



BRIEFING

Employer-Assisted Work Visa Reforms: Revised Draft Cabinet Paper and A3s for Ministerial Consultation

Date:	28 June 2019	Priority:	High
Security classification:	In Confidence	Tracking number:	3925 18-19

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Agree to provide feedback on the draft Cabinet paper and A3s attached as Annexes One and Two	4 July 2019

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Siân Roguski	Manager, Immigration Policy	04 901 3855	Privacy of natural persons	✓
Sam Foley	Principal Policy Advisor	04 901 1572		

The following departments/agencies have been consulted
N/A

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



BRIEFING

Employer-Assisted Work Visa Reforms: Revised Draft Cabinet Paper and A3s for Ministerial Consultation

Date:	28 June 2019	Priority:	High
Security classification:	In Confidence	Tracking number:	3925 18-19

Purpose

This briefing provides:

- a revised draft Cabinet paper on the proposed new gateway system for employer-assisted temporary work visas (Cabinet Paper One), and
- revised draft A3s on the proposed temporary visa reforms to support Ministerial consultation.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a. **Agree** to provide feedback on the draft Cabinet paper and A3s

Agree / Disagree

- b. **Note** that you will receive an initial draft of a Cabinet paper titled *A new approach to employer-assisted work visas and regional workforce planning: Paper Two – The Job Gateway* (Paper Two) by Thursday 4 July; officials will then begin agency consultation on the Cabinet papers, subject to any feedback you have.

Noted

Siân Roguski
Manager, Immigration Policy
Labour, Science and Enterprise, MBIE

Hon Iain Lees-Galloway
Minister of Immigration

..... / /

..... / /

Context

1. In December 2018, Cabinet agreed to consult on a new employer-assisted gateway system for temporary visas and enhanced regional workforce planning and invited you to report back on final proposals [CAB-18-MIN-0608.01]. The gateway framework would shift the focus of the employer-assisted temporary work visa system onto employers.
2. You have subsequently agreed to seek Cabinet agreement to a set of final recommendations on the employer, job and migrant gateways. An initial draft of Cabinet Paper One and A3s were provided to you on 7 June 2019 and you provided feedback to officials. This briefing attaches:
 - a revised draft Cabinet paper on the employer and migrant gateway (Paper One) based on your feedback, and
 - revised draft A3s on the proposed changes and how they vary from the proposals that we consulted on.

Revised Cabinet Paper One

3. The attached draft Cabinet paper "*A new approach to employer-assisted work visas and regional workforce planning: Paper One - employer gateway system and related changes*" has been revised based on your feedback. This paper is the first of two papers that seek final agreement to the new employer-assisted gateway system.
4. This paper summarises the feedback from consultation and seeks agreement on:
 - implementing the proposed gateway framework for employer-assisted temporary work visas
 - the detailed design of the employer gateway and the new accreditation system; and
 - the migrant gateway and other changes to remuneration thresholds and related policy settings.
5. The key changes to the paper are highlighted. These include:
 - updating some of the data, including the estimated of number of employers that will need to be accredited
 - adding a summary diagram outlining the proposed gateway system
 - clarifying the reasons for increasing the salary threshold in the Talent (Accredited Employer) policy,
 - clarifying the implementation and transitional plans for Silver Fern and Talent (Accredited Employer) policies, and
 - making the linkages with the review of migrant exploitation clearer.
6. We have also added text and recommendations on the financial implications of the changes. However, the specific dollar amounts are still being worked through (we expect to be able to provide them by Thursday 4 July), so these have not been included.
7. We are also revising the data on the number of family members that may be eligible for visas as a result of the reinstatement of family visas for lower-skilled Essential Skills migrants. We have therefore removed the data that was previously provided. Updated data will be provided prior to Ministerial consultation.

