



Agriculture Workers' Code for cross state border movement

National Cabinet Commitment Statement

1. The principles and application of the Agricultural Workers' Code have been accepted and agreed by the National Cabinet. Acknowledging the continuing operation of the agriculture industry is of critical national importance, and that risk-based protections for human health from COVID-19 are necessary to facilitate this continuity, states and territories will work to implement this Code regarding cross-border movement of agriculture workers.

Context

2. The importance of Australia's agriculture industry has been highlighted through the COVID-19 pandemic, providing food security and contributing to the national economy when other industries are experiencing greater impacts. The agriculture industry and supply chains must continue to function, with safety measures as appropriate, while jurisdictions have border restrictions in place to minimise the spread of COVID-19.
3. Protecting the community and the agriculture sector from COVID-19 is paramount. It is also important that any restrictions put in place should take account of jurisdictions' ability to prepare for and respond to biosecurity threats and natural disasters. Systems that allow early detection and response are key to limiting pest and disease outbreaks and their impact, including on our overseas trading relationships.
4. The agriculture industry operates across Australia, irrespective of state and territory borders as well as within and outside border zones. Many farm businesses and supply chains depend on services operating across jurisdictional borders. Agricultural work is often low density and outdoors, where the risk of disease transmission is lower. However, in some workplaces such as meat and food processing establishments, the risk-profile is higher. Changed border arrangements applied by jurisdictions for health reasons can create adverse implications for the sector, including productivity and animal welfare issues. It is also recognised that agriculture often operates in areas that are very different to major urban centres where populations and activities are more concentrated.
5. Restrictions on primary industries and agriculture workforces also have social, financial and mental wellbeing impacts on border and other regional communities.

The Code

6. On 21 August 2020, National Cabinet agreed further work be undertaken by Agriculture Ministers on the development of an Agriculture Workers Code. The Code will support continuity of the agriculture industry, services and supply chains.
7. The Code defines who is covered so where permits and exemptions are in place, they will apply to maximise industry continuity and allow for movement across borders subject to requirements specified in the Code. This will minimise uncertainty caused by changes to border restrictions and parameters for the industry and associated services, and will assist in the provision and verification of information and requirements at restricted borders. So decisions on exemptions and permits are understood and provide administrative fairness, states and territories should provide clear expectations of the applicant on their relevant websites. The Code requires states and territories to provide a right of explanation and review where applications are rejected.
8. This Code will take into account work on defining “hot spots” being undertaken by the Australian Government Acting Chief Medical Officer as commissioned by the National Cabinet.
9. Nothing in the Code shall restrict jurisdictions from adopting measures that further facilitate the free movement of agricultural workers between jurisdictions.

The Code takes a principles-based approach

10. The Agriculture Workers’ Code (the Code) supports a principles-based approach to national consistency in cross-border movement of agriculture workers while at the same time taking a risk-based approach to health and safety of the workforce and broader community.
11. The enforcement of the measures in this Code will be through relevant Public Health Orders or Emergency Management Directions or other mechanisms of each State and Territory. The measures deliver greater consistency between states and territories in their implementation of border controls where these are in place.

The Principles

12. This Principles of this Code are:
 - The agriculture industry, ancillary services and activities will not be unnecessarily impeded by border arrangements for the movement of workers.
 - Public health and safety practices will be applied in the agriculture industry, services and activities as appropriate to minimise the risk of COVID-19 transmission and support responsiveness where transmission occurs. COVID related risks outside of workplaces also require attention and jurisdictions also implement more broadly applicable measures in communities such as social distancing and restrictions on large gatherings. Where public health roles and responsibilities of Chief Health Officers require changes to address COVID-19 risks, these changes will take precedence.
 - Measures introduced across and within borders will provide adequate scope for consultation, with affected agricultural industries and border jurisdictions prior to implementation.
 - Movement across borders under this Code will provide for animal health and welfare and biosecurity to be maintained.

- Changes under this Code will be workable and coordinated in implementation, by clear and tailored communication, enforcement activities (by relevant states and territories through Public Health Orders and Emergency Management Directions or other mechanisms of each state and territory), and including through the review mechanism.

Application of the Code

13. This Code applies to occupations critical to ensure continuity of the agriculture industry; it covers workers, farm businesses, agricultural services and activities, as well as animal welfare support services. The Appendix to the Code specifies the coverage of this Code, including to seasonal workers.
14. Ongoing regular communication between agriculture, health and policing agencies in each state and territory, as well as communication and consultation with industry, is critical to ensure the Code is implemented through approaches which are consistent with the principles of this Code.

