



BRIEFING

Employer-assisted temporary work visa reforms: Regional aspects of the Job Gateway

Date:	10 July 2019	Priority:	Medium
Security classification:	In Confidence	Tracking number:	3945 18-19

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Agree to the recommendations in this briefing Forward this briefing to the Minister for Social Development	12 July 2019
Hon Poto Williams Associate Minister of Immigration	Copy for your information	12 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	✓
Nick Montague	Principal Policy Advisor, Skills and Employment Policy	04 901 3856		
Juliana Johnson	Policy Advisor, Immigration Policy	04 901 2485		

The following departments/agencies have been consulted
MSD, MOE, Treasury, TEC

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Employer-assisted temporary work visa reforms: Regional aspects of the Job Gateway

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Purpose

To seek your agreement to proposals in relation to regionalising the Labour Market Test (LMT) and skills shortage lists.

Executive summary

In December 2018 Cabinet agreed to undertake public consultation on a new employer-assisted gateway system for temporary work visas. This paper seeks your decisions on the regionalisation components of the 'job gateway'.

As part of the job gateway, it was proposed to vary the LMT to reflect the state of the regional labour market, and to strengthen the LMT as a tool to ensure employers place more New Zealanders into jobs. It was also proposed that the skill shortage lists for higher-skilled occupations would be regionalised. Public consultation indicated wide support for a regionalised LMT and the development of regional skill shortage lists.

This paper proposes a skills/regional framework for temporary migration settings as part of the job gateway:

*note that, in all cases, the market rate must be paid	Cities (major metropolitan areas) <i>Auckland, Christchurch, Wellington, Hamilton and Dunedin</i>	Higher-Supply Regions <i>Currently: Northland, Manawatu-Wanganui, Bay of Plenty, Gisborne / Hawke's Bay, Taranaki, Tasman / Nelson / Marlborough / West Coast, and regional Wellington</i>	Lower-Supply Regions <i>Currently: Waikato, Canterbury, Otago, Southland</i>
Above median wage	Skill shortage list, or streamlined LMT (advertising only) 3-5 year visa, renewable	No LMT 3-5 year visa, renewable	No LMT 3-5 year visa, renewable
Below median wage	Strengthened LMT 1 year visa, with ability to reapply two times (providing for a maximum stay of three years) followed by 12 month stand down	Strengthened LMT 1 year visa, with ability to reapply two times (providing for a maximum stay of three years) followed by 12 month stand	Strengthened LMT Upfront 3-year visa followed by 12 month stand down

In addition to the broad framework, there are various related features of the temporary migration system where detailed policy decisions are sought:

- a. Officials propose skill shortage lists be retained only for cities (major metropolitan areas) and that the effect of the list would be to waive any requirements for an employer to advertise. For regions, skilled jobs would not require a labour market test.
- b. You asked for further advice about regionalising the wage threshold that would distinguish between lower-paid and higher-paid jobs. We think there are limited benefits to be gained by such a differentiation and note that it may create complexity and perverse incentives.
- c. Officials propose that the LMT be strengthened by removing Immigration New Zealand's (INZ) ability to overturn a decision by the Ministry of Social Development (MSD) about whether there is a New Zealander available to do the job
- d.

Constitutional conventions
- e. Officials note that the primary mechanism for the alignment of the supply side levers at a regional level is proposed to be through the Regional Leadership Groups.
- f. Officials note that the primary benefit of hubs is their ability to engage with and activate non-beneficiaries into work. However, given the reforms being explored as part of the Welfare overhaul, we recommend against significant investment at this stage. If there was appetite for some action we could look at the creation of hubs in urban areas as part of a budget bid next year.

Recommended action

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

- a **Note** that public consultation indicated wide support for regionalised labour market testing (LMT) and the development of regional skill shortage lists

Noted

Regional and Skills Framework

- b **Agree** that the immigration settings should be tailored to take into account both regional variation and skill level

Agree / Disagree

- c **Note** that you have agreed to use the median wage to distinguish between higher-paid and lower-paid jobs, as a proxy for skill level [briefing 3966 18-19 refers]

Noted

- d **Note** that we do not recommend regionalising the wage threshold that would distinguish between lower-paid and higher-paid jobs

Noted

- e **Agree** that the regional variation differences should be broadly categorised into 3 categories:

