



Victoria Government Gazette

No. S 385 Wednesday 14 December 2016
By Authority of Victorian Government Printer

Back to Work Act 2015

NOTICE OF ELIGIBILITY CRITERIA FOR PAYMENTS UNDER THE BACK TO WORK SCHEME

I, Tim Pallas, Treasurer, pursuant to section 5 of the **Back to Work Act 2015** determine that the following criteria shall govern the eligibility for payments under the Back to Work Scheme.

The notices dated 1 July 2016 and gazetted on 28 July 2016 are revoked from the date this notice is gazetted. Furthermore the notice dated 25 October 2016 and gazetted on 3 November 2016 governing the eligibility for payments under the Back to Work Scheme is revoked from the date this notice is gazetted.

Dated 12 December 2016

TIM PALLAS MP
Treasurer

Back to Work Act 2015

NOTICE OF ELIGIBILITY CRITERIA

A media release by the Government on 8 July 2016 announced that the initial \$100 million allocation under the Scheme (referred to in this Notice as Phase 1) was fully subscribed and that the Scheme would close on 18 July 2016 for all employee categories except for retrenched automotive industry workers and dairy industry workers.

Up to an additional \$10 million has been allocated exclusively for employers of retrenched automotive workers and up to \$5 million has been allocated exclusively for employers of dairy industry workers under the Scheme (referred to in this Notice as Phase 2).

Up to an additional \$1 million has been allocated exclusively for employers of unemployed persons living in the Latrobe Valley and retrenched workers from the Hazelwood power station (referred to in this Notice as Phase 3).

Eligibility criteria

1. The employer must be an eligible employer.
2. The employee must be an eligible employee.
3. The job must be an eligible job.
4. The amount of the payment will be the specified amount, subject to criteria 5.
5. A claim for a payment under the Back to Work Scheme must be made within the specified time.

Eligibility Criteria 1 – Eligible Employers

An eligible employer is any employer other than:

- (i) an employer with a poor workplace safety record; or
- (ii) the Crown in any of its capacities; or
- (iii) a municipal council; or
- (iv) a public, local or municipal body or authority constituted under a law of the Commonwealth or of a State or Territory; or
- (v) other government and foreign government representatives and international agencies as specified in Division 7 and 8 of Part 4 of the **Payroll Tax Act 2007**; or
- (vi) a recent employer of the eligible employee, where the employer is making a claim for a:
 - Phase 1 eligible employee (as defined in eligibility criteria 2 below) who commenced employment with the eligible employer from 1 November 2015; and/or
 - Phase 2 eligible employee (as defined in eligibility criteria 2 below); and/or
 - Phase 3 eligible employee (as defined in eligibility criteria 2 below).

SPECIAL

Eligibility Criteria 2 – Eligible Employees

A ‘Phase 1 eligible employee’ is:

1. A person who:
 - is a young unemployed person, or
 - is a long-term unemployed person, or
 - is a retrenched worker; and
 - commenced employment with the eligible employer from 1 April 2015 to 18 April 2016 (inclusive).
2. A person who is an out of trade apprentice and commenced employment with the eligible employer from 1 April 2015 to 18 July 2016 (inclusive).
3. A person who is unemployed and
 - is a refugee; or identifies as being Aboriginal and/or Torres Strait Islander; or
 - is a disability pensioner; or
 - is a sole parent pensioner; or
 - is a member of a drought-affected farm household; or
 - is a social housing tenant; or
 - is in or exiting out of home care; or
 - is a current or recent youth justice client; or
 - is a current or recent criminal justice client; or
 - becomes an apprentice/trainee; and
 - commenced employment with the eligible employer from 1 November 2015 to 18 July 2016 (inclusive).
4. A person who is a retrenched automotive worker or a dairy industry worker and commenced employment with the eligible employer from 1 November 2015 to 30 June 2016 (inclusive).

A ‘Phase 2 eligible employee’ is a person who is a retrenched automotive worker or a dairy industry worker and commenced employment with the eligible employer from 1 July 2016 to 30 June 2018 (inclusive).

