



Australian Government

Australian Government response to the Recommendations of the Post-Study Work Rights Working Group



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The document must be attributed as the Australian Government response to the Recommendations of the Post-Study Work Rights Working Group.

Introduction

The Australian Government announced on 2 September 2022 that it will increase the duration of post-study work rights of international students to strengthen the pipeline of skilled labour, and that a Working Group would provide advice to Government on implementation and other relevant issues.

The Working Group provided a report on 28 October 2022. This paper outlines the Government's response to the twenty recommendations contained in the report.

The implementation and on-going management of the extension to Post-Study Work Rights will be supported through monitoring and an annual review process. This approach means the measure will be flexible in response to changes in the labour market and able to address any risks that may emerge.

Recommendation One: Eligible qualifications for this measure be limited to bachelor, masters, and doctoral qualifications.

Government supports Recommendation One to focus extended duration work rights exclusively on graduates with select higher education degrees. This ensures the measure is focused on the strong demand for professional occupations identified by Jobs and Skills Australia and limits the risk of inappropriately increasing competition at lower skills levels.

Recommendation Two: All PhD graduates be eligible under the TGV extended measure noting their high skill levels and contribution they make to Australia's human capital.

Government supports Recommendation Two to include all PhD and doctoral level graduates (AQF level 10) regardless of field of study. This will work to increase Australia's human capital, including in areas of key sovereign capability. Increased working opportunities will also attract a larger pipeline of this highly skilled cohort starting from when they are undergraduate students with intentions to proceed to PhDs, promoting their early alignment to Australia. Longer working rights after graduation will ensure longer retention.

This will allow the measure to capture more graduates who possess a high level of human capital, will benefit the education sector and will support Australia's research capabilities. Risks will be managed through the overall monitoring and review process.

Recommendation Three: The Skills Priority List (SPL) be used as the basis for identifying occupations in verified skills shortage for the measure.

Government supports Recommendation Three as it helps deliver a robust model for identifying qualifications that will deliver on Australia's skills needs.

The SPL is a methodologically robust, tested and nationally comprehensive model that identifies Australian skills needs both current and over a five-year forecasting horizon. The SPL is annually reviewed to ensure it is an accurate reflection of Australia's labour needs. The post study work rights annual review will refer to the contemporaneous SPL review to ensure flexibility over time and enable a response to emerging skills needs, such as skilled occupations in new IT technologies.

Recommendation Four: Of those occupations on the SPL, only those occupations listed as currently in shortage and with strong to moderate future demand be considered for inclusion in the list of verified skills shortages for the measure.

Government supports Recommendation Four as it helps deliver a targeted approach to ensure critical skills gaps are addressed.

The five-year horizon broadly matches common study durations, supporting development of a strong skills pipeline, while the annual review ensures the SPL remains sensitive to changes in the labour market.

Including occupations at Skill Level 1 in both 'strong' and 'moderate' demand in alignment with advice from Jobs and Skills Australia ensures that the skills needs of a wider range of vital sectors, such as agriculture and education, will be in-scope for eligibility. The SPL's demand ratings are moderated depending on the size of industry sector, so moderate demand may still indicate a high number of vacancies, as can be seen in the education workforce.

Recommendation Five: To derive a list of eligible qualifications, in-scope occupations be mapped to a classification system that will facilitate streamlined processing and IT system requirements.

Government supports Recommendation Five as it will facilitate streamlined implementation.

The existing occupations-to-higher education field of education concordance maintained by Jobs and Skills Australia assures consistent identification of the fields of education relevant to the professional occupations targeted by this measure, reducing risks of scope creep to lower-level qualifications that would not deliver on Australia's skills needs.

The list of eligible occupations and qualifications, derived from the Jobs and Skills Australia concordance, will be published annually and is attached. Eligible courses will also be flagged in the Commonwealth Register of Institutions and Courses for Overseas Students and the Provider Registration and International Student Management System to allow students, prospective students, graduates, providers and employers to easily search and identify eligible courses, promoting effective uptake of the measure. The mapping of occupations to qualifications will be reviewed annually.

Recommendation Six: The measure be adaptable through a combination of automated course mapping and manual review to manage risks, such as changes in the job market or a larger than required pool of TGV holders. The combined automated and manual mapping process will support agile implementation that is responsive to changes in the job market.

Government supports Recommendation Six. The automated course mapping described in Recommendation 5 will promote consistency and ensure fairness in eligibility, promoting market understanding of the measure and supporting efficiency in visa processing; while the annual review will ensure responsiveness to labour market and broader economic conditions. The automatic process is a

robust, market-responsive tool that will effectively identify qualifications that will deliver the skills Australia needs.

To ensure the measure is tightly targeted to specific skill level 1 occupations experiencing shortages, a manual validation process will apply to courses identified as potentially eligible. For initial implementation, this review has removed more generalist and business qualifications which lack a direct occupational outcome to ensure that only those qualifications which would lead to filling a job in an area of skills shortage are included. This manual validation to remove certain qualifications is also based on the identification of potential risks of perverse market behaviours. The final list of qualifications is provided separately.

