

Offshore portability arrangements

This operational advice provides PALM scheme employers (employers) with information and requirements in relation to requesting an offshore portability arrangement.

What is an offshore portability arrangement?

Offshore portability arrangements are employer-initiated arrangements that provide flexibility for employers to transfer PALM scheme workers (workers) to another employer.

- An **offshore portability arrangement** is arranged **while the worker is offshore, prior to travelling** to Australia.

For the purposes of offshore portability arrangements, there are two types of employers.

- **Transferring employer** is the employer that the worker is employed with prior to the commencement of an offshore portability arrangement.
- **Receiving employer** is the employer the worker will transfer to under the offshore portability arrangement.

The **transferring employer must initiate** an offshore portability arrangement and enter into a binding agreement with the receiving employer. The transferring employer must submit a standard recruitment plan for approval and meet all obligations set out in the PALM scheme deed and guidelines.

The **receiving employer must agree** to the offshore portability arrangement and the binding agreement with the transferring employer. The receiving employer must submit a recruitment plan with redeployment as the recruitment type for approval prior to enacting the arrangement and meet all their obligations under the PALM scheme deed and guidelines.

The **worker must provide informed written consent** to the offshore portability arrangement prior to the arrangement being made.

The Department of Employment and Workplace Relations (the department) will consider a portability arrangement for approval after all PALM scheme deed and guidelines requirements are met. The department **will not initiate** an offshore portability arrangement on behalf of a transferring or receiving employer. Early consideration and workforce planning is essential for an orderly and efficient portability arrangement to occur.

The department will only approve offshore portability arrangements prior to worker(s) arriving to Australia. If worker(s) are in Australia please refer to the factsheet for onshore portability arrangements.

Principles of an offshore portability arrangement

- All employers are eligible to request a portability arrangement.
- Portability arrangements and any changes to portability arrangements must be approved by the department prior to commencement.
- Portability arrangements are initiated by the employer, not the worker.
- The worker **must**:
 - not be disadvantaged by the arrangement

- provide informed written consent to the portability arrangement prior to the arrangement being made
 - be suitable for the work they will be performing at all placements
 - not incur any costs associated with the portability arrangement, including transfer and relocation costs.
- Workers are only permitted to transfer to another employer while they hold a valid Temporary Work (International Relations) visa (subclass 403) - Pacific Australia Labour Mobility stream, not a bridging visa.

Transferring and receiving employer responsibilities

The transferring and receiving employers **must**:

- comply with the PALM scheme deed and guidelines¹ with respect to the worker
- comply with all requirements under workplace laws in relation to the worker starting or ending employment, including notice periods and paying outstanding annual leave balance and TOIL ([Notice and final pay - Fair Work Ombudsman](#))
- provide support to the worker to relocate as necessary and make sure that the worker is not charged for any associated costs
- ensure the worker does not have more than 3 placements in a 9-month period unless approved by the department
- ensure any deductions from the workers' wages comply with the *Fair Work Act 2009* and the PALM scheme guidelines
- where necessary, provide the worker with: [Fair Work Information Statement](#), [Fixed Term Contract Information Statement](#) and [Casual Employment Information Statement](#)
- submit and have approved by the department, a recruitment plan including all relevant plans and offer of employment (OOE) (further guidance is below)
- ensure that if there is a gap between placements it does not exceed 7 calendar days. Please note, both employers must continue to meet their obligations under the PALM scheme deed and guidelines during any gap
- enter into a binding agreement with each other before the worker transfers (and provide a copy of the agreement to the department if requested). The agreement **must** outline the arrangements of the transfer, including:
 - transferred obligations of the transferring employer under the PALM scheme deed and guidelines to the receiving employer, including welfare and wellbeing obligations
 - details of the transfer, including travel, accommodation, and how transfer costs will be divided between the employers
 - health insurance arrangements, including when the receiving employer will take over the cost and new fund details if applicable

¹[PALM scheme Approved Employer Deed of Agreement](#) | [PALM scheme PALM scheme Approved Employer Guidelines](#) | [PALM scheme](#)

- arrangements if there is a gap between placements, including how obligations in relation to the worker will be met.

Additional transferring employer responsibilities

Transferring employers **must**:

- maintain the workers' health insurance arrangements under any cost sharing arrangements (as outlined above). If possible, the insurance should be moved to the receiving employer, or alternatively the transferring employer **must** ensure that the receiving employer obtains equivalent or better health insurance cover for the worker (without incurring waiting periods), provided the worker is not disadvantaged by the change
- keep records regarding the worker being paid all eligible entitlements for ending their employment.

Additional receiving employer responsibilities

- The receiving employer **must** complete a workplace induction with workers upon arrival at the worksite as outlined in section 8.6 of the guidelines.
- The receiving employer **must** ensure equivalent or better health insurance coverage is organised for the worker if the receiving employer elects not to transfer the workers current health insurance from the transferring employer. The worker **must not** be disadvantaged by any change in policy, and they **must not** incur waiting periods.
- Ensure that if there are any proposed changes to the accommodation as part of the portability arrangement the accommodation has been approved by the department. If the accommodation has not been approved, receiving employers **must** obtain an exemption from the department in writing to provide the updated accommodation plan no later than 2 weeks prior to the proposed date of the workers transfer and commencement with the receiving employer.

How to initiate an offshore portability arrangement

To initiate a portability arrangement both the transferring and receiving employers **must** submit a recruitment plan through the department's IT system.

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1. A separate recruitment plan and OOE **must** be submitted by both the transferring and receiving employer.
2. When creating a new recruitment plan the transferring employer **must**:
 - a. include a relevant recruitment plan name and end it with '- Offshore Portability Arrangement'.
 - b. select the 'standard' recruitment plan type.
 - c. complete all the remaining information in the plan.
3. The receiving employer **must**:
 - a. include a relevant recruitment plan name and end it with '- Offshore Portability Arrangement'
 - b. select the 'redeployment' recruitment plan type

- c. include the transferring employer recruitment plan number under ‘source RP number’
 - To access the recruitment plan number, the transferring employer must first create a **draft** recruitment plan and provide the recruitment plan number to the receiving employer
 - d. add the names of all workers included in the portability arrangement
 - e. complete all the remaining information in the plan.
4. Both recruitment plans **must** meet **all** obligations outlined in the PALM scheme deed and guidelines, including placement and worker risk assessments, labour market testing, accommodation, transport and welfare and wellbeing.
 5. Separate labour market testing **must** be conducted by each employer for their recruitment.
 6. The recruitment plans and OOE’s **must** reflect the dates that the worker is employed by the individual employer.
 7. The OOE’s **must** also outline that the offer is subject to an approved portability arrangement and provide the details of the other employer along with the dates and location of the related recruitment.
 8. The recruitment plans will be assessed individually and jointly to ensure they meet the obligations under the PALM scheme deed and guidelines.

Binding agreement

Both employers **must** enter into a binding agreement that outlines the terms of the agreement. These terms are individual to the circumstances and are to be negotiated between employers.

The binding agreement **must** include:

- transferred obligations of the transferring employer under the PALM scheme deed and guidelines, to the receiving employer
- the receiving employer’s obligations for welfare and wellbeing, including health insurance arrangements; and
- cost sharing between the transferring employer and the receiving employer, including for any relocation costs.

The following should also be considered:

- Worker travel to and from Australia and how costs should be apportioned, including the compulsory \$300 employer contribution.
- Sharing of travel information to enable the receiving employer to adequately meet their obligations, such as purchased return flights or flight credits available for the workers.
- Arrangements during any gap period between placements.

Operational advice

Offshore portability process summary

