

Tips for Completing the Dairy Industry Labour Agreement Business Case proforma

Note: these tips relate to the **Labour Agreement Application form** (with March 2016 in the document footer).

Any queries about the application process or the information required should be directed in the first instance to the Immigration Department on labour.agreement.section@border.gov.au

TYPE OF LABOUR AGREEMENT REQUESTED

Question 1

You are requesting an “Industry” Labour Agreement. The sector is “Dairy”.

BACKGROUND TO YOUR REQUEST FOR A LABOUR AGREEMENT

BUSINESS CASE FOR A LABOUR AGREEMENT

Question 2

This section requires you to provide information with details about your business.

It is suggested that you detail the location and size of the farm, number of cows milked, number of staff and any other activities the business undertakes.

You also need to provide your reasons for seeking a labour agreement.

It is suggested that you provide detail of the working week on your farm for each group of employees, the rates paid to the employees, the reasons why you need to engage overseas workers, (eg there is a skills shortage for employees at this level), the impact on the business of this lack of skilled workers and the impact on the business if the labour agreement is not approved.

BUSINESS INFORMATION

This section requires you to provide particular information about your business.

Question 16

The Industry as defined by ANZSIC is **Group 016- Dairy cattle farming**

GOOD STANDING

Question 20

You will need a letter from your accountant stating that the accountant has been managing your affairs for however long and that ‘you are currently financially viable and that you have the viability to meet the sponsorship obligations under the terms and conditions of the Labour Agreement’.

Questions 21 to 24

This section requires you to tell the Department of Immigration and Border Protection if there have been any adverse findings regarding workplace relations, workplace health and safety or migration compliance in the last 5 years.

The Department of Immigration and Border Protection has advised Dairy Australia that it does not require you to provide information about investigations, such as an investigation by the Fair Work Ombudsman or the taxation office unless there was an actual finding that you had breached the law or if there is an on-going investigation at the time of your application.

REQUESTED OCCUPATIONS

Question 26

Occupation

There is no ANZSCO occupation description.

The 'occupation description' which dairy Australia and the Department of Immigration and Border Protection have agreed upon is '**Senior Dairy Cattle Farm Worker**'.

There is no ANZSCO six digit code. Instead use the **code 070499**.

List of tasks

Dairy Australia (DA) and the Department of Immigration and Border Protection have agreed on a list of duties which the overseas worker will be expected to perform. This Position Description (Schedule 4 in the Labour Agreement Template) is available at

www.thepeopleindairy.org.au/LiteratureRetrieve.aspx?ID=153973

This position sits between the FLH5 and the FLH7 classification in the Pastoral Award 2010.

Skills Assessment

Each state has different skills assessment bodies. To find out about which body provides this in your state, visit www.border.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities

Mandatory registration and/or licencing for the occupation

There are no specific registration or licensing requirements for this position. Tick the "No" box.

LABOUR MARKET NEED

Question 27

Before your application will be accepted you have to show that you have genuinely tried to fill the position with Australian workers.

In practice this means that you must advertise for a period of at least 12 months before you make your application and keep good records of each advertisement and any responses you receive.

There is now a fillable PDF form for recording your efforts made to recruit Australian workers available at www.border.gov.au/Forms/Documents/domestic-recruitment-summary-template.pdf#search=summary%20domestic

Dairy Australia has reached an agreement with the Department of Immigration and Border Protection that Dairy Australia will provide the information contained in italics at the bottom of this page. You do not have to have provided this information.

TRAINING

Question 35

Provision of information in the profit and loss statement is one way you can provide this information. There may be other ways.

Question 36

Before you apply for a Labour Agreement and while you are employing the overseas worker you need to show that you have a good record of training **Australian** workers.

The Migration laws require you to show that each year you have spent 1% of your payroll on training Australian workers or you may opt to pay 2% of payroll to an industry training fund.

A portion of your Dairy Australia levy goes towards funding industry education and associated courses.

Ask Dairy Australia to work out how much your farm business is paying towards Education. If the amount falls short of 2% of your gross payroll, then you can pay the difference to Dairy Australia and receive a credit for a course for yourself or your workers.

There is no 'Other' training benchmark for the dairy industry. Leave this box blank.

For more information, you can download:

DA's training benchmark fact sheet at www.thepeopleindairy.org.au/LiteratureRetrieve.aspx?ID=154119

Commonwealth law fact sheet at www.thepeopleindairy.org.au/LiteratureRetrieve.aspx?ID=154118

Please contact DA at info@thepeopleindairy.org.au

ENGLISH LANGUAGE

The overseas worker must be able to speak good English.