A ‘Phase 3 eligible employee’ is a person who is unemployed and living in the Latrobe Valley or a retrenched worker from the Hazelwood power station and commenced employment with the eligible employer from 1 January 2017 to 30 June 2017 (inclusive).

Eligibility Criteria 3 – Eligible Job

An eligible job is a job offered by an eligible employer:

- that is a Victorian job;
- that is a full-time or part-time ongoing job, but not a casual job; and
- where the wage or salary does not exceed the specified salary limit.

Eligibility Criteria 4 – Payment Amounts

An eligible employer that employs an eligible employee is entitled to the following assistance, subject to the exhaustion of the relevant funding allocation, and to eligibility criteria 5 below.

Phase 1 Payments

The total amount available over the life of Phase 1 of the Scheme is up to \$100 million, not including any additional amounts allocated by the Treasurer as being available for payments under Phase 1.

1. Payment for employing a Phase 1 eligible employee

The following total payment amounts apply for Phase 1 eligible employees who commence eligible employment on or before 31 October 2015:

- long-term unemployed person in a full-time job – **\$2,000**
- long-term unemployed person in a part-time job – **\$1,500**
- young unemployed person, or retrenched worker in a full-time job – **\$1,000**
- young unemployed person, or retrenched worker in a part-time job – **\$750**.

The following total payment amounts apply for Phase 1 eligible employees who commence eligible employment between 1 November 2015 and 18 July 2016 (inclusive):

- long-term unemployed person in a full-time job – **\$12,000**
- long-term unemployed person in a part-time job – **\$9,000**
- all other eligible employees in a full-time job – **\$5,000**
- all other eligible employees in a part-time job – **\$3,750**.

The following total payment amounts apply for Phase 1 eligible employees who commence eligible employment between 1 November 2015 and 30 June 2016 (inclusive):

- retrenched automotive worker in a full-time job – **\$7,000**
- retrenched automotive worker in a part-time job – **\$5,250**
- dairy industry worker in a full-time job – **\$5,000**
- dairy industry worker in a part-time job – **\$3,750**.

2. Reimbursement for accredited training

An eligible employer that employs a Phase 1 eligible employee and incurs costs in providing that employee with accredited training will be reimbursed for the employer's expenditure up to the following amounts (in addition to the relevant amount for hiring the eligible employee), subject to the exhaustion of relevant funding allocation, and to eligibility criteria 5 below:

- For providing accredited training to an eligible employee in a full-time position – up to **\$4,000**
- For providing accredited training to an eligible employee in a part-time position – up to **\$3,000**

Accredited training means courses at Certificate I level and above provided by a registered training provider that has a current contract to deliver training under the Victorian Training Guarantee.

Phase 2 Payments

Up to \$15 million has been allocated for Phase 2 of the Scheme, which includes \$10 million exclusively for employers of retrenched automotive workers and \$5 million exclusively for employers of dairy industry workers.

1. Payment for employing a Phase 2 eligible employee

The following total payment amounts apply for Phase 2 eligible employees who commence eligible employment between 1 July 2016 and 30 June 2018 (inclusive):

- retrenched automotive worker in a full-time job – **\$7,000**
- retrenched automotive worker in a part-time job – **\$5,250**
- dairy industry worker in a full-time job – **\$5,000**
- dairy industry worker in a part-time job – **\$3,750**.

2. Reimbursement for accredited training

An eligible employer that employs a Phase 2 eligible employee and incurs costs in providing that employee with accredited training will be reimbursed for the employer's expenditure up to the following amounts (in addition to the relevant amount for hiring the eligible employee), subject to the exhaustion of relevant funding allocation, and to eligibility criteria 5 below:

- For providing accredited training to an eligible employee in a full-time position – up to **\$4,000**
- For providing accredited training to an eligible employee in a part-time position – up to **\$3,000**

Accredited training means courses at Certificate I level and above provided by a registered training provider that has a current contract to deliver training under the Victorian Training Guarantee.

Phase 3 Payments

Up to \$1 million has been allocated for Phase 3 of the Scheme, exclusively for employers of an unemployed person living in the Latrobe Valley or a retrenched worker from the Hazelwood power station.