Additionally, regular monitoring of the labour market, education provider and student behaviour will identify any emergent risks and assist to inform adjustments to qualification eligibility. To conserve resourcing and avoid slowing down implementation, course mapping and manual moderation of the qualifications in scope will be considered as part of an overall process of review, including risk mitigation activities (specified in recommendations 6, 7, 9 and 18) to ensure the ongoing effectiveness of the measure.

Recommendation Seven: In consultation with the Department of Education, the Department of Home Affairs identify an appropriate update cycle for courses eligible for the TGV (extended) and communicate it to stakeholders.

Government supports Recommendation Seven and the continued close engagement of the Departments of Education and the Home Affairs to ensure that qualifications that are in scope are refreshed on an annual basis. This refresh cycle will need to take into account any updates required to the departments' respective ICT systems to capture and communicate course eligibility in a timely manner.

Recommendation Eight: The Government will ensure the needs of student and graduate visa holders are considered when developing the package of reforms to address migrant worker exploitation expected in 2023.

Government supports Recommendation Eight, noting it will be enabled by continued close interdepartmental engagement and sectoral consultation to ensure the needs of international students and graduates are considered in the migrant worker reform package. International students and graduates are a valuable part of Australia's workforce. The Government is committed to tackling exploitation of these groups, and all workers, and will have due regard to the needs of international students and graduates in developing future reforms. Such work would build on existing resources developed for international students, including cross promotion of those available from the Fair Work Ombudsman.

Recommendation Nine: The Department of Education and the Tertiary Education Quality and Standards Agency (TEQSA) continue to monitor registrations and student enrolments, including for courses that attract extended visa duration, and respond as necessary to any variations.

Government supports Recommendation Nine as a further enhancement of the risk mitigation measures identified in Recommendation 6 and to inform an annual implementation assessment at Recommendation 18. The Department of Education and TEQSA will continue to monitor international education providers' compliance with their obligations under the Education Services for Overseas Students legislative framework, and findings will be fed into the annual review process.

Recommendation Ten: Eligible holders of the TGV (extended) retain eligibility for the Second Post-Study Work Stream (the stream available to eligible 485 visa holders who have lived worked and studied in regional Australia).

Government supports Recommendation Ten which will ensure that the specific needs of regional Australia are maintained, particularly the extended duration of work rights allowable to international graduates who have studied, worked and lived in regional Australia. Keeping this additional term of work rights will ensure the attractiveness of regional Australia to international graduates is maintained.

Recommendation Eleven: Government lead a communication strategy to build awareness of the measure among Student visa holders to support decision-making.

Government supports Recommendation Eleven. Communication materials will be developed by the Departments of Education and Home Affairs to ensure that the sector, students, graduates, employers and the general public are aware of the benefits of the measure to Australia's labour market, to education sector recovery and to the continued diversity and richness of Australia's multicultural society. The Department of Home Affairs will also prepare communication materials to ensure clear messaging is provided on a prospective student's eligibility for an extended Temporary Graduate Visa.

Recommendation Twelve: Holders of the Temporary Graduate visa (485) (Replacement Stream and Post-Study Work Stream) at time of implementation who have in-scope qualifications are eligible for the TGV (extended) measure of two years.

Government supports Recommendation Twelve to ensure that arrangements provide fairness to eligible cohorts of international students who have already graduated and are on a Temporary Graduate visa (485) or equivalent.

Existing holders of temporary graduate visas have relevant workforce experience that can make an immediate contribution to helping to meet Australia's skills needs.

Recommendation Thirteen: The additional two year period of the TGV (extended) measure, granted as one longer visa covering the whole period, will apply to all eligible persons who lodge a TGV application, or have an application on-hand, on or after 1 July 2023.

Government supports Recommendation Thirteen to ensure that eligible, new TGV applicants or those with eligible applications on-hand, on or after 1 July 2023 will be granted a TGV for the full length of their stay under these new arrangements including the additional two years.

Granting the longer duration of temporary graduate visa upfront will provide both international students and future employers with greater certainty of tenure and through this, imbue employers with greater confidence to take on temporary graduate visa holders to fill critical skills needs.

Recommendation Fourteen: Consistent with the intent of the measure to help address short-term labour market needs in select fields, existing visa options be used as a transitional arrangement until the TGV (extended) measure is available from 1 July 2023 (supported by transitional arrangements):

- Those with in-scope degrees and with a Temporary Graduate visa (485) to be eligible for a two-year subclass 408 visa if their visa will expire before 1 July 2023;
- The cohort of existing subclass 485 holders already in Australia who are not eligible for a 485 replacement visa be provided with access to a 2-year pandemic event visa. This allows this group to both remain in the labour force and provides an equitable outcome for a small cohort who contributed to Australia's pandemic recovery.

