplace exploitation include:

- Underpayment
- Coercion to perform non-consensual sex acts
- Threats to cancel your visa
- Being forced to work more hours than what the law allows

Other signs you may be being exploited include:

- Your employer is withholding important documents like your passport or birth certificate
- Your employer is forcing you to live in poor living conditions such as lack of food, poor housing, little to no access to running water or electricity
- Case studies which paint a more detailed picture of what this can look like in practice can be found here: [Case studies \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/case-studies)

The *Fair Work Act* was recently updated to expand worker's rights. You can read more about this [here](#).

### What is this new visa?

The Department of Home Affairs recognises that a major fear for temporary visa holders who are experiencing workplace exploitation is that their visas will get cancelled if they report the exploitation. This new visa is an attempt to encourage temporary visa holders to seek justice for workplace exploitation.

*This factsheet is legal information, not legal advice. You should always get personalised legal advice before applying for a visa. Updated 26 September 2024*

These laws do not always apply to people who are on visas that do not have work rights. However, Home Affairs has said that they will consider cases of people without work rights being exploited on their merits.

## Can I apply for the Workplace Justice visa?

You may be able to apply for this visa if the following applies to you:

- You are currently in Australia
- You hold a **substantive visa with work rights** (not a bridging visa or visitor visa) which expires in 28 days or less or you have held a substantive work rights visa which expired within 28 days of your application
- You have a **certified claim of workplace exploitation** and proof that you are committed to seeking justice in this matter
- You are able to support yourself and your dependents
- You pass the [character test](#), don't owe money to the government and have not had another visa be refused or cancelled
- You have adequate health insurance
- You are a **genuine temporary entrant** (you have not applied for a permanent visa)

PLEASE NOTE: If you are barred from applying for additional visas because you are an unauthorised maritime arrival, a transitory person or you've had an onshore protection visa, you are **NOT** eligible to apply for this visa.

## Accessing these protections – What do I have to do? What happens next?

Individuals wanting to access this program should first seek support from the Salvation Army. They may be able to help you to report the exploitation, provide practical support and refer you to the Red Cross Support for Trafficked People Program.

### Get Support – Step 1

First, contact the [Salvation Army](#) for support with reporting your workplace exploitation to a participating third party to get your claim certified.

### Reporting – Step 2

Second, report your workplace exploitation to a participating third party such as the workplace ombudsman and get your claim certified.

### Preparing Information – Step 3

Give the following information to the Department of Home Affairs:

- certification of exploitation and the steps you're taking to resolve the issue

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- your visa information
- information detailing your visa breach

## Completing the Form – Step 4

Home Affairs requires that people reporting workplace exploitation fill in [this form](#). Once received, Home Affairs will send confirmation of receipt.

## Wait – Step 5

At this point, there is nothing more for you to do except wait for Home Affairs to respond. Comply with your visa conditions and check your emails regularly.

## Summary

If you have concerns that you are currently being exploited by your workplace and a dispute resolution directly between yourself and your employer is not possible, help may be available. Contact the Salvation Army [HERE](#) to get assistance with reporting it. Your employer cannot cancel your visa, especially if they are exploiting you. Threats from your employer to cancel your visa should be raised with the Fair Work Ombudsman and the Salvation Army can help you to do this.