Enforceable measures in relation to border crossings

15. Measures will be enforceable in each state and territory that implements border controls.
16. At the border, workers covered by the Code will need to **produce to border officials:**
- a valid border permit or equivalent approval
 - evidence of identity and confirmed place of primary residence
 - evidence of application of this Code, for example, a letter of employment, business contract, evidence of property ownership or lease, evidence of agistment arrangements, and
 - a COVIDSafe Workplace Health Management Plan (for a business).
17. When they are travelling, working or off duty, workers covered by this Code are **required to carry:**
- COVID-19 related Personal Protective Equipment (PPE) (when social/physical distancing is not possible, where directed by a state or territory government, a Department of Health or Safe Work Australia, and/or when indicated by COVIDSafe workplans), including
 - an appropriate face mask
 - hand sanitiser
 - gloves.
18. They are also required to **keep and retain records of movements and contacts:**
- records should include where they are travelling, with whom they have been in contact (including when not working), details of accommodation, and onward and return travel.
19. Workers covered by this Code are required to **adhere to appropriate health and safety at all times,** including:
- ensuring they are familiar and comply with a COVIDSafe workplan (or equivalent)
 - effective self-isolation when working (where practicable), during breaks including for accommodation purposes, and when not working
 - while travelling or in transit, workers arriving from an area of concern should remain isolated to the extent reasonably practicable from the general public
 - not working while symptomatic until a negative COVID-19 test result has been received—workers should not return to work until after symptoms have ceased

- immediate notification to jurisdictional authorities if a positive COVID-19 test has been received, and immediate self-isolation until symptoms and a subsequent negative COVID-19 test has been returned. Workers must not return to work until cleared by the relevant public health authority.

20. Upon request from an authorised officer, workers covered by this Code where relevant, will be expected to show evidence of complying with the enforceable measures. Agriculture workers could also be encouraged to download the COVIDSAFE App.

Enforcement regime

21. Enforcement of the measures in this Code will be through relevant Public Health Orders or Emergency Management Directions or other mechanisms of each State and Territory. The enforceable measures will be implemented in each state and territory where border controls are implemented, and compliance will be monitored in accordance with the relevant state or territory compliance regime to ensure ongoing industry and community confidence in arrangements for agriculture workers under the Code.

22. Penalties for breaching the enforceable measures in this Code will be covered as breaches of the relevant state and territories' Public Health Order and/or Emergency Management Directions or other mechanisms of each State and Territory, for border crossings.

Right of explanation and review

23. Where a worker covered by this Code seeks to cross a border and is refused entry into a state or territory, either at the border by a border official or through applying for a permit/pass, the refusal decision will be subject to further explanatory information being provided in that jurisdiction.

24. State and territories will facilitate an appropriate process, where a state or territory agriculture agency will provide reasons why a refusal has been made. If on receipt of the information, the worker considers a permit or exemption should have been granted, the relevant state or territory will provide an avenue for further review, either by or with input from, a state or territory agriculture agency. This process should be timely and transparent.

Implementation approach

For testing (voluntary or mandatory)

25. The inclusion of mandatory or voluntary testing will be a decision of each state or territory implementing border controls.

26. If testing is mandatory in the jurisdiction where entry is being sought, it is the responsibility of that jurisdiction to facilitate it. The agricultural worker should be allowed to access a test in another jurisdiction instead of showing evidence from previous 7 days, if coming from a jurisdiction where asymptomatic testing is not routinely performed. The worker is required to locate a suitable testing facility and have the test performed within that jurisdiction's mandated timeframe.

27. Information about the location of testing facilities can be found on the relevant jurisdiction's government COVID-19 website.

Testing evidence

28. For all tests, the testing facility will provide evidence of the test being taken for the worker to be able to demonstrate compliance. This may be a form for the worker to carry or a photograph of the form taken by the worker. This will be recognised by authorised officers at border crossings in all states and territories.
29. If a worker receives a positive test, their health care and treatment will be managed in accordance with clinical guidelines, and the workplace response will be managed in accordance with current state and territory practices as outlined in their COVIDSafe workplan (or equivalent) and the relevant Public Health Orders or Emergency Management Directions, which may include the option for the worker to return to their home state to self-isolate where agreed by both health authorities.
30. Workers who receive a positive test are required to notify their employer or workplace and follow their COVIDSafe workplan (or equivalent). Workers are also required to notify the public health authority of the state or territory they are currently in if it is not the state or territory where the test was performed.