- i. cities,
- ii. higher labour supply regions; and
- iii. lower labour supply regions

Agree / Disagree

- f **Agree** that the immigration response (the LMT and visa conditions) for these categories should be as set out in the framework below:

	Cities <i>Auckland, Christchurch, Wellington, Hamilton and Dunedin</i>	Higher-Supply Regions <i>Currently: Northland, Manawatu-Wanganui, Bay of Plenty, Gisborne / Hawke's Bay, Taranaki, Tasman / Nelson / Marlborough / West Coast, and regional Wellington</i>	Lower-Supply Regions <i>Currently: Waikato, Canterbury, Otago, Southland</i>
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Agree / Disagree

- g **Note** that you have agreed jobs which are paid over 200% of the median wage have a different pathway under the proposed job gateway and will have a pathway to residence [briefing 3095 18-19 refers]

Noted

- h **Agree** that, for all settings, employers must ensure that:

- the job pays the current market rate, noting that, for future clarity, MBIE will set the market rate for the occupation, and that
- the job meets the skills and experience requirements for the occupation

Agree / Disagree

Addressing skill shortages

- i **Agree** restricting the revised Regionalised Skill Shortage Lists to the cities (major metropolitan areas): Auckland, Christchurch, Wellington, Hamilton and Dunedin metropolitan areas

Agree / Disagree

- j **Agree** that the Long Term Skills Shortage List be retained for 2020, and that officials review the need and settings for the list (including the interface with skilled residence policy)

Agree / Disagree

Testing the Labour Market

- k **Agree** to strengthen and clarify existing LMT settings to improve delivery of the policy intent by:

- Requiring that advertising must include the salary offering
- Removing the ability of employers to reject an applicant for not having their own vehicle, or driver license, unless operating a vehicle is a requirement for doing the job that is being recruited for

- iii) Requiring that, where a candidate is rejected only because they lack training which MSD is able to provide or facilitate within four weeks, the candidate is still considered suitable, available and trainable
- iv) Requiring employers to document their requirements for the role, and their reasons for rejecting an MSD referral

Agree / Disagree

l **Agree**, subject to consultation with the Minister of Social Development, that the LMT is strengthened by making the following change:

- a. MSD provide INZ with a response on whether the LMT has been met or not following a check against job seekers registered with MSD
- b. an employer will fail the LMT if they reject an MSD referral of a relevant client (except in defined circumstances)
- c. an employer will pass the LMT if MSD refers no-one and other conditions are assessed as met by INZ.

Agree / Disagree

m **Agree** that a list of acceptable reasons for an employer to reject a client is developed jointly by MBIE and MSD

Agree / Disagree

n **Agree** that:

- a. employers seeking to hire multiple migrants would need to employ a minimum ratio of clients of referred by MSD, and
- b. the Minister of Immigration and the Minister of Social Development can agree to vary the ratio depending on presenting labour market conditions

Agree / Disagree

Constitutional conventions

- █ [Redacted]
- █ [Redacted]
- █ [Redacted]
- █ [Redacted]
- █ [Redacted]
- █ [Redacted]

Domestic Response

s **Note** that the primary mechanism for better aligning the labour supply side levers at a regional to be through the proposed Regional Leadership Groups (briefing 3721 18-19 refers)

Noted

t **Note** that hubs will provide the greatest value in activating job seekers who are not MSD clients, who are mainly concentrated in urban centres

Constitutional conventions

Next Steps

- v **Agree** to refer this briefing to the Ministers of Education and Social Development for discussion, in particular on the role of MSD in the labour market test

Agree / Disagree

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

..... / / 2019

Hon Iain Lees-Galloway
Minister of Immigration

..... / / 2019

PROACTIVELY RELEASED

Background

1. In December 2018 Cabinet agreed to undertake public consultation on a new employer-assisted gateway system for temporary work visas. You set two overarching objectives for the reforms to the temporary work visa system:
 - a. Employers place more New Zealanders into jobs, which help their businesses to grow and thrive, and result in better jobs for New Zealanders.
 - b. Temporary migrant workers, when they are employed, are not exploited and have wages and conditions that are consistent with New Zealand values.
2. The consultation paper noted a more tailored system would better reflect the needs of our labour market. For example in higher-skilled, higher-wage and higher productivity sectors (e.g. ICT), temporary migrants can help address genuine skills shortages and make an important contribution to economic growth. However, in industries characterised by lower-skilled occupations, lower-wage and lower-productivity sectors (e.g. tourism, hospitality, services and retail), access to temporary migrants potentially reduces employer incentives to improve productivity, and wages and conditions for local workers. Equally, regions have different challenges and needs which may justify different settings being applied.

