

# Pacific Engagement Visa legislation finally through



Photo Credit: [Andrew Giles MP/Facebook](#)

by Stephen Howes and Evie Sharman

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After months of uncertainty, yesterday the legislation required to implement the Pacific Engagement Visa (PEV) passed through the Australian Senate, with the Greens and other crossbenchers providing the numbers the government needed in the face of opposition from the Coalition.

On Monday, the Greens revealed what they **had been holding out for**: not anything in relation to the PEV specifically, but rather fairer treatment for disabled people in Australia's migration regime. To obtain support from the Greens, Labor has committed to reviewing the "significant cost threshold", which is currently used to **determine if migrants meet** Australian government health requirements. Potential migrants can't have any disease or condition that constitutes a "significant cost to the Australian community", with expected costs of \$51,000 or more over ten years currently regarded as significant. The Disability Act does not apply to the Migration Act, meaning that disabled people can be refused a visa or even deported.

In his **letter to the Greens**, Immigration Minister Andrew Giles revealed that the review will be open to public consultation, and will consider a range of issues, such as how costs are calculated. The Greens are determined to ensure, through the review process, not only that the cost threshold will be increased, but also that no child born in Australia to temporary visa holders will be deported through this mechanism. Labor has confirmed that the terms of the review will explicitly reference non-citizen children born in Australia, and that the minister has positively intervened in relevant cases that have come before him.

Senator Pocock also supported the PEV legislation, though, like the Greens, he called for more action on climate change. Senator Pocock also moved **a successful amendment**, which was that the lottery not be applied to the issuance of refugee and humanitarian visas.

A sidenote: as **previous updates have noted**, while new visas don't normally require legislative change, because the PEV will involve a lottery (or ballot), and because a lottery hasn't been part of the migration regime so far, the PEV legislation required

is to authorise a migration lottery, and a charge for entry into it. It was actually a minor victory for the government that it didn't have to restrict the lottery to the PEV. While the lottery can't be used for humanitarian visas, as a result of Senator Pocock's amendment, it could be used in the future for parental visas or other visas where there is excess demand and no otherwise obvious rationing mechanism, though the regulations would have to come before parliament and could be disallowed.

Senator Jacqui Lambie also supported the PEV bills, and [her amendment](#), which was to the motion of support for the legislation rather than the bills themselves, was also passed. Under it, the Senate noted that the PEV will help "address significant labour shortages in essential industries such as defence, agriculture, healthcare, education, childcare and public safety" and called on the government to provide a "streamlined pathway to obtain permanent citizenship" for Pacific Australia Labour Mobility (PALM) visa holders, as has previously been advocated for by the Coalition. What effect these position statements will have going forward is unclear.

For the first time, the Foreign Minister Penny Wong spoke in the Senate on the PEV. In her speech, she highlighted the importance of the ballot mechanism by quoting Fiji's Deputy Prime Minister Biman Prasad, [who has argued](#) that a ballot "is the mechanism used by New Zealand and widely accepted in the Pacific as fair. Any other approach used by Australia would raise suspicion in the region."

While yesterday was very positive for the PEV, the new visa is not yet in place. Since the PEV legislation was amended, it will need to return to the House, but that should be a formality, and may happen as early as this week. Once that happens, the PEV can be created as a visa category. That will need to be tabled in parliament, though it is highly unlikely it would be voted on.

A bigger obstacle may be the next piece of PEV-related legislation, the [Social Services and Other Legislation Amendment \(Australia's Engagement in the Pacific\) Bill](#). As we've [written about earlier](#), this bill will make it easier for all Pacific migrants – permanent (PEV) and temporary (PALM) – and their families to access various welfare benefits. The Coalition left open its position on this bill when it passed through the House, and it remains to be seen whether its opposition to the PEV spills over to this bill, and what attitude the Greens will take. The bill has been tabled for debate, but is unlikely to get to the floor this week. However, the Senate is sitting most weeks till early December.

Although applications for the PEV lottery could be accepted prior to the benefits legislation being passed, it seems unlikely the government would go down this path. It would make for a messy process to have to redo the visa-related information if

and when the benefits legislation is then passed.

Another big step will be the determination and announcement of country quotas, a subject that received **considerable attention** prior to the current legislative controversy. This will require consultations with all potential source countries in the Pacific and Timor-Leste. So far, only **general criteria have been announced**: “population size, diaspora in Australia, existing migration opportunities and expected demand”.

All up, while there is still some way to go, the vote yesterday in the Senate marked a very big step forward towards the introduction of a historic and potentially transformational Pacific window into Australia’s permanent migration regime.

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