Next steps

8. The Ministers of Education, Immigration and Employment and the Minister for Social Development will also be taking a joint paper to Cabinet in July or August which will seek Cabinet's agreement to establishing regional labour market planning bodies.
9. We seek your feedback on the draft Cabinet paper and A3s by 4 July 2019. Officials will be available to discuss this Cabinet Paper One and the A3s at your officials meeting on Monday 1 July 2019. We also seek a discussion on your preferences for the phased implementation of the changes.
10. You will receive an initial draft of Cabinet Paper Two by Thursday 4 July. In addition, papers will be provided on implementation timing and costs, domestic responses and regional labour workforce planning bodies. Officials will begin agency consultation on the Cabinet papers, subject to any feedback you have.
11. An updated timeline for Cabinet consideration of the papers is provided below. As discussed at your officials meeting on 24 June we propose to continue to aim for Cabinet Economic Development Committee (DEV) consideration of the papers on 31 July 2019.

Table One: Timeline for temporary work visa Cabinet consideration

Paper	Timing
Revised draft Cabinet paper on gateway system and A3s (Paper One) provided to the Minister	28 June
Paper with advice on implementation timeline and options, and costings of the gateway system and the first draft of Cabinet Paper Two	4 July
Paper with advice on activating the domestic response to labour and skill shortages, including Hubs	4 July
Paper on regional workforce planning bodies to joint Ministers	4 July
Formal Ministerial and agency consultation	4 July – 19 July
Final Cabinet papers provided to the Minister	22 July
Cabinet papers lodged for DEV	25 July
Cabinet papers considered by DEV	31 July
Joint Cabinet paper on regional workforce planning bodies considered by DEV and Cabinet	August

Annexes

Annex One: Revised draft Cabinet paper on the employer and migrant gateway (Paper One)

Annex Two: Revised A3s on the proposed changes

Purpose

In December 2018, Cabinet agreed to publicly consult on proposals to reform employer assisted temporary work visas. Consultation closed in March 2019, and the Minister of Immigration is due to report back to Cabinet with final proposals for agreement in June/July 2019.

This A3 sets out the original proposals, the key changes to those proposals responding to issues raised during consultation, and a high level overview of the final proposals.

Long term outcomes for the immigration system

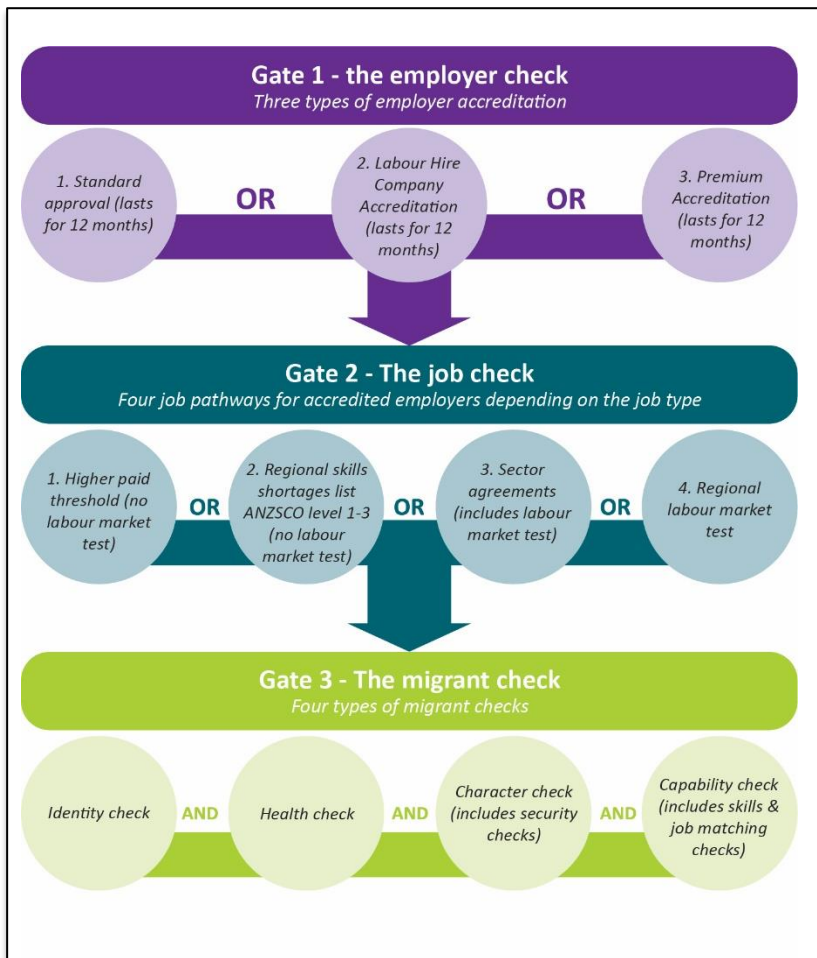
The proposals are focussed on achieving two strategic outcomes:

