

**Memorandum of Understanding between the  
Government of Australia and the Government of Nauru  
In support of the granting of visas to citizens of Nauru for the Pacific  
Microstates – Northern Australia Worker Pilot Program**

The Government of Australia (Australia) and the Government of Nauru (Nauru), hereinafter referred to as the Participants have reached the following understandings:

**1. RELEVANT AGENCIES**

1.1 This Memorandum of Understanding (MoU) will engage the following agencies:

For Australia:

- The Department of Foreign Affairs and Trade (DFAT Australia), as the lead agency for ensuring the success of this MoU
- The Department of Immigration and Border Protection (DIBP), for the administration of the *Migration Act 1958* and associated legislation, including but not limited to the *Migration Regulations 1994*
- The Department of Employment (DoE), for the administration of the *Fair Work Act 2009* and associated legislation

For Nauru:

- The Department of Foreign Affairs and Trade (DFAT Nauru), as the lead agency for ensuring the success of this MoU.

**2. DEFINITIONS**

2.1 For the purposes of this MoU, the following definitions will apply:

“Nauru worker” means a Nauru citizen, who is not an Australian resident or national, who undertakes an activity and / or work in Australia under the provisions of this MoU.

“Implementation Arrangements” means the subsidiary documents governing participation in the Pacific Microstates – Northern Australia Worker Pilot Program.

“Lower-skilled occupation” means any occupation that does not require a person to hold a bachelor degree or higher qualification, or its equivalent, in order to perform that occupation in Australia.

“Microstates Worker Pilot” and “Pilot” directly refers to the Pacific Microstates – Northern Australia Worker Pilot Program.

“Nominee” is a Nauruan citizen who is applying to be a Nauru Worker under this MOU.

“Northern Australia” includes the Northern Territory and the parts of Western Australia and Queensland above the Tropic of Capricorn.



### 3. PURPOSE AND OBJECTIVE

- 3.1 The purpose of this MoU is to set out the arrangements to facilitate the temporary entry of Nauru citizens to Australia to undertake work in lower-skilled occupations in Northern Australia and / or undertake study or training in Australia in order for them to undertake that work.
- 3.2 The objective of the Microstates Worker Pilot is to contribute to economic development in Nauru by providing opportunities for Nauru citizens to gain knowledge, work experience and skills in Australia, earn wages for performing work in Australia and remit some earnings to Nauru. Australian employers who have been able to demonstrate they cannot source suitable Australian labour will also benefit from being able to access a reliable labour source.

### 4. PRINCIPLES

- 4.1 Implementation of this MoU will be consistent with the following operational principles:
- a) Equity of access and opportunity for Nauru workers
  - b) Transparency of process and decision-making
  - c) Accountability
  - d) Demand-driven employment by participating employers
  - e) Maximisation of development benefits
  - f) Mutual commitment to investing maximum effort to mitigate risks to the Participants and Nauru workers.
- 4.2 Nothing in this MoU will require either Participant to amend its domestic law with respect to matters covered in this MoU.
- 4.3 This MoU will operate without prejudice to any rights or obligations of the Participants arising from international treaties or agreements to which they are party.

### 5. MUTUAL ACCOUNTABILITIES

- 5.1 Australia will work to achieve the objective of the Microstates Worker Pilot and will successfully demonstrate the value of the Pilot by:
- a) Boosting the development of Nauru through Australia facilitating new employment opportunities, increased remittances, and the transfer of skills and knowledge to Nauru workers
  - b) Creating effective partnerships between Australia and Nauru, including by assisting Nauru to implement this MoU
  - c) Avoiding unethical recruitment practices
  - d) Maintaining the integrity of Australia's immigration programme by providing training on visa processes to Government of Nauru counterparts, taking steps to prevent visa application fraud and minimise the prospect of any Nauru worker remaining unlawfully in Australia once their visa has expired
  - e) Avoiding exploitation of Nauru workers.
- 5.2 Nauru will work to achieve the objective of the Microstates Worker Pilot and will successfully demonstrate the value of the Pilot by:
- a) Working with the responsible units within the DFAT Nauru to recruit and mobilise workers under the Microstates Worker Pilot.





