



Designated Area Migration Agreement (DAMA) Labour Market Testing (LMT) requirements – from 1 September 2021

Employers seeking to nominate overseas workers under a DAMA are required to provide evidence that they cannot find a suitable Australian worker. Before an overseas worker can be nominated, employers need to test the local labour market by advertising the position in Australia. Evidence of LMT is required when applying for Designated Area Representative (DAR) endorsement, requesting a Labour Agreement **and** at the Nomination stage.

From 1 September 2021, employers seeking to sponsor overseas workers under a DAMA will be required to advertise the position in Australia within the **12 months** immediately before lodging a Labour Agreement request. This is a concession to the standard four (4) month period required under the subclass 482 Temporary Skill Shortage (TSS) and subclass 494 Skilled Employer Sponsored Regional (Provisional) visa programs.

In addition, the Department will now accept more flexible evidence of LMT for businesses located in **Category 3 regions** (refer to definition at <https://immi.homeaffairs.gov.au/visas/working-in-australia/regional-migration/eligible-regional-areas>). Specifically, businesses located in a Category 3 region will be able to satisfy LMT if they undertake **two advertisements**:

- one of which must have national reach (e.g. Seek.com, LinkedIn, Jobactive, or Australian industry website). Jobactive advertising is still encouraged as an option but is no longer prescribed.
- the other one may be local (e.g. a business' website, or local/regional media online, print or radio).

The above changes will apply to any new request for a DAMA Labour Agreement, or Deed of Variation, lodged on or after 1 September 2021. These changes will be reflected in Schedule 8 of the individual Labour Agreement. The Department will also incorporate these amendments into DAMA head agreements at the next annual review stage.

LMT Requirements

LMT requirements outline the duration, content and eligible mediums of advertising.

Advertising must be done:

- within the **12 months** immediately before lodging a nomination application
- however, if the employer or an associated entity has made any Australian citizen or permanent resident workers redundant or retrenched them from positions (in the nominated occupation) within 12 months before lodging the nomination application, the advertising must have occurred since the date that these events occurred. Information about these redundancies or retrenchments must also be provided
- evidence of a total of three (3) advertisements, including an advertisement published on the Government's Jobactive website (mandatory for nominations lodged on or after 1 October 2020), must be provided OR
- **for businesses in a Category 3 region only**, evidence of two (2) advertisements, one of which must have national reach (e.g. Seek.com, LinkedIn, Jobactive, or Australian industry website). Use of Jobactive is encouraged but not mandatory for businesses in Category 3 regions.

Advertising of the nominated position must meet all of the below:

- the advertisement was in Australia, in English and included the following information:
 - the title, or a description, of the position. Multiple positions in one advertisement are acceptable
 - the skills or experience required for the position
 - the name of the employer or the name of the recruitment agency being used by the employer
 - the salary for the position if the annual earnings for the position are lower than AUD96,400. It is acceptable to publish a salary range (for example AUD80,000 to AUD90,000)
- at least two (2) advertisements, or one (1) advertisement for businesses in Category 3 regions, were published in any of the below:
 - on a prominent or professional recruitment website with national reach (for example jobactive.gov.au) that publishes advertisements for positions throughout Australia
 - industry specific recruitment websites relevant to the occupation that are in significant use by the industry are an acceptable method of LMT advertising
 - a general classifieds website or an advertisement solely through social media notification (such as Twitter or Instagram) **are not** acceptable methods. LinkedIn's online recruitment platform is acceptable for LMT purposes. Job vacancies restricted to LinkedIn profile members only **are not** acceptable for LMT purposes

- in national print media (that is, newspapers or magazines with national reach that are published at least monthly and marketed throughout Australia)
- on national radio with national reach
- on the business' website if the employer is an accredited sponsor
- advertisements, including on websites, are expected to have run for at least four (4) weeks.
- applications or expressions of interest for the advertised position must have been accepted for at least 4 weeks
- the nominated position can be advertised in the same medium (such as newspaper advertisements) on two separate occasions or two different mediums simultaneously or on two separate occasions
- advertising may have been undertaken by a third party if authorised to do so by the employer (for example, an associated entity or a contracted party, such as a recruitment agency). There is no requirement that the employers placed the advertisement themselves

Requirements for nominations lodged on or after 1 October 2020

In September 2020, the Australian Government introduced new labour market testing measures for employer sponsored applications.

In addition to the 2 advertisements mentioned above, for businesses located in Category 1 and 2 regions:

- the nominated position must be advertised on the Government's jobactive website
- the jobactive advertisement must have included all of the information required to be included in the other 2 advertisements mentioned above
- jobactive advertisements are expected to have run for at least 4 weeks
- applications or expressions of interest for the advertised position must have been accepted for at least 4 weeks

Other notes

Advertising may have been undertaken by a third party if authorised to do so by the sponsor (for example, an associated entity or a contracted party, such as a recruitment agency) - there is no requirement that the sponsor placed the advertisement themselves. Evidence of advertisements must be provided at the time the nomination is lodged.

More information on LMT is available on the Department of Home Affairs' website at: <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing#content-index-5>.