Consultation

3. Public consultation indicated wide support for a regionalised LMT and the development of regional skill shortage lists. Regionalisation of the skills shortage lists was supported by 45 percent of submitters. Approximately 64 percent of respondents supported making the LMT more responsive to better reflect the needs of regions, with comments indicating the need for the test to:
 - a. Be dynamic to support the changing needs of industry and regions; and
 - b. Facilitate migration to the regions.
4. Further detail on submitters' comments will be provided in the summary of submissions alongside the suite of Cabinet papers.

Officials propose a skills/regional framework for differentiating immigration treatment

5. The consultation paper noted that there is merit in being able to adjust the supply of temporary migrant workers at a regional level to reflect regional labour market's domestic labour demand and supply.
6. However, a system that accounts for all regional differences would create significant complexity. A proliferation of different pathways for different circumstances would create confusion for employers and migrants, and could undermine the objective of facilitating the flow of migrant labour where it is warranted. To mitigate against unwarranted complexity, we think it is useful to limit the number of different pathways that determine the LMT and visa conditions that will apply for a given region.
7. We recommend applying different immigration settings – tighter, moderate or looser – to the broad categorisations of regions. In addition, we recommend that this be combined with the skills overlay (i.e. according to salary, in relation to the median wage) as we consider that there are jobs (e.g. very highly-paid jobs or higher-paid jobs in remote locations) where the risk of displacement is negligible.

MBIE notes: As a point of clarification, while Tasman/Nelson/Marlborough/West coast is currently lower/variable supply, they are on an improving domestic supply trajectory, and so are not treated as persistently low supply (refer para 9).

8. This results in the following framework:

Table 1: Summary of regional and skills matrix

	Cities <i>Auckland, Christchurch, Wellington, Hamilton and Dunedin</i>	Higher-Supply Regions* <i>Northland, Manawatū-Wanganui, Bay of Plenty, Gisborne / Hawke's Bay, Taranaki, Tasman / Nelson / Marlborough / West Coast, and regional Wellington</i>	Lower-Supply Regions <i>Waikato, Canterbury, Otago, Southland</i>
Above median wage	Moderate	Looser	Looser
Below median wage	Tighter	Tighter	Moderate

*Officials propose merging high and variable supply regions, given the similarity of regional characteristics

