

Mobility: Immigration alert

May 2022



Australia

Federal election 2022 and immigration policy

Executive summary

Australia's next federal election will be held on 21 May 2022. If the major opposition Australian Labor Party (Labor) wins power adjustments to Australia's immigration policy are expected. A hung parliament where one or a combination of the Australian Greens, a minor party, or Independents hold the balance of power and influence government policy is also possible.

Key goals of Labor's skilled immigration policy articulated in the November 2021 [ALP National Platform](#) include:

- ▶ meeting skills shortages
- ▶ protecting local employment opportunities and working conditions
- ▶ preventing exploitation of temporary workers, particularly international students and working holiday makers

The [Australian Greens' immigration policy](#) is broadly aligned with these goals. The Greens' policy also calls for a review of the family, skilled and business migration streams to prioritise family reunion and meet skills shortages.

Both the Labor and Greens immigration policies also address increasing and reforming humanitarian migration, reforming immigration detention and specific measures for migration from the Pacific.

One Nation's immigration policy is for zero-net migration focused on permitting only highly skilled migrants from culturally cohesive countries into Australia. Other minor parties and Independents are yet to issue a detailed immigration policy.

If the federal election results in the current Liberal-National Coalition government losing power, policy adjustments that are likely to impact employer sponsored immigration include:

- ▶ policies to favour permanent over temporary migration reflecting concerns that a growing cohort of migrants are 'permanently temporary'
- ▶ tougher labour market testing requirements including removal of waivers in free trade agreements
- ▶ measures to ensure temporary migration does not have an adverse impact on training and employment opportunities for the local workforce
- ▶ greater protections against the exploitation of temporary workers
- ▶ increased penalties on the employer for exploitation and non-compliance
- ▶ greater role of unions in some immigration processes

Details are provided in the following table.

Summary as at May 2022 - Australian Labor Party and Australian Greens employment related immigration policies

	Australian Labor Party	Australian Greens
Favouring permanent over temporary migration	<p>Align permanent and temporary migration programs to ensure pathways to permanent visas and citizenship</p> <p>Consider permanent residency and citizenship arrangements for New Zealand citizens living in Australia to address an inequity under the terms of the Trans-Tasman Travel Arrangements</p>	<p>A permanent migration program for refugees and migrants to Australia that prioritises family reunion and humanitarian entrants, and facilitates migration or resettlement to Australia within a reasonable time</p> <p>Permanent residence visa available to all New Zealand citizens on arrival, with entitlements of other permanent residents</p>
Labour market testing	<p>Retain and improve labour market testing through a new tripartite process with unions, businesses and Government</p> <p>Legislate to ensure that temporary skilled visas are utilised only where suitably qualified Australian residents and citizens are not available and cannot be trained in a reasonable time</p> <p>Free trade agreements (FTA):</p> <ul style="list-style-type: none"> - legislate to prohibit new FTAs that waive labour market testing - renegotiate current FTAs which waive labour market testing - ensure FTAs promote recruitment of local labour and protect wages and conditions of local workers 	<p>Skilled migration programs that do not substitute for training or undermine wages and conditions in Australia</p>
Temporary Skilled Migration Income Threshold	<p>Increase the Temporary Skilled Migration Income Threshold (TSMIT)</p>	
Labour agreements	<p>Enforce an approval process that requires the Department of Home Affairs to consult with trade unions</p> <p>Greater scrutiny and enhanced employer compliance measures</p> <p>Assess Labour Agreements regularly with a focus on training and employing Australians to end labour shortages</p>	
Temporary worker protection	<p>Review, adjust and improve oversight of the temporary work visa system</p> <p>Increase fines for employers who breach obligations and employ people without work visas</p> <p>Temporary migrants to be paid in accordance with Australian awards or enterprise agreements and be paid into an Australian bank account</p> <p>Ensure temporary migrants are protected by Australian workplace law and are not exploited through sham contracting or unethical labour hire practices</p> <p>Provide migrant workers with adequate information on workplace rights and how to join their union</p> <p>Offer 'whistle-blower' status to exploited visa holders and allow them to remain in Australia during recovery of lost wages and conditions</p> <p>Reform Working Holiday Maker program to protect worker rights and assess impact on regional labour markets and industries</p>	<p>Strengthened protections for migrant workers. This includes increasing civil penalties for organisations that are non-compliant and imposing criminal charges on organisations that engage in systemic wage underpayment, modern slavery and trafficking</p> <p>Adequate and targeted funding to the Fair Work Ombudsman so that exploited migrant workers can seek individual remedies to recover stolen wages</p>
Regional Migration	<p>Reform regional migration program</p> <p>Encourage regional migration only where skill gaps exist</p>	<p>Greater incentives for rural and regional distribution of refugees and immigrants</p>

Considerations for business

EY strongly supports ensuring pathways to permanency for temporary skilled migrants and New Zealand citizens living permanently in Australia. However, this must not be at the expense of an efficient and uncapped temporary visa program to relocate talent quickly when needed.

Labour market testing is currently bureaucratic and is not a genuine test of the Australian labour market as it is limited to advertising. The proposed tripartite consultation process to examine labour market testing may provide an opportunity for business to advocate for reforms that take account of current talent search practices as well as required streamlining of the testing process.

Increasing the TSMIT is reasonable. The TSMIT increased annually during the first four years after its introduction as intended but has remained at AUD53,900 since 2014.

Labour agreements negotiations are prolonged and business invests in the process when faced with significant skill shortages. Consultation with all relevant stakeholders is welcome providing the process is efficient.

EY supports measures to protect temporary workers from exploitation.

Next steps

Employers may wish to consider the following as good practice in addition to readiness for any increased scrutiny and tougher processes:

- ▶ a sponsorship obligations compliance health check
- ▶ work rights checking procedures review to ensure the process is robust and adequate records are kept
- ▶ review of labour market testing policies and processes to identify any opportunities for streamlining and minimise any delays that could result from tougher labour market testing requirements

EY will continue to keep you informed about developments in skilled migration including details of the impact of the 2022 federal election. Contact your EY advisor to discuss any of the issues raised in this alert.

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EYG no. 004245-22Gbl

2101-3682263

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