

Media release

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Urgent federal policy response needed for temporary visa holders during COVID-19

The COVID-19 outbreak is having disastrous impacts for Australia's workforce and economy. While temporary stand downs, terminations and redundancies negatively impact all employees, for migrant workers in Australia these actions could lead to visa cancellation, making their circumstances extremely precarious.

In a joint letter to Attorney-General Christian Porter, Marrickville Legal Centre (MLC) and Redfern Legal Centre (RLC), together with peak body Community Legal Centres NSW (CLCNSW), have urged the Federal Government to provide flexibility to people holding Temporary Skills Shortage visas to avoid cancellations, and have offered recommendations for policy change to employment and migration law.

The letter calls for amendments to the Fair Work Act 2009 (Cth) to make allowances for clarity on "stand downs" not constituting termination, and that employees be made aware of rights to Centrelink payments during the period they've been stood down.

The Australian Government announced increased measures to support workers yesterday, 22 March 2020, including more payments and streamlined claims to support job seekers affected by coronavirus.

MLC Managing Principal Solicitor, Vasili Maroulis said it would be counter-productive for employers to terminate existing contracts and lose skilled workers, since employers are able to utilise stand-down provisions.

"We urge our leaders for legislative guidance to protect the continuity of employment and accrued entitlements of retaining existing employees. This will ensure that reliable and secure employment continues to be a keystone of our community and that we are all best placed to bounce-back once we get through this," Mr Maroulis said.

"This direction from government will also help us advise our clients, and help with the efficient administration of cases that will inevitably come before the federal courts and tribunals."

Under migration law, a temporary visa holder is only allowed to work for the employer who sponsors them. Further, if temporary skill shortage visa holders are dismissed, in accordance with their visa conditions, they have only 60 or 90 days to find alternate employment before their visas expire.

The business response to the current pandemic means Temporary Skills Shortage visa holders will be unintentionally forced into poverty and destitution.

"It is in the Australian Government's interest to support these experienced and highly skilled workers now so that they remain in Australia," RLC Employment Solicitor, Sharmilla Bargon said.

"The proposed visa cancellation relief will allow these visa holders to fill other gaps in the labour market that exist in supermarkets and other essential businesses that service the needs of a community in crisis. When social gathering sanctions are lifted after the COVID-19 pandemic has passed, the Australian economy will rely on these workers to rebuild the economy."

Migration law recommendations set out in the joint letter have also been shared with the Hon Alan Tudge MP, Acting Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs and the Hon Dan Tehan MP, Minister for Education.

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