- Employers place more New Zealanders into jobs, which help their businesses to grow and thrive, and result in better jobs for New Zealanders.
- Temporary migrant workers, when they are employed, are not exploited and have wages and conditions that are consistent with New Zealand values.

Objectives

To address problems identified, change is needed that will:

- Strengthen employer standards and improve employer incentives and compliance
- Tailor labour market tests to types of skill shortages, sectors and regions
- Trigger integrated responses to demand for temporary migrant workers from the skills/education and welfare/employment systems to improve domestic labour supply
- Simplify immigration processes making it easier for employers and migrants.



Other issues

Other issues under consultation included:

- Raising the income threshold for the existing Talent Visas from \$55k to \$78k
- Permitting partners and children to accompany lower skilled visa holders (but not providing open work visas for partners)
- Lifting the Mid-skilled income thresholds from 85% of the median wage to 100% of the median wage

The Employer Gateway

It was proposed that the employer gate would introduce compulsory accreditation for all employers that want to recruit temporary migrants. I consulted on three tiers of accreditation which would have required employers to demonstrate that their business practices:

- incentivise training and upskilling of New Zealanders;
- put upward pressure on wages and conditions;
- meet minimum immigration and employment regulatory standards to minimise the exploitation of migrant workers; and
- maintain the integrity of the immigration system.

The Job Gateway

The job gate proposed four job pathways for employers to recruit temporary migrant workers.

- **Highly paid threshold:** no labour market test for workers paid a high remuneration. The threshold be 150% of the national median income for premium accredited employers; or 200% for all other employers;
- **Regionalised skill shortage lists:** the current skills shortage lists will be recast by region;
- **Sector agreements:** negotiated with sectors that rely heavily on low-mid skilled migrant workers;
- **Regional labour market test** based on labour market indicators which reflect the relative labour demand/supply challenges facing each region.

The Migrant Gateway

The migrant gate which requires migrants to pass identity, health, character and capability checks (including skills and job matching) was proposed to remain largely unchanged from current INZ processes.

The employer rather than the migrant would lead the visa application process. This means migrant workers would only be able to apply for a visa once the employer is accredited and the job has been cleared through one of the four job pathways.

Verification and Assurance

An assurance model would underpin the new employer-assisted work visa system to manage risk. This includes pre-decision verification at the employer, job and migrant gateways and re-accreditation, as well as post-decision checks for employers and migrants.

The level of verification and post decision checks would be driven by risk settings within the assurance model. Site visits and more in-depth assurance activities would be in place for higher-risk employers. Specific risk factors could include, (but not limited to):

- specific concerns raised by organisations such as Employment Services, Worksafe, Unions, and industry bodies;
- the type of industry or business model for example, labour hire, franchises;
- the sector;
- the length of time the business has been operating; and
- previous non-compliance, for example whether the employer or individuals have been on the stand-down list.