1. Payment for employing a Phase 3 eligible employee

The following total payment amounts apply for Phase 3 eligible employees who commence eligible employment between 1 January 2017 and 30 June 2017 (inclusive):

- unemployed person living in Latrobe Valley in a full-time job – **\$5,000**
- unemployed person living in Latrobe Valley in a part-time job – **\$3,750**
- retrenched worker from the Hazelwood power station in a full time job – **\$5,000**
- retrenched worker from the Hazelwood power station in a part-time job – **\$3,750**

2. Reimbursement for accredited training

An eligible employer that employs a Phase 3 eligible employee and incurs costs in providing that employee with accredited training will be reimbursed for the employer's expenditure up to the following amounts (in addition to the relevant amount for hiring the eligible employee), subject to the exhaustion of relevant funding allocation, and to eligibility criteria 5 below:

- For providing accredited training to an eligible employee in a full-time position – up to **\$4,000**
- For providing accredited training to an eligible employee in a part-time position – up to **\$3,000**

Accredited training means courses at Certificate I level and above provided by a registered training provider that has a current contract to deliver training under the Victorian Training Guarantee.

Eligibility Criteria 5 – Making a claim**The Phase 1 funding allocation was exhausted on 18 July 2016.****1. Claims for employing an eligible employee**

Claims from eligible employers for a payment for employing an eligible employee may be lodged with the State Revenue Office on or after the day the eligible employee commences employment, other than claims for a young unemployed person, long term unemployed person and retrenched workers (not including an out of trade apprentice) in respect of which claims may be lodged **three (3) months** from the day on which the eligible employee commences employment.

Claims from eligible employers for a first instalment payment for employing an eligible employee must be lodged within **nine (9) months** after the day on which the eligible employee commences employment, or by the exhaustion of relevant funding allocation, whichever occurs sooner.

Where a claim is approved:

- For a Phase 1 eligible employee who commenced eligible employment on or before 31 October 2015, the total applicable payment will be made after the approval.
- For a Phase 1 eligible employee who commenced eligible employment from 1 November 2015, half of the total applicable payment will be made after the approval (first instalment).
- For a Phase 2 eligible employee who commenced eligible employment from 1 July 2016 half of the total applicable payment will be made after the approval (first instalment).
- For a Phase 3 eligible employee who commenced eligible employment from 1 January 2017 half of the total applicable payment will be made after the approval (first instalment).

Eligibility for a Phase 1, Phase 2 or Phase 3 eligible employer to receive the remainder (second instalment) arises nine (9) months following the lodgement of the first claim subject to the following conditions;

1. Payment of the second instalment is conditional on the lodgement and approval of an eligible second instalment claim, and
2. Payment of the second instalment is conditional on the eligible employee having continuously worked for the eligible employer in an eligible job during the nine (9) month period since lodgement of the first instalment claim.

Claims from eligible employers for a payment of the second instalment in relation to a Phase 1 eligible employee who commenced employment from 1 November 2015 must be lodged at or before 5.00 pm on 30 June 2017.

Claims for the first and second instalments can only be lodged in respect of employees still employed by the eligible employer.

2. Claims for reimbursement for accredited training

Claims from eligible employers for reimbursement of costs incurred in providing accredited training to a Phase 1, Phase 2 or Phase 3 eligible employee may be lodged with the State Revenue Office after the date the costs have been incurred, subject to the exhaustion of the relevant funding allocation.

Where a claim is approved, the applicable reimbursement will be made after the approval.

Explanatory notes

Eligibility Criteria 1 – Eligible Employers

An employer has a *poor workplace safety record* if that employer has been convicted or found guilty of an offence under legislation administered and enforced by the Victorian WorkCover Authority (WorkSafe), or for a related offence prosecuted by WorkSafe under the **Crimes Act 1958**:

- within five years prior to the date the eligible employee commenced employment; or
- if the conviction or finding of guilt related to a workplace fatality, within seven years prior to the date the eligible employee commenced employment.

A *recent employer* of an eligible employee is an employer that had previously employed that employee in the past 12 months.

An eligible employer for a member of a drought-affected farm household may not be the farm where the eligible employee lives, or a business owned or run by that farm.

