



Information for employers about the Pork Industry Labour Agreement (PILA) – March 2018

This information sheet is designed to help employers who wish to apply to sponsor overseas workers under the PILA template arrangements.

What is the PILA?

The PILA is an industry labour agreement template that has been negotiated with industry stakeholders and agreed to by the Australian Government. Employers in the pork industry who are unable to source sufficient and/or appropriately skilled Australian workers may request that the Department of Home Affairs (the Department) execute a labour agreement based on this template. The terms and conditions within this template are 'non-negotiable' and the Department will not consider any further concessions.

What concessions are in place under the PILA?

Under the PILA, employers are only able to hire overseas workers in the occupation of *Senior Stockperson (Piggery)* even though this occupation is not on the list of eligible skilled occupations for the standard skilled visa program.

The PILA also provides for overseas workers to transition to permanent residence, under the Employer Nomination Scheme (ENS) visa (subclass 186) program, after a period of three years on a Temporary Skill Shortage (TSS) visa and/or a Temporary Work (Skilled) visa (subclass 457) visa in the same occupation.

Before requesting a PILA

Before requesting a PILA, employers should read the information available on the Department's [website](#) regarding these arrangements. A copy of the relevant template and a list of current employers who have a PILA in effect is also provided on the Department's website.

Requesting a PILA

Employers who decide they wish to request a PILA should email labour.agreement.section@homeaffairs.gov.au and request the most up to date version of the labour agreement Business Case Proforma (BCP). They should then complete this and return it to the same email address with the required supporting documentation. The information below is designed to help you complete this proforma, with the remaining sections of this information sheet summarising your responsibilities as PILA sponsors.

Completing the request form

When completing the BCP, please make sure that you:

- indicate that you are requesting a 'Pork' labour agreement;
- indicate the occupation requested is *Senior Stockperson (Piggery)* (Code 070499);
- complete your organisational information and contact details carefully otherwise your records may be created incorrectly in the system (**Note:** a labour agreement cannot be executed with a 'trust' only a 'trustee', please make sure you provide the trustee's name as the registered name of the requesting organisation where relevant); and
- provide any supporting evidence requested, including:
 - a letter from your accountant stating that he/she has been managing your affairs for a specified period, that you are currently financially viable and that you have the viability to meet the sponsorship obligations under the terms and conditions of the Labour Agreement; and
 - evidence that you have tested the local labour market during the last 12 months, consistent with standard temporary skilled visa program requirements outlined on the Department's website.
Note: where this information remains current at the time of lodging a nomination application, it can be provided to the Department to meet nomination requirement – i.e. additional labour market testing does not need to be completed.

It is also suggested that where possible you:

- explain the location of your business, its size, the number of staff and the activities it undertakes;
- provide clear reasons for seeking a labour agreement; and
- explain the impact to your business if the labour agreement were not to be approved.

Note:

- The BCP requires you to provide the Department with advice regarding any 'adverse information'. This term is defined under the Migration Regulations and is being revised for March 2018. Detailed information regarding what constitutes adverse information will be available on the Department's website post the implementation of the TSS visa.
- There are no specific registration or licensing requirements for the occupation of Senior Stockperson (Piggery).
- The Australian Government is under no obligation to enter into a labour agreement. Incomplete requests will not be considered.

Next steps if my request is approved?

If your request is approved, a labour agreement will be forwarded to you for signature and then 'executed' by the Department. Once your agreement has been executed, you can then continue the visa application process by first lodging nomination applications under either the TSS or ENS programs, and then getting your agent and/or the visa applicant to lodge their TSS or ENS visa application form.

Note:

- Your agreement, covering a five year period, will specify the 'nomination ceilings' (i.e. the number of overseas workers that you can sponsor each year) for the first three years of this agreement.
- The final two years will be marked with a '0'. If you wish to sponsor additional workers in their last two years of your agreement, you are required to seek a variation to your agreement in the third year as per the process outlined below.
- Secondary TSS visa applicants, who meet relevant regulatory requirements, will be granted a visa the same length as that of the primary visa applicant. They are able to work and/or study in Australia without restriction. For further details regarding TSS visa application criteria, please see the Department's website.

Understanding your obligations as a PILA sponsor

If you enter into a labour agreement with the Department, you need to be aware that it is a requirement under this agreement to comply with the sponsorship obligations outlined at Schedule 5 and 6 in relation to this agreement.

Note:

- This includes an obligation not to nominate workers who owe money as a result of being recruited. This does not mean that PILA sponsors cannot use a recruitment agent to source overseas workers. But they should not use workers from agents who have been effectively 'charged' by a person or company for linking them up with a visa outcome. Such arrangements are contrary to payment for visa legislation and hence, PILA sponsors should ensure that any recruitment agencies are aware of such legislation.
- In addition, the agreement indicates that during the life of your agreement you will **aim to ensure** that:
 - in any one year period overseas workers do not comprise more than a third of their total Workforce; and
 - their reliance on overseas workers decreases during the life of this agreement.

This is a standard clause, expressed as a 'goal' rather than strict requirement, and is consistent with the purpose of the labour agreement program – that is to provide Australian employers with a pathway, where the occupation is not available under standard skilled visa programs to address skill shortages.

All labour agreement sponsors are expected to have made genuine efforts to recruit and engage Australians and where possible, not demonstrate an over-reliance on overseas workers, particularly for an extended period. The Department will, however, consider this clause in the context of the relevant industry, demonstrated evidence of ongoing skill shortages and the nature of the specific business (i.e. the size of the company).

In the context of the pork industry, departmental records indicate that most existing sponsors already have an overseas workforce of less than a third of their total workforce, but we understand that smaller companies may reach this target despite only employing a small number of overseas workers. It is also recognised that companies in the industry may need to continue to utilise the labour agreement program on an ongoing basis. Ideally, a PILA sponsor's use of overseas workers will not, however, increase over time, unless additional staffing is required to cater for an expansion of the business.

Possible sanction action

PILA sponsors who are found not to comply with their obligations may have their agreement suspended and/or cancelled.

The Australian Border Force can also:

- apply for a civil penalty order;
- as an alternative to civil penalty proceedings, issue an infringement notice; or
- consider additional sanction action where breaches of migration law are identified.

How do I vary my agreement?

If you wish to vary your agreement, including increasing the nomination ceilings for years one to three or seeking additional ceilings for years four and five, you need to provide the Department with the information outlined in Schedule 7 to your agreement and only then will your request be considered.

Note:

- Additional evidence of labour market testing does not need to be provided if you have lodged a TSS nomination within the last six months and already provided this information to the Department.
- The Department is developing a variation request form to streamline this process and will provide to sponsors when available.