9. In our view this highlights a clear distinction between three different types of regions:

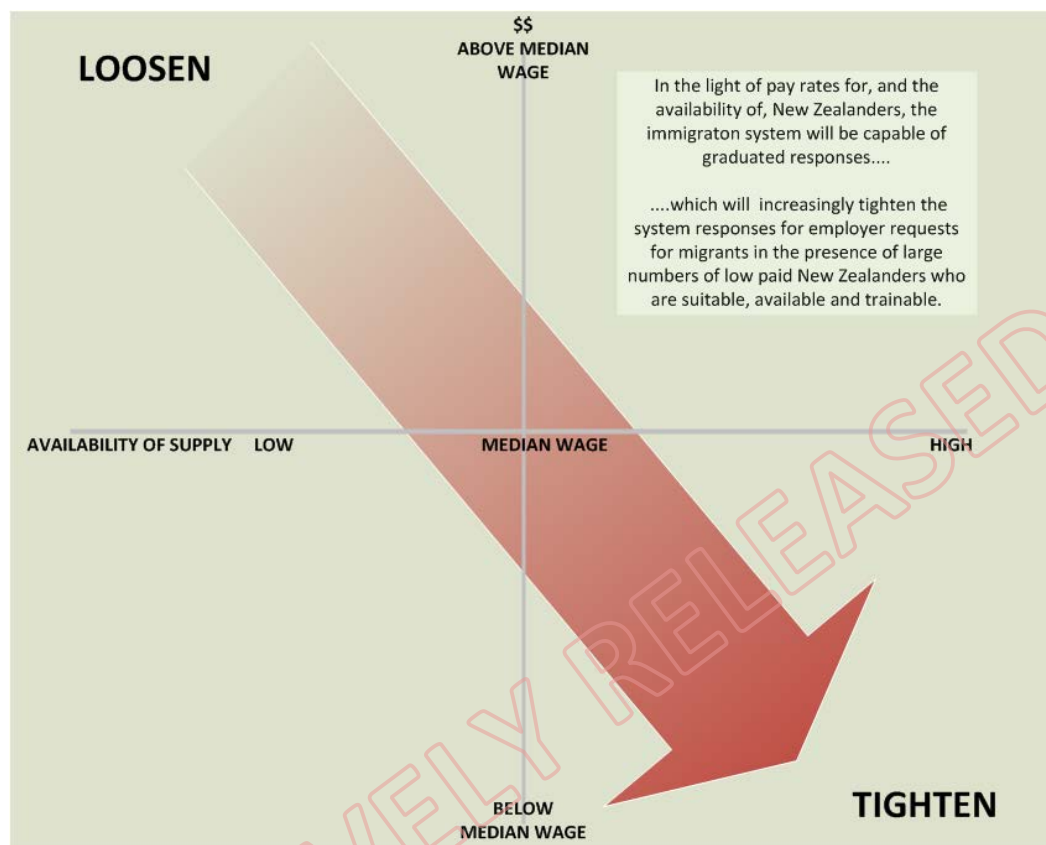
- **Cities:** where easy access to migrant labour could create real displacement or wage depression effects. This includes regions that are dominated by the major urban centres and have relatively high populations but relatively low supply of available labour. However, these urban centres also account for the largest share of migrant labour, and include Auckland, Christchurch, Wellington, Hamilton and Dunedin.
- **Regions with variable or high supply / underutilisation:** where easy access to migrant labour could create real displacement or wage depression effects. This includes non-urban regions that have moderate to high underutilisation and low use of migrant labour. This includes Manawatū-Whanganui, Northland, Gisborne and Hawkes Bay, Bay of Plenty and Taranaki.
- **Regions with low supply / underutilisation:** where high rates of migrant labour do not seem to have exacerbated under-utilisation issues. This includes Southland, Tasman, Nelson, Marlborough, the West Coast and regional Otago and Canterbury. We note that, while negative effects may not be seen at this point of time, there is a possible risk of this changing over time.

10. We propose that you confirm that the broad goal of the LMT is to test for the genuineness of an employer's attempts to recruit suitable, available and trainable candidates from within the domestic labour market and that the policy intent of the LMT is to:

- Facilitate the appointment of "suitable, trainable and available New Zealanders" before employers consider any migrants; and
- Indicate the need for a response from those with labour market levers (employers, government, education providers and others e.g. regional bodies) to reduce this shortage over time by enabling and incentivising the domestic workforce.

11. Officials consider that the displacement and wage depression effects for New Zealand workers is more likely to occur towards the lower-paid end of the spectrum and in areas with higher supply of available New Zealanders for work. Equally, at the other end of the spectrum, higher-paid roles and in areas where there is more constrained domestic supply of labour, access to temporary migrant labour can allow firms to meet their skills needs and continue to grow, as shown below.

Figure 1: regional and skills matrix¹



Framework for characterising regions

12. Officials recommend differentiating between regional labour markets based on:
 - a. the relative level of local supply in proportion to demand for labour over time;¹
 - b. the relative size of the region; and
 - c. the number of employer-assisted work visas issued for that region.
13. At the present time, we note that the data shows little differentiation between regions with variable supply/underutilisation and regions with high supply/regionalisation. For this reason these two categorisations have been grouped together as one. This strikes a balance between providing for differentiation based on regional labour market characteristics, and not introducing unnecessary complexity into the system.

Immigration settings that take account of regional differentiation and wage levels

14. We seek your agreement to the immigration settings for the regional differentiation and wage levels (set out in paragraph 9) under the job gateway.
15. Officials note that you have agreed that jobs which are paid over 200% of the median wage will have a different pathway under the proposed job gateway [briefing 3095 18-19 refers]. A high level summary of the immigration settings is as follows:

¹ MBIE commissioned Infometrics to develop a Regional Differentiation Framework which has been used in identifying this

- a. *Tighter*: strengthening the LMT and ensuring that visa duration is set at the status quo (i.e. 12 month visas, with ability to reapply two times (providing for a maximum stay of three years) followed by 12 month stand down, for those paid below the median wage). The aim is to restrict access to migrants as there is a high likelihood that the placement of a migrant will have some displacement or wage depression effect.
- b. *Moderate*: either some loosening of the LMT, or enabling an upfront 3-year visa for those paid below the median wage. The aim is to facilitate access to migrants but recognises that there is a risk of displacement:
 - i. in the cities because of the high volume of migrants; and
 - ii. in the regions because of low pay.

