

Changes to employer-assisted temporary work visas

– Overview





The New Zealand Government is making a number of changes that will affect employers wanting to recruit temporary foreign workers. The changes will:

- » Ensure that temporary foreign workers are only recruited for genuine shortages, and that employers across New Zealand can access the skills and labour they need;
- » Increase expectations on employers to employ and train more New Zealanders;
- » Reduce exploitation of temporary foreign workers and reduce the misuse of the immigration system;
- » Create better connections between the immigration, education/skills and welfare systems; and
- » Make the system easier to navigate.

The changes include:

- › Replacing six current employer-assisted work visa categories with one new visa called the Temporary Work Visa
- › Introducing a new employer-led visa application process that will involve three stages: the employer check; the job check; and the worker check
- › Linking visa conditions directly to pay by replacing existing skill bands with a simple remuneration threshold aligned to the median wage

- › For higher-paid jobs, replacing the current set of skills shortage lists with lists for cities and open access for regions
- › Strengthening the labour market test for lower-paid jobs and removing it altogether for highly-paid jobs in rural regions
- › Increasing the remuneration threshold for the Work to Residence – Talent (Accredited Employer) visa category, as a transitional measure until this visa is closed
- › Reinstating the ability for lower-paid workers to bring their families to New Zealand
- › Introducing sector agreements to support facilitated access to foreign workers in exchange for progress towards longer-term labour market improvements that place more New Zealanders into jobs in the sector and reduce the sector’s reliance on temporary foreign workers.



Why is the Government making these changes?

The Government is committed to ensuring that regions are able to get the workers they need to fill critical skill shortages, particularly during a time of low unemployment. However, the employment and training of New Zealanders, where they are available, will always be the priority.

These changes will support the Government's wider programme of workforce improvements, including the Reform of Vocational Education (ROVE) and upcoming welfare reforms, to tackle the long-term challenges of skills shortages and improve the way the immigration, education and welfare systems work together.

The recently announced Regional Skills Leadership Groups will play a key role in informing government and regional responses to local labour market needs. Each Regional Skills Leadership Group will develop a labour market plan for its region to identify the availability of skills and labour in their region and any gaps that need to be addressed to help drive the region's economic growth.

Together, these programmes and changes will help to get more people into better jobs with better wages, and equip more businesses with the skilled workers they need to grow and thrive.

■ **Replacing six current temporary work visa categories with one new visa called the Temporary Work Visa**

Under these changes, there will only be one type of employer-assisted temporary work visa that foreign workers can apply for. This visa will be the Temporary Work Visa and will replace the following six work visa categories: Essential Skills, Approval in Principle, Work to Residence – Talent (Accredited Employer), Work to Residence – Long Term Skills Shortage List Occupations, Silver Fern Job Search and Silver Fern Practical Experience.

The Recognised Seasonal Employer Scheme is not impacted by these changes.

■ Introducing a new employer-led visa application process that will involve three stages – the employer check, the job check and the worker check

The Government wants to make the process of hiring a temporary foreign worker easier and more straightforward by providing more certainty earlier about whether or not an employer will be able to hire a foreign worker for a particular job.

To do this, the Government will introduce an employer-led visa application process which will include three specific steps: the employer check, the job check and the worker check.

The new process will require all employers to be accredited before they can recruit a temporary foreign worker. There will be three types of accreditation: standard accreditation (for employers recruiting between one and five foreign workers in a 12 month period); high volume accreditation (for employers recruiting more than five foreign workers in a 12 month period); and accreditation for labour hire companies. The standard accreditation will focus on assessing that the employer meets minimum employment and immigration regulatory standards, and that they are taking steps to reduce exploitation. The high-volume and labour hire accreditations will focus on the same elements of standard accreditation with more comprehensive checks and additional standards for attracting and retaining New Zealand workers.

Once an employer is accredited, the job check will then assess whether the job the employer is seeking to recruit for is genuine, has terms and conditions (including pay) that are consistent with New Zealand standards and that the employer has made a real attempt to recruit a New Zealander.

