

Minimum hours settings - frequently asked questions

Stakeholder engagement is well embedded in the PALM scheme. The Australian Government is committed to listening to stakeholders and strengthening the Pacific Australia Labour Mobility (PALM) scheme to deliver for employers, workers and their families and communities in the Pacific and Timor-Leste.

From 1 January this year, employers have been required to offer 30 hours of work per week, averaged over 4 weeks, for all existing and new short-term recruitments. This requirement was due to end on 1 July 2024. The government has decided to continue the transition period for the minimum hours settings for short-term workers until 1 July 2025, and has accepted industry's suggestion to add a 120-hour work guarantee.

This means employers of short-term workers will be required to offer 120 hours of work over 4 weeks. If employers cannot do this, they must pay workers' wages equivalent to 120 hours over 4 weeks.

These measures offer flexibility to agriculture employers, to adapt to weather and market conditions.

These changes ensure workers receive regular income and recognise that workers are not eligible for income support or to source alternative work while in Australia due to their visa conditions, and they need to support themselves and often send money home to support their families and communities.

An additional compliance mechanism will be implemented that requires a non-compliant PALM scheme Approved Employer to offer 30 hours per week every week as a condition of remaining in the scheme. The compliance and assurance framework including due process, natural justice and proportionality continues to apply including with respect to the new condition.

What is changing and why?

The government is continuing the transition period for minimum hours settings until 1 July 2025. This means employers of short-term workers will be required to offer 120 hours over 4 weeks. If employers cannot offer 120 hours over 4 weeks, they must pay workers income equivalent to 120 hours over 4 weeks.

These measures offer flexibility to agriculture employers, who make up the majority of short-term PALM scheme employers, to adapt to weather and market conditions.

The intent of the minimum hours requirement is to provide workers with reliable income and recognises that workers are not eligible for income support or to source alternative work while in Australia due to their visa conditions. They also need to support themselves and send money home to support their families and communities.

This approach strikes a balance between flexibility for the horticulture industry to adjust hours to meet weather and market factors, and safeguarding income for workers to ensure they receive a consistent, reliable income while they are in Australia.

- For agriculture employers, who make up most short-term stream employers, this allows for smoothing of hours through weather and market conditions as well as other events that may shift working hours availability.

- For workers, this means they will continue to have a consistent, guaranteed income each month, recognising they do not have other income options and need to support their families and communities at home while they are in Australia.

When will this come into effect? When will the guidelines be updated to reflect the change?

The change to minimum hours will begin 1 July 2024 and be in place until 30 June 2025. The guidelines will be updated to reflect this change from 1 July 2024.

Will employers need to issue a new offer of employment that includes the new settings from 1 July 2024?

Employers must make workers aware of the changes and may wish to do this by issuing a new offer of employment (OOE) within 3 months of the commencement of the setting. The department will not be required to reapprove this change to the OOE, where the only change is this condition.

What can employers do to help workers understand the change?

Employers should ensure all current PALM scheme workers understand that the transition period for minimum hours settings has been extended until 1 July 2025, and take the time to clearly explain the settings.

For any new recruitments, employers should, at the time they provide workers with their OOE, clearly explain what the minimum hours settings will mean for each individual worker. If an employer is only able to offer workers 120 hours over 4 weeks as a general rule, without opportunities for additional hours, this should also be clearly explained.

This will help to manage expectations for workers who are hoping to be offered additional hours of work beyond the minimum requirements.

Will this setting include a ‘pro-rata’ or other arrangements for ‘part weeks’ when workers arrive and depart, or for public holidays?

The 120 hours over 4 weeks will be on a ‘pro rata’ basis to include part weeks when workers arrive and depart and public holidays. Refer to scenarios (below) for examples.

How will the 4-week reconciliation period be measured?

The 4 weeks will start from the first full week of employment for each short-term worker (pro rata). For example, if a worker arrives in Australia on a Wednesday, begins work on a Friday, but typically the work week is Monday to Friday, the minimum hours requirements will begin from the Monday.

The Department of Employment and Workplace Relations will then consider compliance based on 4-week ‘blocks’ from the worker’s first full week of work. Refer to scenarios (below) for examples.

What evidence will the employer need to provide to demonstrate they have met minimum hours requirements?

Employers will need to retain documentary evidence such as payslips showing the hours worked and written evidence where a worker has declined hours offered to them by the employer. The department will request evidence as part of monitoring and compliance activities.

When does an employer need to ‘top up’ pay?

Employers will need to ‘top up’ pay when they have not offered at least 120 hours over the 4-week period. For example, if the worker was only offered 100 hours in the period the employer will be required to ‘top up’ 20 hours as part of the pay for the period.

In contrast, if a worker was offered 120 hours over 4 weeks, but refused 20 hours of work, the employer does not need to top up the workers’ pay at the end of the reconciliation period.

What should I do if I know employers are not complying with the requirements?

If you are aware of situations where employers may not be compliant, please email (PALM@dewr.gov.au) with details.

What will happen if employers are not compliant with the settings?