An eligible employer for a member of a dairy farm household may not be the farm where the eligible employee lives, or a business owned or run by that farm.

Eligibility Criteria 2 – Eligible Employees

A person who is unemployed may work for up to 10 hours a week on a part-time or casual basis and still be an eligible employee.

A **young unemployed person** is a person who:

- is aged between 15 and 25 (inclusive) at the time they commence employment with the eligible employer; and
- before commencing employment with the eligible employer, had been unemployed for a continuous period of at least 3 months and had been actively looking for full-time or part-time work during that time.

For eligible employment that commenced between 1 April 2015 and 31 October 2015, a **long-term unemployed person** is a person who, before commencing employment with the eligible employer, had been unemployed for a continuous period of at least 52 weeks and had been actively looking for full-time or part-time work during that time.

From 1 November 2015, a **long-term unemployed person** is a person who, before commencing employment with the eligible employer, had been unemployed for a continuous period of at least 26 weeks and had been actively looking for full-time or part-time work during that time.

A **retrenched worker** is an employee who lost their last job because it was made redundant (i.e. the job was no longer needed) or their employer became insolvent or bankrupt.

An **out-of-trade apprentice** is a retrenched worker who has had their Training Contract (in a qualification approved by the Victorian Registration and Qualifications Authority (VRQA) as an apprenticeship in an Approved Training Scheme within the meaning of the **Education and Training Reform Act 2006**) cancelled due to lack of work from the employer and is actively seeking a new employer to resume and complete an apprenticeship (in a qualification approved by the VRQA as an apprenticeship in an Approved Training Scheme within the meaning of the **Education and Training Reform Act 2006**) in the same or closely aligned (including superseding) qualification.

A **retrenched automotive worker** is an employee who lost their last job in Victoria because their last job was made redundant (i.e. the job was no longer needed) or their employer became insolvent or bankrupt and their employer was in the automotive industry.

The automotive industry includes a business that had been in operation in Victoria before May 2013 in one or more of the following categories:

- a motor vehicle producer;
- a producer of automotive components;
- a producer of automotive machine tools or automotive tooling;
- a materials supplier (e.g. a supplier of plastics, metals, or oils) to original equipment motor vehicle producers; or
- a provider of automotive services to original equipment motor vehicle producers.

A *motor vehicle producer* is a producer of motor vehicles that have a gross vehicle weight of not more than 3.5 tonnes.

An *automotive component producer* is a producer of at least one kind of automotive component to the original equipment sector. Examples of automotive components include engines, bumpers and parts thereof, safety seat belts, brakes and parts thereof, gear boxes and parts thereof etc. Automotive components do not include a component that is not purpose-built for automotive use (for example, a fastener or electrical device in general use).

A *materials supplier* is a person who supplies materials to the automotive industry that are directly related to the production of motor vehicles (e.g. plastics, metals, oils).

An *Automotive Machine Tool or Automotive Tooling Producer* is a producer of automotive machine tools or automotive tooling of a kind that are designed and built to be used solely for the production of motor vehicles, engines, engine components or automotive components.

A *provider of automotive services* includes a business that provides design, development or engineering services to the automotive industry.

A **refugee** is a person who:

- is a current holder of or is currently (under split-family provisions) listed on a visa under the Australian Government's refugee and humanitarian program; and
- was first granted a visa under the refugee and humanitarian program up to five years before commencing employment with the eligible employer.

The holder of a bridging visa, who has applied for a visa under the refugee and humanitarian program, is considered part of the refugee and humanitarian program for the purpose of the Scheme where the bridging visa enables the holder to work in Australia.

A **disability pensioner** is a person who is in receipt of the Disability Support Pension (DSP) at the time of commencing employment with the eligible employer.

A **sole parent pensioner** is a person who is in receipt of the Parenting Payment Single (PPS) payment at the time of commencing employment with the eligible employer.

A **member of a drought-affected farm household** is a person who, at the time of commencing employment with the eligible employer has, or immediately before commencing employment with the eligible employer had, for their home address a farm property in north-west Victoria.