There are specific requirements which the overseas worker must meet.

Alternatively, they are able to sit a test.

Question 37

You must be able to tick the 'yes' box.

There is no opportunity in the Dairy Industry Labour Agreement to seek a concession to English language requirements. For further information, visit

www.border.gov.au/about/corporate/information/faqs/how-can-i-prove-i-have-functional-english

PAY AND CONDITIONS

The ANZSCO code and Occupation description are '**Senior Dairy Cattle Farm Worker**' and code **070499**.

Dairy Australia and the Department of Immigration and Border Protection have agreed that the overseas worker must be paid at least the Temporary Skilled Migration Threshold (TSMIT) which is currently \$53,900.00 or the going market rate whichever is the *greater* for up to an average of 180 hours over a consecutive 4 week period (average 45 hour week).

Any additional hours must be paid, in addition to the TSMIT, as overtime in accordance with the Pastoral Award 2010.

The minimum rate of pay for these additional hours should be calculated at least mid-way between the FLH5 and FLH7 classification.

The terms and conditions which apply to overseas workers under the Labour Agreement must be no less favourable than the terms and conditions which apply to Australian workers.

Visit the [pay rates section](http://www.thepeopleindairy.org.au/payrates) at www.thepeopleindairy.org.au/payrates for further information about how to pay employees. If you wish to pay a flat rate of pay for all hours worked, you will need to enter into an Individual Flexibility Agreement (IFA) with the overseas worker to formalise this. Read about IFAs at <http://www.thepeopleindairy.org.au/eski/ifa.htm>

TIP: The TSMIT is increased periodically - employers are advised to check with the Department of Immigration and Border Protection to confirm the correct amount at labour.agreement.section@border.gov.au

Accommodation

The cost of accommodation provided on farm can be deducted from the amount paid to the overseas worker so long as this is in accordance with a written agreement with the worker.

Download an example [Authority to Deduct template](http://www.thepeopleindairy.org.au/LiteratureRetrieve.aspx?ID=119375) you can use to develop your own at www.thepeopleindairy.org.au/LiteratureRetrieve.aspx?ID=119375

QUALIFICATIONS AND EXPERIENCE

Question 44

The 'Occupation description' is '**Senior Dairy Cattle Farm Worker**'.

The 'ANZSCO code' is **code 070499**.

Dairy Australia and the Department of Immigration and Border Protection have agreed that the overseas worker must have at least a Certificate III (or equivalent) and 3 years of recent and relevant experience **or** 5 years recent and relevant experience if they do not have the formal qualification.

The pro forma only asks about workers with AQF Cert III and 3 years' experience.

If you have a potential worker who does not have the formal qualification but has 5 years recent and relevant experience you should tick the "Other" box.

You **DO NOT** have to attach a "Business Case" as the Dairy Industry labour Agreement provides for workers without the formal Cert III qualification to have 5 years recent and relevant experience,

NOTE: You cannot use the Dairy Industry Labour Agreement template for an overseas worker with less qualifications than this.

STAKEHOLDER CONSULTATION

Question 45

The Department of Immigration and Border Protection typically requires applicants to consult with stakeholders such as the industry body (in this case, Dairy Australia), the relevant union (in this case, the Australian Workers Union, or AWU), local government and other local service providers

You do not need to 'consult' with Dairy Australia as the industry body, as Dairy Australia has sent the Department a cover letter of support for labour agreements on behalf of all 6100 dairy farmers nationwide.

The Department of Immigration and Border Protection has also agreed that DA will consult with the AWU on behalf of all dairy farmers every six months, so you do not have to contact the union when preparing your application.

The Department of Immigration and Border Protection has advised Dairy Australia that you only need to consult with local councils and service providers such as health and education if the overseas workers will have a 'significant impact' on the services these bodies provide.

One or two overseas workers would not be regarded as having a 'significant impact' on any of these services in any of the dairy regions. If you are required to consult the local council and local service providers, use the template stakeholder letter in the pro-forma application.

TEMPLATE – LETTER OF OFFER

Once you have provided the Business case Pro Forma, the Department will require you to provide a letter of offer. DA has agreed with the Department on the format of this letter and a template has been prepared for you to use which is available at www.thepeopleindairy.org.au/LiteratureRetrieve.aspx?ID=148930

The letter is part of the application process and is required BEFORE you actually nominate the overseas worker, so you can leave the name and address blank at this stage.