

Onshore portability arrangements

This operational advice provides PALM scheme employers (employers) with information and requirements in relation to requesting an onshore portability arrangement. For more information regarding temporary portability arrangements or offshore portability arrangements, refer to the relevant factsheet.

What are onshore portability arrangements?

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

- An **onshore portability arrangement** is arranged while the worker is onshore, in Australia. Planning for an onshore arrangement may have started prior to the workers arrival in Australia but was not finalised.

For the purposes of onshore 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 onshore portability arrangement.
- **Receiving employer** is the employer the worker will transfer to under the onshore portability arrangement.

The **transferring employer must initiate** an onshore portability arrangement and enter into a binding agreement with the receiving employer, along with meeting all obligations set out in the PALM scheme deed and guidelines.

The **receiving employer must agree** to the onshore portability arrangement and the binding agreement with the transferring employer. The receiving employer must submit a new 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 onshore 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 onshore portability arrangement on behalf of a transferring or receiving employer. Early consideration and workforce planning is essential for a well ordered and efficient portability arrangement to occur.

The department will only approved onshore portability arrangements for worker(s) currently in Australia. If worker(s) have not yet departed their home countries, please refer to the factsheet for offshore portability arrangements.

Principles of an onshore 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 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:

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

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- 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
- 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.
 - submit an arrival report in accordance with section 13.6.3 of the guidelines.
 - 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.

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How to initiate an onshore portability arrangement

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1. For an onshore portability arrangement, the workers placement with the transferring employer will already be approved as a standard recruitment.
2. Once the terms of the onshore portability arrangement have been agreed to between the employers, the transferring employer must:
 - contact the relevant labour sending unit (LSU) to seek written support of the portability arrangement between themselves and the receiving employer
 - provide notification to the department via a new enquiry in the portal for the transfer of the worker (s) and provide the following details:
 - name, date of birth, country, passport number, visa status and visa expiry date, arrival in Australia, short or long term stream, current recruitment plan number and endorsement number, health policy membership number, superannuation details, confirmation that all upfront deductions have been recouped, confirmation if return flights have been purchased for the worker already and whether the worker has access to these tickets/flight credits
 - provide a copy of the written consent by the worker for the transfer, including details of the type of work, hourly rate, location and dates of the new recruitment (**NOTE:** Depending on the case, the receiving employer may undertake this responsibility)
 - provide a copy of the written support by the LSU for the portability arrangement.
3. the receiving employer must create a new recruitment plan and:
 - include a relevant recruitment plan name and end it with ‘- Onshore Portability Arrangement’
 - selects the ‘redeployment’ recruitment plan type
 - include the transferring employer recruitment plan number under ‘source recruitment plan number’, noting
 - to access the recruitment plan number, the transferring employer must provide the recruitment plan number to the receiving employer
 - add the names of all workers included in the portability arrangement
 - complete all the remaining information in the plan.
4. The receiving employer **must** include an OOE that:
 - identifies that the offer is subject to a portability arrangement
 - includes transferring employer placement start and end date
 - is signed by the worker consenting to the terms of the portability arrangement.
5. The recruitment plan and OOE **must** meet all obligations outlined in the PALM scheme deed and guidelines, including placement and worker risk assessment, labour market testing, accommodation, transport and welfare and wellbeing.
6. The receiving employers’ relationship manager will review the recruitment plan and request further information as necessary. The review and approval process is the same as a standard recruitment plan process.

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
- cost sharing between 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.

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Onshore portability process summary