An **unemployed person living in the Latrobe Valley** is a person who was unemployed prior to commencing employment and, at the time of commencing employment with the eligible employer has, or immediately before commencing employment with the eligible employer had, an address located in the Shire of Baw Baw, Shire of Wellington or the Latrobe City Council.

A **retrenched worker from the Hazelwood** power station is an employee who lost their last job in Victoria because their last job was made redundant (i.e. the job was no longer needed), and that job was located at the Hazelwood Power Station and Mine.

A **dairy industry worker** is a person who is a **member of a dairy farm household** or a **retrenched dairy worker**.

A **member of a dairy farm household** is a person who, at the time of commencing employment with the eligible employer has, or immediately before commencing employment with the eligible employer had, for their home address a property operating as a dairy farm in Victoria.

A **retrenched dairy worker** is an employee who lost their last job in Victoria because their last job was made redundant (i.e. the job was no longer needed) or their employer became insolvent or bankrupt and their employer was in the Victorian dairy industry.

The **dairy industry** (including a dairy farm) is a person or business that holds or held a dairy industry licence with Dairy Food Safety Victoria in respect of the business, that was current and valid at the time immediately before the eligible employee commenced employment with the eligible employer.

A **social housing tenant** must at the time of commencing employment with the eligible employer, be a tenant (or person of working age living in the household) of:

- public housing, which is long term housing owned and managed by the Director of Housing; or
- community housing, which is housing owned and/or managed by a registered not-for-profit housing agency.

A **young person in out-of-home care** is a person who:

- is under 18 years of age; and
- is in the care of the Secretary of the Department of Health and Human Services at the time of commencing eligible employment.

A young person **exiting out-of-home care** is a person who:

- has left the care of the Secretary of the Department of Health and Human Services within 12 months prior to the commencement of eligible employment; and
- on leaving the care of the Secretary of the Department of Health and Human Services, is of an age, or intends, to live independently.

A **current or recent youth justice client** is a person supervised by youth justice on a relevant court order or a person exiting from a youth justice centre on temporary leave, on a Youth Parole Order, or who has been released on remission/after a short sentence, or after a period of remand, within 12 months prior to the commencement of eligible employment.

A relevant court order includes the following orders:

- Deferral of Sentence or Supervised Bail (supervised by Youth Justice from the Children's Court or Adult Courts);
- Probation Order;
- Youth Supervision Order;
- Youth Attendance Order.

A **current or recent criminal justice client** is a person:

- supervised by Corrections Victoria under a Community Correction Order (including those with supervision or community work conditions); or
- a person who has exited an adult prison, either:
 - on a Parole Order; or
 - after completing their sentence; or
 - after a period of remand;

within 12 months prior to the commencement of eligible employment.

An **apprentice or trainee** is a person who is undertaking an apprenticeship or traineeship through a Training Contract (in a qualification approved by the Victorian Registration and Qualifications Authority (VRQA) as an apprenticeship or traineeship in an Approved Training Scheme within the meaning of the **Education and Training Reform Act 2006**).

Eligibility Criteria 3 – Eligible Job

A **Victorian job** is a job which is connected to Victoria within the meaning of section 37 of the **Workplace Injury Rehabilitation and Compensation Act 2013**.

A **full-time job** is a job which requires, on average, at least 35 hours of work each week and which entitles the employee to at least the minimum standards of paid sick leave and annual leave under the National Employment Standards for a full-time employee.

A **part-time job** is a job which requires, on average, less than 35 hours of work per week but at least 20 hours per week and which entitles the employee to at least the minimum standards of paid sick leave and annual leave under the National Employment Standards for a part-time employee.

A **casual job** is a job which does not have any guaranteed hours of work and/or which does not entitle the employee to any paid sick leave or annual leave entitlements.

Where an unemployed **disability pensioner** enters an eligible job, a part-time job is generally a job which requires, on average, less than 35 hours of work per week but at least 8 hours per week.

The **salary limit** for a **full-time job** is \$120,000 per annum

The **salary limit** for a **part-time job** is to be calculated as follows:

$n/35$ x salary limit for a full-time job where n is the number of hours of work the part-time job requires, on average, per week.

A person employed as an apprentice or trainee is considered to be employed in an ongoing job for the purposes of the Scheme.

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