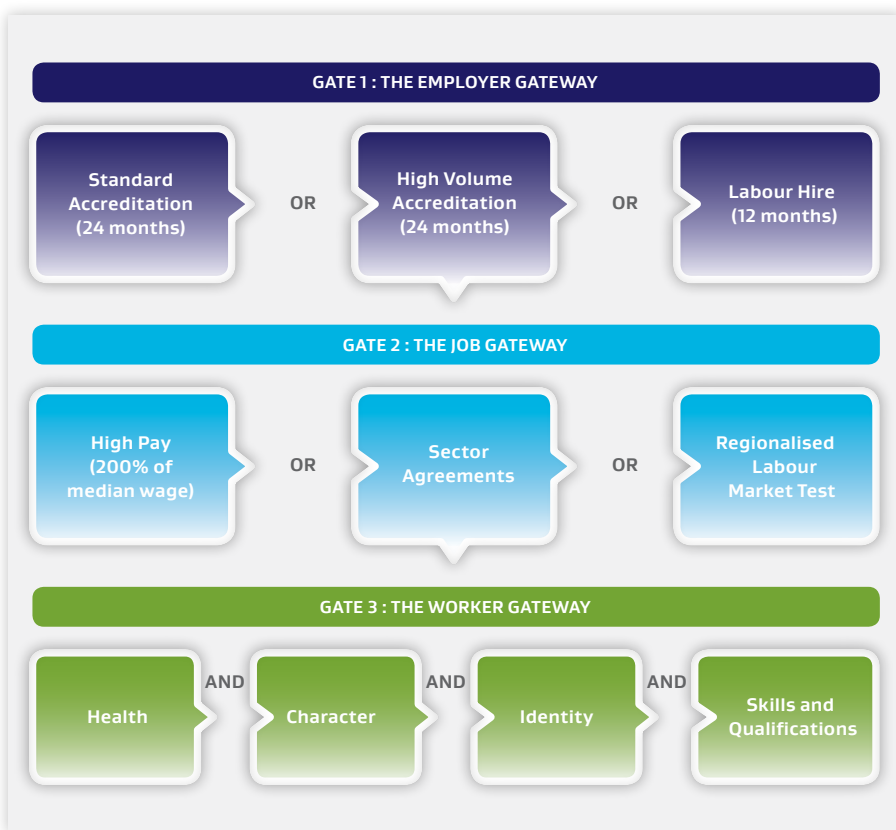
The job check will also provide a new streamlined process for higher-paid jobs:

- › for jobs with very high pay (200 per cent or twice the median wage) there will be no labour market test requirement (that is, a check as to whether there are New Zealanders available)
- › for those paid above the median wage and in the parts of the country where there are fewer New Zealanders available there will be no labour market test.

Overall, this will make it easier for employers to recruit a foreign worker for highly-skilled roles and to fill these types of vacancies in areas outside of the main cities.

The job checks for lower-paid jobs (including Sector Agreements and the regionalised labour market test) are discussed in the next sections of this factsheet and in the factsheet *“Changes to employer-assisted temporary work visas – What does this mean for employers?”*.

Once an employer has passed the employer and job checks, they will be able to support a foreign worker for a temporary work visa. The worker check is the last stage of the application process and will check that the foreign worker meets health and character requirements. The visa application made as part of the worker check must still be made by the foreign workers, not their employer.



The new visa application process will result in a number of benefits, including:

- › A simplified system for both employers and foreign workers, with only one visa (the Temporary Work Visa) instead of six
- › More certainty for employers around their ability to hire a foreign worker, by having more upfront checks and a streamlined process for genuine higher-skilled jobs
- › Immigration settings that better recognise different regional and sectoral labour market needs
- › Establishing clear minimum standards for employers to employ foreign workers, to better screen out misuse of the immigration system and exploitation, and to better target compliance activity
- › Increased incentives on employers to recruit and train New Zealanders and to respond to skill and labour shortages.



■ Replacing existing skill bands with a simple remuneration threshold aligned to the median wage

Under current settings, the Australia and New Zealand Standard Classification of Occupations (ANZSCO) is used alongside remuneration thresholds to determine the skill band for a job, which affects the type of labour market test that applies and the conditions attached to a visa. However, ANZSCO is outdated and does not work well for some occupations, and the current skill band system is overly complex.

Under these changes, the new system will remove ANZSCO from the assessment for the Temporary Work Visa and will instead differentiate jobs by their remuneration.

The remuneration threshold will be set at the median wage (currently \$25 an hour, or \$52,000 per year based on 40 hours per week) so that highly-paid jobs are defined as those that pay at or above the median wage, and lower-paid jobs are those that pay below the median wage. In either case, employers are required to pay at least the market rate for the job.

The duration of the visa granted and other visa conditions will be linked to remuneration: an easier labour market test and longer visa duration for jobs paying above the median wage; and a harder labour market test and shorter visa duration for jobs paying below the median wage.

This change will simplify business processes and make the rules clearer and more transparent for users of the immigration system.

■ Strengthening the labour market test for lower-paid jobs and removing it altogether for higher-paid jobs in rural regions

The requirement to undertake a labour market test will be removed entirely for employers in the regions (outside the major cities) seeking to employ foreign workers who will be paid above the median wage. This gives open access to employers in the regions recruiting for jobs paying above the median wage.

