

1 April 2020

The Hon Alan Tudge MP
Acting Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Via email: alan.tudge.mp@aph.gov.au

Dear Minister,

Re: Immigration visas and COVID-19

The live performance industry brings many performers, artists, creatives and technical support into Australia using the temporary activity visa (subclass 408) (referred throughout this letter as “408 visa”). Since the government bans on events and gatherings as well as travel bans into Australia, all forms of live entertainment have ceased. This has presented many challenges for the industry, including the status of workers on a 408 visa, incurred costs for approved unused 408 visas and future viability.

1. 408 VISA HOLDERS NOW WITHOUT WORK IN AUSTRALIA

As a condition of the 408 visa, we understand that if the visa holder’s employment ends he/she must either:

- if eligible, apply for a new visa; or
- leave Australia within 28 days of stopping work for the sponsor/supporter, or earlier if the visa is expiring.

At the moment, some workers on a 408 visa have been “stood down” in accordance with s524 of the *Fair Work Act 2009*. This means they are still employed by their sponsor, but do not have any work to perform (because, for example, the show has been cancelled) and they do not get paid.

LPA urgently seeks clarification as to the status of 408 visa holders who have been stood down.

In particular:

1. Can the 408 visa holder stay in Australia until the expiration of the 408 visa?
2. Does the 408 visa holder need to apply for a different visa in order to lawfully remain in Australia? If so, which visa/s?
3. Does a 408 visa holder have to leave Australia within 28 days?

The ability for 408 visa holders to leave Australia is also compounding the issue. At this time, there are no restrictions to visa holders travelling overseas or returning home. However, there are a limited number of flights departing Australia, and visa holders may not be able to leave Australia prior to the expiration of the 408 visa.

In addition, these visa holders are experiencing financial hardship and will worsen the longer they remain in Australia. They are not receiving a wage (due to being “stood down”) and do not qualify for support measures – such as JobSeeker – as they are not Australian citizens and permanent residents. **LPA urgently seeks emergency financial support for 408 visa holders who have been stood down** to enable them to meet day-to-day living expenses until they are able to return to their home country.

2. INCURRED COSTS FOR APPROVED UNUSED 408 VISAS

The Government introduced bans on non-essential gatherings of 500 people or more, effective 16 March. Four days later, additional restrictions were introduced, limiting indoor gatherings to no more than 100 people. Within a matter of days, every live performance event in Australia could no longer proceed.

Because these restrictions were introduced so quickly, there was limited opportunity for sponsors (i.e. event organisers) to withdraw visa applications. In addition, many 408 visas were approved and paid prior to the restrictions on public gathering and subsequent travel restrictions taking effect. Therefore, many sponsors have incurred significant costs for visas they are unable to use.

LPA seeks a refund on 408 visa processing fees for visas which have been approved and cannot be used. This refund would greatly help businesses in the live performance industry, particularly as many are currently experiencing significant financial pressure.

LPA also seeks government measures to support recovery efforts. When live events and touring are able to recommence, LPA expects that consumer confidence and economic conditions will be weak. To bring a tour to Australia, event organisers incur significant upfront costs, and given event organisers are currently not deriving revenue from events due to government bans, the ability to meet future upfront costs will be extremely difficult. As such, **LPA seeks a waiver on 408 visa fees for 24 months after government bans are lifted.**

3. TEMPORARY SKILLS SHORTAGE VISA (SUBCLASS 482) AND EMPLOYER NOMINATION SCHEME VISA (SUBCLASS 186)

Many companies in the live performance industry use the 482 and 186 visas to address skills gaps. These visa costs are significant; it will be particularly difficult for companies to meet these costs given their major source of revenue (i.e. ticket sales) evaporated overnight. **LPA seeks a temporary stop on 482 and 186 visa application fees including a waiver on the Skilling Australia Fund levy** so that companies can access the skills they need.

SUMMARY

In summary, LPA requests:

1. Urgent advice on options for 408 visa holders:
 - a) whose visa will soon expire; or
 - b) who have been “stood down” but remain employed by their sponsor.
2. Emergency financial support for 408 visa holders who have been stood down.
3. A refund on 408 visa processing fees for visas which have been approved and cannot be used due to government travel and public gathering restrictions.
4. A waiver on 408 visa fees for 24 months after government bans are lifted.
5. A temporary stop on application fees for the Temporary Skills Shortage visa (subclass 482) and Employer Nomination Scheme visa (subclass 186), including a waiver on the Skilling Australia Fund levy.

We seek your urgent consideration of the matters raised in letter. Please let me know if you require clarification or additional information.

Yours sincerely,



Evelyn Richardson

Chief Executive

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ABOUT LPA

LPA is the peak body for Australia’s live performance industry. Established over 100 years ago in 1917, LPA is registered as an employers’ organisation under the *Fair Work (Registered Organisations) Act 2009*, LPA has over 400 Members nationally. We represent commercial producers, music promoters, major performing arts companies, small to medium companies, independent producers, major performing arts centres, metropolitan and regional venues, commercial theatres, stadiums and arenas, arts festivals, music festivals, and service providers such as ticketing companies and technical suppliers. Our membership spans from small-medium and not-for-profit organisations to large commercial entities.

LPA has a clear mandate to advocate for and support policy decisions that benefit the sustainability and growth of the live performance industry in Australia.

OUR EXECUTIVE COUNCIL

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