Two way flow of information

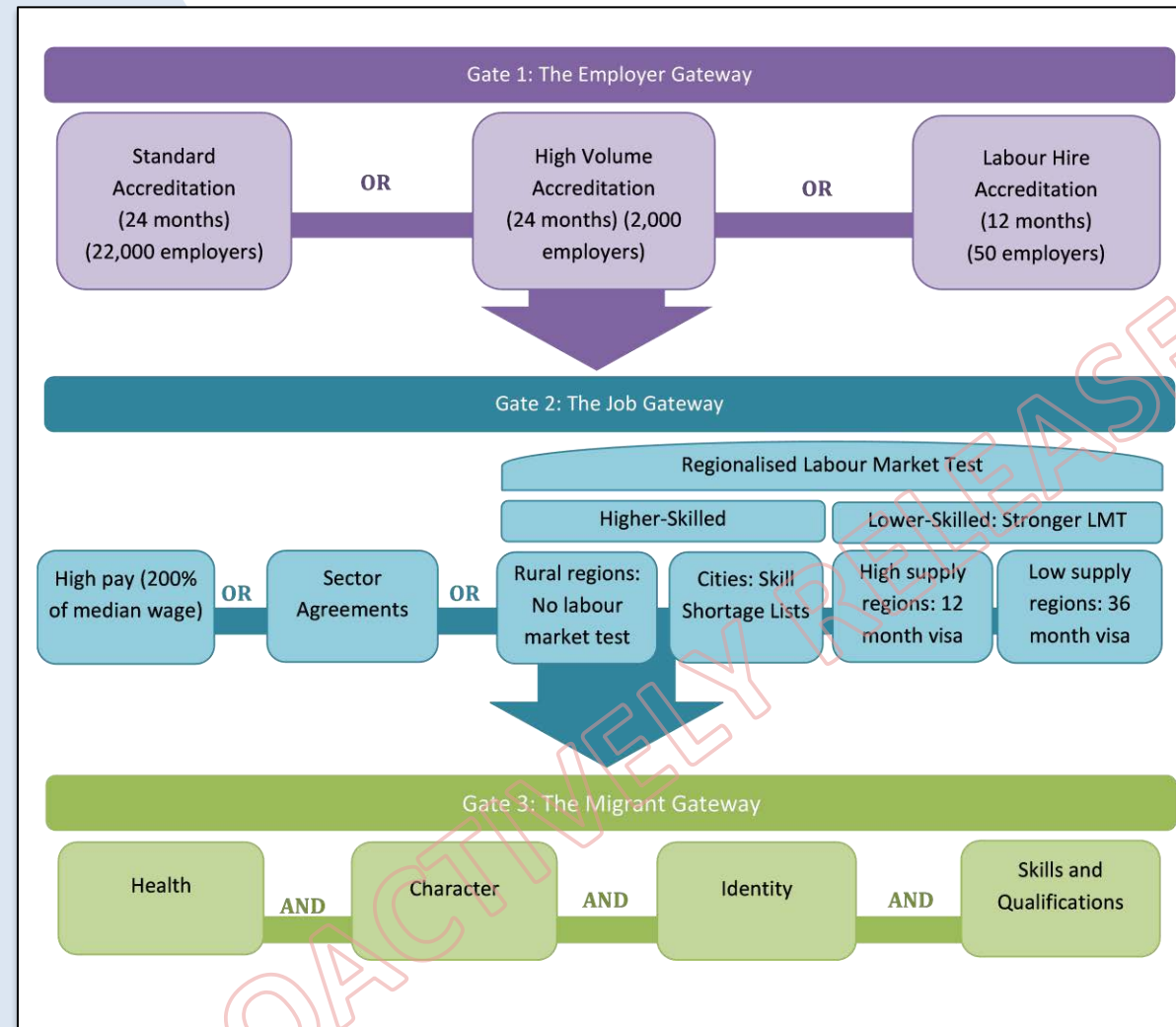
Two way flow of information

Two way flow of information

Consultation findings

Consultation indicated:

- Employers were broadly supportive of an employer-led process, and the introduction of an employer accreditation process, but had concerns about the complexity, and the ability of small businesses to meet additional requirements.
- Regions were heavily in favour of regional skills shortage lists, but largely misunderstood and overestimated the role that they played in the current system.
- Sector agreements were favourably received, with some sectors that were not considered indicating that they would be interested (meat processing). Tourism indicated that they were not yet in a position to engage.



Key Change: Employer Gateway

- **Premium accreditation** removed, and replaced by accreditation for high-volume employers (more than five migrants per year).
- **Accreditation refocused** on managing the labour market impacts of employers recruiting a **high volume** of migrants, rather than incentivising certain behaviour in exchange for a suite of benefits.
- The **levels of accreditation simplified to three types** to ensure unnecessary complexity is reduced, and compliance activities are targeted where they will achieve a lift in behaviour without imposing needless administrative burden.