This means there is no need for skill shortages lists in the regions and the skill shortages lists will only exist for the five following cities –

Auckland, Hamilton, Wellington, Christchurch

and Dunedin. If a job in a city is on that city's

skills shortage list there will be no labour market test; if it is not on the list then there will be a labour market test (that is, the employer must advertise the job with the pay rate).

Removing the labour market test for all jobs paying above the median wage in the regions should make it easier for the regions to recruit higher-skilled foreign workers.

For jobs paying below the median wage, the labour market test settings will be strengthened to better ensure New Zealanders have the opportunity to fill these roles first.

As part of the strengthened labour market test, employers will have to:

- › include the salary when advertising the role to enable easy verification that New Zealanders and foreign workers are being offered comparable rates of pay; and
- › document and provide the requirements of the job to the Ministry of Social Development (MSD), including any qualifications, skills and experience requirements.

Employers will not be able to reject suitable referrals and still pass the labour market test, unless there are acceptable reasons to do so, such as when the job seeker has failed to attend an interview or failed a drug test for a vacancy in a high-risk environment.

These changes will make the labour market test much clearer for employers.

■ Increasing the remuneration threshold for the Work to Residence – Talent (Accredited Employer) visa category, as a transitional measure until this visa is closed

The Work to Residence – Talent (Accredited Employer) visa category will be disestablished when the new visa application process is introduced. However, as this will not be until 2021, in the interim period, the remuneration threshold for this category will increase from \$55,000 to 150 per cent of the New Zealand median income (currently \$38.25 per hour or \$79,560 per annum).

This transitional measure will reduce the immediate pressure on this pathway to residence from lower-skilled workers, which has increased rapidly in recent years, and align this visa category with the settings for the Skilled Migrant Category. Foreign workers already on the pathway will continue to be able to apply for residence under the settings in place when their visa was approved.

To manage the transition to the new visa application process, Immigration New Zealand will grant a maximum two-year accreditation period to employers under the existing Accredited Employer policy.

■ Reinstating the ability for lower-paid workers to bring their family to New Zealand

The Government will reinstate the ability for lower-paid foreign workers to support their partner and children to come to New Zealand for the length of their visa. This was restricted in 2017.

The foreign worker will continue to need to meet a minimum income threshold, the purpose of which is to ensure that their income is sufficient to support themselves and their family while in New Zealand.

The partner of a lower-paid worker will be granted a visitor visa unless they are able to obtain a work visa in their own right. Partners of highly-paid workers will still be granted an 'open' work visa.

Dependent children of a lower-paid worker will have access to primary and secondary education as subsidised domestic students. They will only be able to access tertiary education as full fee-paying international students.



■ Introducing Sector Agreements

As part of the changes the Government will negotiate Sector Agreements with some sectors which will include agreeing a workforce plan and the conditions to be met for recruiting foreign workers for specified key occupations.

Sector Agreements will be negotiated with sectors that have a high reliance on temporary foreign workers (especially in lower-paid occupations). Employers who are recruiting foreign workers for occupations covered by a Sector Agreement will be required to comply with the agreement.

Sector Agreements will support facilitated access to foreign workers to meet shortages in the short term by making this a more certain and lower-cost process. In exchange, the sector will be required to make commitments and demonstrate progress towards placing a greater share of New Zealanders into jobs in the sector and reducing the sector's reliance on temporary foreign workers over time.

Sector Agreements will be negotiated two at a time, with the first two negotiations to be completed by mid-2020, two further negotiations by the end of 2020 and two more in 2021.

The first Sector Agreements to be negotiated will likely be for the residential care and meat processing sectors. The process will formally begin before the end of 2019.

The following sectors have been identified for initial negotiations – residential care (including aged care), meat processing, dairy, forestry, road freight transport, and tourism and hospitality. The construction and horticulture and viticulture sectors are also potential candidates.

When will all these changes come into effect?



- › The changes will be implemented in stages to help manage a smooth transition over to the new system.
- › The changes to the existing employer accreditation scheme and Work to Residence – Talent (Accredited Employers) visa category will be implemented in October 2019.
- › Replacing existing skill bands with a simple remuneration threshold and reinstating the ability for lower-paid migrants to bring their family will come into effect mid-2020.
- › The first sector agreements are expected to be completed in mid-2020.
- › The new visa and application process will have a phased implementation in 2021. This will ensure that all employers are not required to be accredited on the same day. Existing accredited employers will have a streamlined transition into the new system.
- › In the meantime, employers and temporary foreign workers should continue using existing processes for hiring foreign workers.
- › More information on all these changes can be found at: **www.immigration.govt.nz/work-visa-changes**





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