- b) Ensuring appropriate pre-departure training, ongoing monitoring and reintegration briefings are provided to Nauru workers to support more effective participation in and outcomes from the Microstates Worker Pilot.
- c) Increasing access to opportunities under the Microstates Worker Pilot through appropriate support mechanisms.
- d) Undertaking equitable and transparent recruitment processes.

## 6. CONSIDERATION OF NOMINEES

- 6.1 DFAT Australia will consider requests from citizens of Nauru (Nominees) who have secured an offer of employment from an Australian employer for a period of up to three years to work in lower-skilled occupations in Northern Australia, subject to the provisions of this MoU.
- 6.2 Consideration of Nominees as specified in Paragraph 6.1 of this MoU will occur through Nauru Post prior to the Nominees submitting to DIBP an application for a Subclass 403 Temporary Work (International Relations) visa or its equivalent. DIBP will assess each visa application, in accordance with the *Migration Act 1958* and the Migration Regulations 1994.
- 6.3 DFAT Nauru will assist in matching employment opportunities with potential nominees.

## 7. ELIGIBILITY CRITERIA

- 7.1 There will be a limited number of visas that will be granted under this MoU to citizens of Nauru.
- 7.2 Requests will be made by formal nomination of the DFAT Nauru by a letter of support to the Australian High Commission in Nauru, confirming in writing that:
  - (a) the Nominee intends to work and reside in Northern Australia
  - (b) the Nominee is over the age of twenty one
  - (c) the nominee will maintain valid travel documents and, subject to grant, hold an appropriate Australian visa that is in effect, when he/she is in Australia
  - (d) the Nominee has received an offer of employment, which may be subject to the Nominee undertaking and completing specific study or training in Australia before commencing that employment, where required by the employer.
  - (e) the Nominee consents to DFAT Australia disclosing information within Australian Government departments if DFAT Australia becomes aware of any information or change in circumstances which may affect the Nominee's eligibility for a Subclass 403 Temporary Work (International Relations) visa or its equivalent.
- 7.3 The letter of support should attach relevant supporting documentation including the letter of offer from the employer, proof of health insurance and, where applicable, health and character checks.
- 7.4 A request will not be considered by DFAT Australia until all eligibility criteria specified in paragraph 7.2 of this MoU have been satisfied. If any of the provisions of 7.2 of this MoU are not satisfied, this will constitute grounds for DFAT Australia to refuse the request.
- 7.5 If DFAT Australia has no objection to a request, DFAT Australia will advise DFAT Nauru accordingly and provide a letter of support. An application for a Subclass 403 (Temporary Work (International Relations) visa or its equivalent should then be submitted to the

relevant visa processing office in Suva for processing by DIBP. Applications will be made on private passports and a Visa Application Charge may apply.

- 7.6 Visas issued pursuant to this MoU will have conditions attached to them and the Nominee will be subject to these conditions. The Participants to this MoU acknowledge that visa holders must comply with all visa conditions and that failure to do so may result in the visa being cancelled by DIBP.
- 7.7 In the case of Nominees who are already in Australia when this MoU comes into effect, the provisions set out in 7.6 of this MoU remain applicable.
- 7.8 In addition to the provisions set out in this MoU, all Nominees are subject to requirements set out in Australia's *Migration Act 1958* (Cth) and *Migration Regulations 1994* (Cth) before they can be granted a Subclass 403 Temporary Work (International Relations) visa or its equivalent. DIBP will consider applications for a Subclass 403 Temporary Work (International Relations) visa, or its equivalent, against the criteria in that legislation. A Subclass 403 Temporary Work (International Relations) visa, or its equivalent, can only be granted in circumstances where all criteria for the grant of the visa are satisfied. Subject to the *Migration Act 1958* (Cth) and the *Migration Regulations 1994* (Cth), DIBP will grant a multiple-entry visa valid for two years.
- 7.9 Nominees may apply for an additional Subclass 403 Temporary Work (International Relations) visa, or its equivalent, for a period of stay of up to one year if they were employed in Northern Australia for the initial two-year period. This will require Nominees to submit a new visa application and meet applicable visa eligibility criteria, including those relating to health and character.
- 7.10 If a Nominee is granted a Subclass 403 Temporary Work (International Relations) visa, (or its equivalent), the Nominee will continue to satisfy all of the provisions set out in paragraph 7.2 while he or she is the holder of that visa and that failure to do so may result in the visa being cancelled.

