

FAQs for DAMA implemented

Q: What if the overseas worker's visa is granted but they never show up/ never start work?

TSS: The nominee must begin employment within 90 days of entry to Australia (if they're offshore when the visa is granted) or within 90 days of the visa grant date (if they are in Australia when the visa is granted). You must notify the Department of Home Affairs by email or via 'Notification of sponsor changes' form in ImmiAccount. Their visa can be cancelled.

ENS: No action can be taken.

Q: What if the overseas worker is no good/ can't do the job?

TSS: You should try and work it out with the employee – follow usual Fair Work Ombudsman (FWO) processes re performance. If you terminate their employment for any reason you must notify the Department of Home Affairs. The employee has 60 days from the date they finish working with you to find another approved sponsor to nominate them, be granted a different visa or leave Australia.

ENS: You should try and work it out with the employee – follow usual FWO processes re performance. If you think they gained the visa by deception (provided false or misleading information about their skills, qualifications or English level), report them to the Department of Home Affairs.

Q: What if they leave before their visa runs out (TSS only)?

You must notify the Department of Home Affairs by email or via 'Notification of sponsor changes' form in ImmiAccount. The employee has 60 days from the date they finish working with you to find another approved sponsor to nominate them, be granted a different visa or leave Australia.

If the visa holder or any of their dependents become unlawful, you might have to pay the cost of locating them and removing them from Australia.

Q: What if they leave as soon as their ENS permanent visa is granted?

You can notify us but there is nothing the Department of Home Affairs can do (no cancellation powers)

Q: What if someone approaches me/cold-calls asking me to sponsor them?

Don't get involved. You should provide the information to the Department of Home Affairs via BorderWatch.

Q: Can I take over sponsorship from another employer (TSS only)?

Yes but only if you are endorsed by the Designated Area Representative (DAR), have a genuine vacancy, LMT evidence, and have your own labour agreement for the same occupation. You will also need to lodge a nomination application. They can only start working with you once the nomination has been approved.

Q: What if I nominate someone but their visa is refused? Can I nominate someone else?

One nomination for one person only. A new nomination will need to be lodged.

Q: Can I get a refund of the nomination fee/SAF levy if the visa is refused?

No. There are very limited refund grounds.

Q: How long does my nomination last once granted?

Your nomination lasts for 12 months from approval date or until;

- The nominee is granted a TSS visa
- You withdraw the nomination
- Your approval as a sponsor is cancelled
- The day on which your labour agreement ceases

Q: If we can nominate workers into semi-skilled/ unskilled occupations, why is the salary threshold still so high?

Temporary residents face higher living expenses than Australian Citizens and Permanent Residents. (for example health insurance costs and international student education costs). Concessions to the current TSMIT may be available for some occupations under a DAMA. These concessions take into account location, skill level and industry awards.

Q: What if our Award has a different rate for food and board deductions (non-monetary earnings components) than what is agreed in the DAMA?

The non-monetary components negotiated in the DAMA indicate the maximum amount that can be deducted from an overseas worker's earnings. You cannot deduct a larger amount than what is outlined in your Award or in the DAMA.

Q: Is Labour Market Testing required at nomination stage for the permanent residency pathway?

No, but you need to demonstrate that you have a genuine need for a paid employee. This can include evidence that the position has existed but has become vacant, or that the position is currently occupied by a temporary resident.

Q: What are the processing times for a DAMA Labour Agreement?

The Department of Home Affairs endeavours to complete the labour agreement assessment within 1 month of receiving a complete request. Once a DAMA labour agreement is in place, associated nomination and visa applications are also given priority processing.