If employers are not offering workers 120 hours over 4 weeks and not meeting the income guarantee, the employer may be directed to provide 30 hours every week. That is, the flexibility of reconciliation over 4 weeks, be removed for that employer.

- Any compliance action will be taken consistent with the compliance and enforcement processes in the PALM scheme.
- This measure adds an additional sanction prior to exiting an employer from the scheme.

The department takes a risk-based, proportionate approach to compliance and applies procedural fairness and natural justice during compliance decision making.

Does this mean the \$200 net pay requirement is no longer needed?

The \$200 net pay requirement is still required to ensure workers have a minimum take home pay that allows them to cover basic necessities each week. The minimum take-home pay may be relevant:

- early in the worker’s placement, when initial deductions for establishment costs (such as flights and visas) are still being repaid
- for any week where there are low hours within the 4-week period.

For more information, please see this factsheet: [Minimum hours requirement and interaction with minimum net pay guarantee](#).

Does this mean the 20 hours safeguard is no longer needed?

The 20 hours safeguard, wherein employers cover the cost of workers’ accommodation and transport if they offer workers fewer than 20 hours work in any week, is still needed while hours

may be offered over a 4-week period. Over the course of 4 weeks, in some weeks there may be fewer than 20 hours of work available. In these instances, employers must cover the workers' accommodation and transport costs.

For more information, please see this factsheet: [Minimum hours requirement and interaction with minimum net pay guarantee.](#)

What happens if there is an extreme event that means employers cannot offer minimum hours?

In extreme circumstances, there are provisions for force majeure events within the PALM scheme deed. In a force majeure event, employers must take actions to mitigate the impacts of an event and notify the department if the event is likely to impact on their ability to meet their obligations. When the department receives a notice, the department may temporarily suspend employer's obligations.

For more information, please see this factsheet: [Force majeure - information for employers.](#)

What if an employer offers work but the worker refuses to work?

Employers are required to offer 120 hours over 4 weeks to workers. If workers are offered work and refuse, the hours refused will count towards hours offered. Employers do not need to top up worker's pay for hours workers have refused.

Employers should consider the reasonableness of work hours including cultural, religious, and work health safety considerations.

Scenarios

Scenario A - public holiday

If a worker is engaged on a casual basis and will not work on a public holiday, the department will reduce the minimum hours requirements by the amount the worker would have worked if it wasn't a public holiday. Employers should keep records or provide this information on request from the department.

If a worker is engaged on a part-time or full-time basis, typically they will be paid for public holidays (even where they do not work) and this will count towards the minimum hours requirements.

For example, Peter is a PALM scheme worker who would have been rostered for a 6-hour shift, but it fell on a public holiday. The employer should note it was a public holiday and the minimum hours requirements are reduced by 6 hours for that month.

Scenario B - worker departs part-way through a reconciliation period

If a worker departs part way through a 4-week reconciliation period, the hours will be calculated on a pro rata basis. That is the worker's hours will only be applied up to their departure date. For example, the worker's 4-week reconciliation period would end on 30 September, but the worker departs on 15 September, so the average for the 2 weeks is 60, not 120.

Scenario C - worker arrives mid-week

If a worker arrives mid-week, the hours will be calculated on a pro rata basis. That is the worker's hours will only be applied from their commencement date or the first pay period, whichever is later. For example, the worker's flight arrives on 16 May, and the worker starts work on 20 May. The worker's 4-week reconciliation period begins from 20 May, not 16 May as 20

May is the first full week. The department will work with employers to consider their pay runs and typical work week patterns to apply the reconciliation period. That is, for example: the department will not mandate that a week always starts on Monday.

Scenario D - worker repeatedly refuses offered hours

If a worker regularly refuses work and this results in the low or inconsistent income, employers should use their performance management and grievance management processes to address these concerns on a case-by-case basis. Employers should be conscious when offering work to consider the reasonableness of work hours including cultural, religious, and work health safety considerations.

Scenario E - worker declines work shift (ad hoc)

If a worker declines a shift on an occasional basis (for example due to sudden, short-term illness) the shift will still count as hours offered for the purposes of minimum hours averaging. The employer must document these situations and be able to provide evidence if requested by the department.

Scenario F - weather prevents work

If an employer is affected by poor weather that does not constitute a 'force majeure event' (e.g. natural disaster) they should apply 'make up' hours and must ensure a worker receives the equivalent of 120 hours of pay over the 4-week period. For example, Tokoni is a PALM scheme worker in Queensland and cannot work for 2 days due to rain, so his employer Bill provides additional hours in another work week to make sure Tokoni is offered 120 hours over the 4-week period.

Scenario G - force majeure event/extreme circumstances

Jillian's farm is damaged due to a flood and for a period of 3 weeks she cannot offer 120 hours over 4 weeks (that is, she will not meet the minimum hours requirement). Jill must notify the department of the event and work with the department to ensure workers are safe and their welfare is considered. The department may suspend Jill's minimum hour obligations due to the impact of the floods, which are a force majeure event under the PALM scheme deed.