Government supports Recommendation Fourteen in principle to ensure that arrangements provide an opportunity to international students to remain longer, where they have already graduated and are on a Temporary Graduate visa (485), and who are already contributing to the Australian labour force and economy, but whose visas are expiring before 1 July 2023.

The Government supports in principle the provision of temporary visa arrangements for subclass 485 holders who were in Australia throughout the COVID-19 pandemic and are also already contributing to the Australian labour force and economy. Availability of temporary visa arrangements would be subject to meeting certain eligibility criteria.

These transitional arrangements will ensure a larger pool of highly qualified international graduates, who are already working in Australia, are able to take up extended work rights and contribute immediately to filling Australia's critical skills needs.

Recommendation Fifteen: Students whose qualification is in-scope upon commencement of study remain eligible for the TGV (extended), even if the qualification is removed from the list of eligible qualifications during the student's course, subject to retaining Government's discretion to amend arrangements if future circumstances demand.

Government supports Recommendation Fifteen in principle. These arrangements are deliberately generous to maximise the effectiveness of the measure in retaining graduates whose qualifications have prepared them to meet Australia's skills needs. Generous 'legacy provisions' and predictable positioning will be welcomed by graduates and enhance Australia's reputation in the competitive market for globally mobile students and graduates.

The transitional arrangements in Recommendations 12, 13, 14 and 15 will provide timely access to eligible graduates to an extended time in Australia to work in areas of skills needs and provide employers access from 2023 to qualified workers with extended time to take up or continue to work in areas of skills shortage.

Commencing the measure **from 1 July 2023** will enable eligible skilled workers who have recently graduated and are taking up post-study work rights to contribute to filling work force gaps in highly skilled roles for longer and make them more attractive to prospective employers seeking highly skilled workers.

Government will however retain the right to make any modifications, should it be necessary, to ensure appropriate management of the labour market for Australian businesses and the community.

Recommendation Sixteen: The Departments of Home Affairs and Education work together on a streamlined implementation design to reduce costs and impact on visa processing.

Government supports Recommendation Sixteen to support ongoing interagency liaison to ensure effective and efficient implementation.

Recommendation Seventeen: Government work with industry and employer organisations to communicate the benefits of employing international graduates and encourage employers to capitalise on the extra two years of work rights.

Government supports Recommendation Seventeen as communication of the measure particularly to industry groups and employers will be a critical part of the measure's success. Joined up departmental communications across the Departments of Education, Home Affairs, Employment and Workplace Relations, Industry, Science and Resources and relevant stakeholders will promote the measure and encourage prospective employers to take up the opportunity of highly skilled international graduates to fill skilled workforce roles.

Recommendation Eighteen: Government commits to ongoing annual assessments of the measure’s implementation, to be undertaken by the Departments of Home Affairs and Education, to evaluate its alignment with the original policy intent. Issues assessed should include, but not be limited to:

- numbers of 485 visa holders affected by the policy and future eligible graduates,
- mismatches between numbers and skills gaps,
- inappropriate pipelines for in-scope occupations, and
- inappropriate recruitment or course registration behaviour by education providers.

Government supports Recommendation Eighteen as complementing Recommendations 6, 7 and 9 and ensuring an approach to monitoring and review that the measure continues to contribute positively to Australia’s economic needs, complements the Australian labour force and preserves sector integrity. This approach will also ensure that there is an ongoing mechanism to identify and manage the risks of inappropriate behaviour or changes in economic circumstances requiring adaption to the post-study work rights measure.

Recommendation Nineteen: The fortnightly work hour limit for international students be increased to 48 hours from 1 July 2023.

Government supports Recommendation Nineteen as encompassing an appropriate balance between the primary purpose of study under the visa, while allowing students to support themselves financially, gain valuable work experience and contribute to Australia’s workforce needs. It will support sector recovery as international students value and seek out the ability to work during their study. This approach is predicated on Working Group advice that up to approximately three days of work per week is consistent with current student employment patterns.

Recommendation Twenty: Government ensure the communication strategy for the TGV (extended) measure includes information about the role of the Fair Work Ombudsman in securing workplace rights and protections for all workers in Australia, including international students and TGV holders.

Government supports Recommendation Twenty, reflecting its ongoing commitment to ensuring the rights of all workers in Australia are maintained. This recommendation also complements Recommendation 8 and aligns with outcomes of the migrant worker reform package.

Conclusion

The Australian Government extends its appreciation to the members of the Post-Study Work Rights Working Group for their time, careful deliberations and thorough report.

The advice provided in the Working Group report in identifying mechanisms to monitor and manage this process over the coming years will assist in ensuring community confidence in a targeted, proportionate and robust approach that will help fill critical, high-level skills gaps in the Australian workforce.

Australia is currently experiencing the most severe skills gaps in many years, presenting a real challenge to the labour market and the economy. Providing international students with an enhanced opportunity to contribute the knowledge and skills they have gained from their Australian qualifications to fill gaps in high skill level jobs is a tangible benefit to the Australian labour market.