#### 8. IMPLEMENTATION ARRANGEMENTS FOR PARTICIPATION IN THE PACIFIC MICROSTATES-NORTHERN AUSTRALIA WORKER PILOT PROGRAM

- 8.1 Australia intends that, as far as possible, the Implementation Arrangements will be common to all participating countries in the Pacific Microstates - Northern Australia Worker Pilot Program. The Implementation Arrangements, as amended from time to time, will be published on the Pacific Microstates - Northern Australia Worker Pilot Program website.
- 8.2 The Implementation Arrangements will assist Australian employers who are approved under the Pacific Microstates - Northern Australia Worker Pilot Program to recruit from Nauru and enable Nauru Workers to access opportunities available to them under the Pacific Microstates - Northern Australia Worker Pilot Program. In particular, recruitment arrangements will ensure that Nauru Workers are provided with adequate information prior to departure and after arrival in Australia (including regarding the role and function of unions); are not subject to recruitment agency fees; clearly understand what application, health/character checking, passport and visa issue costs they are liable to pay in advance of their arrival; provided with pastoral support in Australia; and receive assistance to obtain their full employee entitlements while in Australia and on departure.
- 8.3 The Implementation Arrangements will allocate actions to the Participants for mitigating risks, for ensuring observance of Pacific Microstates - Northern Australia Worker Pilot





Program principles, objectives and policies, and for cooperation between the Participants on information sharing, marketing and other facets important to the success of the Pacific Microstates - Northern Australia Worker Pilot Program.

#### 9. COMMENCEMENT, DURATION AND CESSATION

- 9.1 This MoU will come into effect when the last Participant has signed the MoU.
- 9.2 DFAT Australia and DFAT Nauru will oversee implementation of this MOU.
- 9.3 Either Participant wishing to terminate this MoU will give ninety days' notice to the other Participant of its intention to terminate the MoU. The notice will be in writing. No reason for termination need be given.
- 9.4 The termination of this MOU will not affect Subclass 403 (Temporary Work (International Relations)) visas held by the nominees.

#### 10. DISPUTE SETTLEMENT

- 10.1 Any disputes arising from the application or interpretation of this MoU will be settled amicably by bilateral consultations and/or negotiations by the Participants.
- 10.2 The MoU can be amended in writing at any time by mutual consent of the Participants.
- 10.3 The foregoing represents understandings by DFAT Australia and DFAT Nauru and does not create legally binding rights or obligations.



5 | Page

Signed in duplicate in Nauru on the 24 of April in the year 2017.

ON BEHALF OF THE GOVERNMENT OF AUSTRALIA



Senator the Honourable Concetta Fierravanti-Wells

Minister for International Development and the Pacific

ON BEHALF OF THE GOVERNMENT OF NAURU



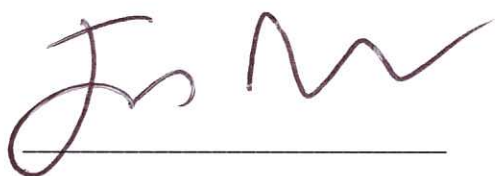
His Excellency the Honourable Baron Waqa MP

President of the Republic of Nauru

IN THE PRESENCE OF

JOHN DONNELLY

Name of witness (print)

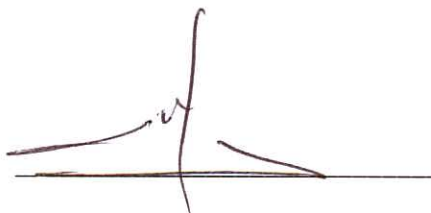


Signature

IN THE PRESENCE OF

MICHAEL AROH

Name of witness (print)



Signature