Key Change: Job Gateway

- **Work to Residence** offer decoupled from the status of the employer and attached to the high salary threshold.
- Employers would still be required to pay a market rate for the occupation.
- Provide a **simpler and more effective approach to regionalisation**:
 - For Higher-Skilled roles -replace regional skills shortage lists with lists for cities and open access (no requirement to advertise) for regions
 - For Lower Skilled roles – strengthen the labour market test across the board and provide three year visas for regions with low domestic supply of labour and status quo (12 month visas) for regions with higher supply of local labour.

Costs and benefits

Employers

- Reduced overall complexity and clearer pathways.
- More certainty and a tailored process that is scaled to the labour market impact/risk of employers' activities and the relevant regional/sectoral circumstances.
- Strengthened standards and more weight on improving employers' compliance and behaviour.
- New fees, including some of migrants' current costs transferred to employers.

Regions

- Recognition that regional labour markets can differ, and have unique characteristics/features.
- More New Zealanders trained to meet shortages and employed in better jobs.
- Empower regional input into the labour market functions in the immigration system (ie a tailored approach).
- Higher resourcing and potential for duplication of effort across regions.

Migrants

- Focus shifted to employers leading the process, rather than the migrant. Easier and more certain pathways.
- Increased emphasis on improving employer behaviour (including terms and conditions/training of both migrant and domestic workers). Reduces risk of exploitation.
- More restrictions on employers' use of lower-skilled migrants, which could place downwards pressure on the employment of migrants.

Immigration and Wider Government/Regulatory Systems

- Better intelligence on risk to enable more proportional resource used to target compliance activities and labour market testing to highest-impact opportunities.
- Better integrated domestic response to demand for temporary migrant workers, including the needs and shifts required of Government investment.
- Greater emphasis on lifting standards for employers leads to better domestic outcomes and improved integrity of immigration system. Easier to incentivise good employers.
- Better integration and transition between temporary work and skilled residence policy to ensure long-term objective of lifting skill level of the wider economy.



The Employer Gate		
Standard	Labour Hire	High Volume
<p>Includes, approx. 22,000 employers, that would need to demonstrate that they:</p> <ul style="list-style-type: none"> a genuinely operating business (or other legitimate organisation), meet minimum regulatory standards, and take steps to minimise exploitation 	<p>Includes, approx. 50 employers, that would need to demonstrate that they:</p> <ul style="list-style-type: none"> Meet the same requirements as standard accreditation (compliant with minimum regulatory standards etc) have a commitment to training and upskilling have a commitment to improving pay and conditions over time 	<p>Includes, approx. 2,000 employers, that would need to demonstrate that they:</p> <ul style="list-style-type: none"> Meet the same requirements as standard accreditation, and have a history of placing/employing New Zealand workers

