



# New laws to target dishonest employers

New laws will protect migrants from workplace exploitation by introducing tough penalties for misusing visa rules to exploit temporary migrant workers.

The Migration Amendment (Strengthening Employer Compliance Act) 2024 amends the Migration Act 1958 to bring in new laws that protect migrant workers from exploitation starting on 1 July 2024. The new laws will deter dishonest employers from using a person’s visa conditions or their unlawful immigration status, to exploit them in the workplace. Criminal penalties include 2 years’ jail and/or a 360 penalty unit (currently \$118,800) fine. The civil penalty is a 240 penalty unit (currently \$79,200) fine.

The laws cover both work and non-work related matters that might arise in the workplace. This could include situations such as a worker being pressured to surrender their passport, accept inadequate housing, engage in unwanted sexual act or breach visa work restrictions. The new laws also apply in situations where migrant workers are underpaid or their employer threatens to cancel their visa (employers cannot cancel visas).

Here are some examples of behaviour in the employment chain that exploits migrants and breaks the law.

Employer coercing temporary migrants to breach visa conditions	Labour hire company exploits undocumented migrants	Employer using temporary visa status to exploit
<p>A new rule targets employers and third-party providers who pressure temporary visa holders to break work-related visa conditions.</p> <p><u>Case study</u></p> <p>Chen is an international student at an Australian university and works at a petrol station. Chen accepts work hours on the weekend to help cover his living expenses.</p> <p>But the extra work takes him over his allowable 48 hours of work a fortnight on his student visa. Chen’s manager knows this but keeps rostering him on extra shifts. His manager is also underpaying Chen.</p> <p>Chen raises the underpayment issue with his boss. His boss tells Chen unless he stays quiet, he will report Chen to the authorities for working over his allowable limit and his visa may be cancelled. It is already against the law to underpay someone or to allow someone to work in breach of their visa conditions. Under the new measures, the additional offence is also triggered.</p>	<p>A new rule targets employers and third-party providers who pressure non-citizens without valid visas to accept work arrangements.</p> <p><u>Case study</u></p> <p>123 is a labour hire company that supplies workers to horticulture businesses around Australia. Sally, whose tourist visa has expired, is among the workers. The company knows Sally is in Australia without a valid visa but sends her to work anyway.</p> <p>Sally soon realises she is being paid less than her co-workers and complains. The company tells her she should not have been working to begin with and threatens to report her to the authorities if she complains.</p> <p>The labour hire company is already breaking the law by allowing Sally to work without a valid visa, and by underpaying her. Under the new offences, the labour hire company could face additional criminal charges.</p>	<p>A new rule targets employers and third-party providers who pressure temporary visa holders to accept or agree to work arrangements – effectively using their temporary visa status (or any future visa aspirations) to exploit them.</p> <p><u>Case study</u></p> <p>Nitia is a young IT worker sponsored to work in Australia. She is excited about possibly having permanent residency in Australia in the future. Soon after her new job begins, her manager makes inappropriate sexual comments and engages in unwanted touching when he speaks with Nitia.</p> <p>When Nitia brings this issue to her boss’s attention, he says if she causes trouble, she will have no chance of being sponsored on a permanent visa. Sexual harassment is against the law, and under the new offences, Nitia’s boss could face additional criminal charges for using Nitia’s visa status to exploit her.</p>

