



Migration Amendment (Pacific Labour Scheme) Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 June 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Peter Dutton
Minister for Home Affairs
Minister for Immigration and Border Protection

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1 Name

This instrument is the *Migration Amendment (Pacific Labour Scheme) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Migration Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Migration Regulations 1994

1 After paragraph 2.56(b)

Insert:

- (baa) the Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream;

2 Paragraph 1234(3)(b) of Schedule 1

Omit “paragraph (c)”, substitute “paragraphs (c) and (caa)”.

3 Paragraph 1234(3)(ca) of Schedule 1

Omit “or (3B)”.

4 After paragraph 1234(3)(ca) of Schedule 1

Insert:

(caa) An applicant who:

- (i) is seeking to satisfy the criteria for a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream; and
- (ii) does not hold a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream when the application is made;

must be outside Australia.

(cab) If an applicant is seeking to satisfy the primary criteria for a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream, the applicant must meet the requirement in subitem (3C).

5 Subitem 1234(3) of Schedule 1 (note)

After “Seasonal Worker Program stream”, insert “, the Pacific Labour Scheme stream”.

6 Subitem 1234(3B) of Schedule 1

Repeal the subitem, substitute:

(3C) For the purposes of paragraph (3)(cab), an applicant meets the requirement in this subitem if:

- (a) the applicant is endorsed by Foreign Affairs to participate in the Pacific Labour Scheme; and
- (b) the applicant specifies in his or her application a person who has agreed to be the applicant’s sponsor in relation to the application and the person is:
 - (i) a temporary activities sponsor or a person who has applied for approval as a temporary activities sponsor but whose application has not yet been decided; and
 - (ii) endorsed by Foreign Affairs to sponsor the applicant.

7 Subdivision 403.2 of Schedule 2 (note)

Omit “403.26” (wherever occurring), substitute “403.27”.

8 Paragraph 403.261(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) the sponsor is a temporary activities sponsor;

9 After Subdivision 403.26 of Schedule 2

Insert:

403.27—Criteria for the Pacific Labour Scheme stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Pacific Labour Scheme stream.

403.271

Each of the following applies:

- (a) the applicant is endorsed by Foreign Affairs to participate in the Pacific Labour Scheme;
- (b) an approved sponsor has agreed to be the sponsor of the applicant and the sponsor is:
 - (i) a temporary activities sponsor; and
 - (ii) endorsed by Foreign Affairs to sponsor the applicant;
- (c) the sponsor has not withdrawn its agreement to be the sponsor of the applicant;
- (d) the sponsor has not ceased to be the sponsor of the applicant;
- (e) either:
 - (i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor;
- (f) the applicant:
 - (i) is seeking to enter Australia to participate in the Pacific Labour Scheme by working for the sponsor; or
 - (ii) is in Australia and holds, or the last substantive visa held by the applicant was, a Subclass 403 visa in the Pacific Labour Scheme stream;
- (g) the applicant satisfies public interest criteria 4005 and 4019.

10 After subclause 403.411(2) of Schedule 2

Insert:

- (2A) An applicant who satisfies the primary criteria for the grant of a Subclass 403 visa in the Pacific Labour Scheme stream:
 - (a) if the applicant holds, or the last substantive visa held by the applicant was, a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream—may be in or outside Australia, but not in immigration clearance, when the visa is granted; or
 - (b) otherwise—must be outside Australia when the visa is granted.

11 Subclause 403.411(3) of Schedule 2

Omit “or (2)”, substitute “, (2) or (2A)”.

12 Clause 403.511 of Schedule 2

Repeal the clause, substitute:

403.511

- (1) If the applicant is outside Australia at the time of grant—temporary visa permitting the holder:
 - (a) to travel to and enter Australia until a date specified by the Minister; and
 - (b) to remain in Australia during a period (the *period of stay*) beginning on the day the applicant first enters Australia as the holder of the visa and ending at the end of a period specified by the Minister; and
 - (c) to travel to and re-enter Australia during the period of stay.
- (2) If the applicant is in Australia at the time of grant—temporary visa permitting the holder:
 - (a) to remain in Australia during a period (the *period of stay*) beginning on the date of grant of the visa and ending at the end of a period specified by the Minister; and
 - (b) to travel to and re-enter Australia during the period of stay.

13 Subclause 403.614(2) of Schedule 2

Repeal the subclause, substitute:

- (2) The visa is subject to:
 - (a) conditions 8303, 8501, 8503 and 8577; and
 - (b) if specified by the Minister—one of the following conditions:
 - (i) condition 8575;
 - (ii) condition 8576.

14 At the end of Subdivision 403.6 of Schedule 2

Add:

403.615

- (1) This clause applies to an applicant who satisfies the primary criteria for the grant of a Subclass 403 visa in the Pacific Labour Scheme stream.
- (2) The visa is subject to conditions 8303, 8501 and 8577.
- (3) Conditions 8301, 8502, 8503, 8516, 8525 and 8526 may be imposed.

15 After clause 8573 of Schedule 8

Insert:

- | | |
|------|--|
| 8575 | The holder must not stay in Australia for more than 7 months in any period of 12 months. |
| 8576 | The holder must not stay in Australia for more than 10 months in any period of 12 months. |
| 8577 | If the visa is a Subclass 403 visa in the Seasonal Worker Program stream or the Pacific Labour Scheme stream, the holder: <ol style="list-style-type: none">(a) must not cease to work for the holder's sponsor in relation to the visa; and |

- (b) must not work for any person other than the holder's sponsor in relation to the visa unless the Secretary has given written approval for the holder to work for another specified sponsor and that sponsor:
 - (i) is a temporary activities sponsor; and
 - (ii) if the Subclass 403 visa is in the Seasonal Worker Program stream—has agreed, in writing, to be the sponsor of the applicant; and
 - (iii) if the Subclass 403 visa is in the Pacific Labour Scheme stream—is endorsed by Foreign Affairs to sponsor the holder; and
- (c) must not engage in work on the holder's own account.

16 In the appropriate position in Schedule 13

Insert:

Part 73—Amendments made by the Migration Amendment (Pacific Labour Scheme) Regulations 2018

7301 Operation of Schedule 1

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Pacific Labour Scheme) Regulations 2018* apply in relation to visa applications made on or after 1 July 2018.