The Job Gate								
High Pay	Sector Agreements	Regionalised Settings						
<ul style="list-style-type: none"> Set at 200% of the median wage (but must still be paid the market rate). exempts employers from a labour market test. provides a pathway to residence. 	<ul style="list-style-type: none"> Sets out action plan with commitments from employers and sectors, with clearly identified conditional benefits. Lift standards and conditions over medium to longer term Compliance with agreement compulsory for specified occupations and industries. Provides certainty for employers, and facilitates sector-wide changes. Schedule of sector agreements negotiated: aged care, dairy or meat (early 2020); 2 further agreements by mid-2020 	<table border="1"> <thead> <tr> <th>Higher- Skilled Jobs</th> <th>Lower- Skilled Jobs</th> </tr> </thead> <tbody> <tr> <td> <p>Main Cities</p> <ul style="list-style-type: none"> Simplify existing suite of skill shortage lists down to a list each for Auckland, Hamilton, Wellington, and Christchurch. Must pay market rate </td> <td> <p>Strengthened LMT</p> <ul style="list-style-type: none"> Strengthened LMT delivered by: <ul style="list-style-type: none"> tbc 36 month visas issued in areas of persistent low supply; 12 month visas issued in main centres, and areas of variable or high local supply. <p>Note: All regions currently have high demand for labour.</p> </td> </tr> <tr> <td> <p>Regions</p> <ul style="list-style-type: none"> No labour market test for high skilled jobs in the regions (In practice, means that INZ will not check advertising). Must pay market rate </td> <td></td> </tr> </tbody> </table>	Higher- Skilled Jobs	Lower- Skilled Jobs	<p>Main Cities</p> <ul style="list-style-type: none"> Simplify existing suite of skill shortage lists down to a list each for Auckland, Hamilton, Wellington, and Christchurch. Must pay market rate 	<p>Strengthened LMT</p> <ul style="list-style-type: none"> Strengthened LMT delivered by: <ul style="list-style-type: none"> tbc 36 month visas issued in areas of persistent low supply; 12 month visas issued in main centres, and areas of variable or high local supply. <p>Note: All regions currently have high demand for labour.</p>	<p>Regions</p> <ul style="list-style-type: none"> No labour market test for high skilled jobs in the regions (In practice, means that INZ will not check advertising). Must pay market rate 	
Higher- Skilled Jobs	Lower- Skilled Jobs							
<p>Main Cities</p> <ul style="list-style-type: none"> Simplify existing suite of skill shortage lists down to a list each for Auckland, Hamilton, Wellington, and Christchurch. Must pay market rate 	<p>Strengthened LMT</p> <ul style="list-style-type: none"> Strengthened LMT delivered by: <ul style="list-style-type: none"> tbc 36 month visas issued in areas of persistent low supply; 12 month visas issued in main centres, and areas of variable or high local supply. <p>Note: All regions currently have high demand for labour.</p>							
<p>Regions</p> <ul style="list-style-type: none"> No labour market test for high skilled jobs in the regions (In practice, means that INZ will not check advertising). Must pay market rate 								
The Role of MSD								
<p>MSD's role is primarily in relation to lower-skilled roles:</p> <ul style="list-style-type: none"> Prepare, and put forward registered jobseekers that are available, and suitable or trainable; Notify INZ when they have put forward suitable jobseekers that the employer has rejected, thereby failing the LMT; Undertake broader Active Labour Market Policies that support employers and Jobseekers. 								

The Migrant Gate
<p>At the migrant gateway, Immigration NZ would assess:</p> <ul style="list-style-type: none"> The migrant's identity. That they meet health requirements. That they met character requirements. That they have the skills and qualifications to do the job.

Post-decision verification and assurance
<p>An assurance model would underpin the new employer-assisted work visa system to manage risk.</p> <p>The level of verification and post decision checks would be driven by risk settings within the assurance model. Site visits and more in depth assurance activities would be in place for higher-risk employers.</p> <p>Monitoring and compliance with Sector Agreements will be carried out in accordance with the terms of the specific agreement.</p>

Scenarios	
<p>The below scenarios demonstrate how an employer might progress through the first two gateways, and how their experience meets the four objectives of the system (previous page).</p>	
Large IT firm based in Wellington employing more than six migrants in higher-skilled roles	
Must demonstrate compliance with high-volume accreditation.	High volume employer must demonstrate that they are making progress towards recruiting/training NZers.
If occupation is in shortage, or paid above 200% no LMT; otherwise must advertise.	If occupation is in shortage, a streamlined process; otherwise must supply evidence of genuine advertising.
Small tourism business in Wanaka filling a lower-skilled role	
Must meet standard accreditation.	Low volume employer is streamlined through the process, as they present relatively low risk.
Must pass strengthened LMT; eligible for three-year visa upfront (in low supply region).	Must demonstrate that no NZer is suitable, available or trainable; longer visas makes it easier for employers .
Labour-hire firm in Auckland filling a low-skilled role	
Must demonstrate compliance with labour-hire accreditation.	Higher-risk employer must demonstrate that there are making progress towards providing better jobs to more NZers, and not at risk of exploitation.
Must pass strengthened LMT; eligible for one-year visas (for up to three years).	Must demonstrate that no NZer is suitable, available or trainable.
Rest home in Christchurch filling more than five migrants covered by Sector Agreement	
Must demonstrate compliance with high-volume accreditation.	High volume employer must demonstrate that they are making progress towards recruiting/training NZers.
Employer (and sector) must demonstrate compliance with the terms of the agreement.	Sector-specific compliance activities ensure a tailored response for sectors that are high-users of migrant