COVIDSafe workplans (or equivalent) and PPE

31. States and territories will continue to make publicly available the requirements around social/physical distancing and the use of COVIDSafe workplans and PPE, including through their Public Health Orders and Emergency Management Directions.
32. States and territories will work towards mutually recognising COVIDSafe workplans (or equivalent) if already agreed by one state or territory. This could be facilitated through the relevant permit process.
33. States and territories and industry will ensure regular training is available on the development of COVIDSafe workplans and the use of PPE.

Accommodation

34. Where businesses engage workers covered by the scope of this Code, and accommodation is provided for those workers, the COVIDSafe Workplace Management Plan (or equivalent) for those businesses should include arrangements to manage the risk of COVID-19 within accommodation facilities. Where possible, accommodation should be single room with sufficient bathroom facilities or provide for sufficient space for self-isolation, avoid over-crowding and should be clean, to mitigate the risk of COVID-19 transmission.

Compliance checks

35. Random and/or targeted checks by authorised officers will occur to ensure compliance with the enforceable measures in this Code. Penalties for non-compliance with the enforceable measures will be in accordance with the relevant Public Health Orders or Emergency Management Directions. States and territories will coordinate their efforts and share information and data where permitted under law and take appropriate action as required.

Changes to requirements and information for industry

36. In implementing changes to requirements that differ from the Code, states and territories should consult with other governments. This could include agriculture and health agencies, through formal channels, and industry, which would help them to understand the effect and impacts of potential

changes ahead of any new directions being put in place. This will ensure industry can implement any new requirements quickly and achieve strong compliance.

Variations

37. Variations to this Code, that are consistent with the Principles of this Code, can be made by written agreement of the Commonwealth and implementing states and territories.

Commencement date

38. Implementation of enforceable measures will commence within fifteen business days of National Cabinet agreeing the Code or, if states and territories agree to the Code in principle (who is covered, enforceable measures and the review mechanism) but need time to give effect to changes, timing for this agreement will be specified in the commencement schedule to this Code.

Appendix—Coverage of the Agriculture Workers' Code

39. This Code covers all seasonal workers including temporary visa holders.

40. This Code also covers workers undertaking the following activities:

- **Forestry activity**
- **Farming activities** and other operations relating to agriculture including, horticulture, viticulture, irrigation, permaculture, apiculture - including the movement of bee hives, grains, fibre production, dairy, flower industry, commercial fishing, aquaculture, livestock and forestry. This also includes farm equipment, tools and their maintenance.
- **Intensive agricultural production including;** greenhouses and animal production
- **Food and fibre manufacturing:** manufacturing of beverages, baked goods, dairy goods, canned or frozen goods, other packaged products, blankets, clothing, building materials, packaging
- **Food and fibre processing:** abattoirs, seafood, dairies, timber mills, sugar mills, cotton gins
- **Agricultural, veterinary chemicals and vaccine production, transportation and distribution**
- **Businesses that support agriculture and farming including** but not limited to; on-farm consultants, livestock agents, agronomists, shearing contractors, trades services and contracting businesses
- **Laboratory and diagnostic services**
- **Animal saleyards, knackeries and animal transportation services** (including livestock and pets)
- **Animal feed production, transportation, packaging, sale, and feeding** (including livestock and pets)
- **Veterinary clinics and related services** including; on-farm visits, animal care services (only where it there is a genuine animal welfare issue) and artificial insemination
- **Teaching** and scientific facilities which require the keeping or use of animals
- **Any business or undertaking that is involved in providing support services** to agriculture, forestry and fishing activities under this Code, such as food safety and verification, inspection or associated laboratory services; market access, biosecurity and animal welfare, national disaster response recovery and relief functions
- **Water supply, water managers and water transport** supporting agricultural production
- **Export supply chain operators**
- **Food and beverage production manufacturing** including associated services and goods necessary for the packaging of these products

41. Provides scope for agricultural activities not separately specified above to be considered and approved where they would clearly support the direct delivery or performance of an agricultural or primary industry activity.

Commencement Schedule

42. This Code commences within fifteen business days of National Cabinet agreement unless arrangements for a state or territory are specified separately.