As such, some tension is kept within the system to minimise any displacement or wage suppression.

- c. *Looser*: removing the LMT. This would have the effect of facilitating migrants to the jobs where there are genuine skills needs that New Zealanders are unlikely to be able to fill.

16. We recommend that this tighter-moderate-looser framework, in combination with regional and wage differentiation, result in the following detailed immigration settings:

Table 1: Framework for immigration settings by region

	Cities <i>Auckland, Christchurch, Wellington, Hamilton and Dunedin</i>	Higher-Supply Regions <i>Currently: Northland, Manawatu-Wanganui, Bay of Plenty, Gisborne / Hawke's Bay, Taranaki, Tasman / Nelson / Marlborough / West Coast, and regional Wellington</i>	Lower-Supply Regions <i>Currently: Waikato, Canterbury, Otago, Southland</i>
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17. We note that, where sector agreements are in effect, you have agreed that the sector agreements will have precedence over the regionalised LMT.

Proposed looser settings

18. As noted, this pathway is intended to facilitate access to migrant labour where the risk of displacement or wage depression is small and is likely to be offset by the likely economic benefit of accessing offshore labour. Our view is that this will cover:

- a. *Jobs in the regions that pay above the median wage.* While this has marginally higher risk, we think that regions have struggled to attract higher skilled migrants. Given the overall rates of visas granted for the regions, we consider there is limited risk of displacement for this group.
19. We recommend that the parameters of this pathway should be:
- a. *No requirement to advertise or test the labour market.* Most employers hiring at this salary range would have relatively rigorous processes to ensure they select the right candidate. Given the low risk of displacement, the value of checking that the employer has advertised is low. As such we do not consider that there is a need to assess the genuineness of the advertising.
 - b. *Visas granted for up to 3-5 years in duration.* This reflects the status quo for higher-skilled migrants and that there is unlikely to be significant movement in the nature of the displacement risk over time (which in part reflects the fact that there are significant lead times in training New Zealanders for higher-paid jobs).
20. The effect of this loosening is that the reforms should provide significant compliance cost relief for a range of jobs where the risk of displacement or wage depression is low.

Proposed moderate settings

21. This pathway is intended to cautiously facilitate access to migrant labour. It aims to deal with circumstances where there is more than a negligible chance of displacement or wage depression, while at the same time managing compliance costs that may unnecessarily inhibit access to migrant labour. Our view is that this will cover:
- a. *Jobs in cities that pay above the median wage.* Cities currently have high volumes of migrant labour, while still experiencing comparatively low levels of underutilisation. So, for example, Auckland has one of the lowest levels of under-utilisation in the country, but the highest absolute numbers of migrants. This creates some risk that displacement may be occurring in parts of that market.
 - b. *Jobs in the regions that pay below the median wage.* In regions such as Southland and regional Otago and Canterbury, the rates of under-utilisation are very low and reliance on migrants is low. However, there are New Zealanders in these regions that might be able to be activated into jobs. As such, we consider that there remains some risk of displacement and wage suppression.
22. We recommend that the parameters of this pathway should be:
- a. *In cities, where a job is identified on a skills shortage list, no requirement to advertise.* The lists are effective ways of testing the market en masse. As the current skill shortage lists are more heavily used in the urban centres at the moment (and not well used in the regions), we suggest maintaining the lists for cities and not for the regions. The skills shortage lists are discussed below in further detail.
 - b. *Application of a strengthened LMT for jobs paid below the median wage, involving:*
 - i. *A requirement to advertise the job.* This will help identify New Zealanders who may be suitable and available for the job, which is important in mitigating any likely displacement risk.
 - ii. *A requirement for MSD to indicate that it has no available, suitable and trainable candidates available for the job.* Given the risk of displacement, this additional step will help ensure that any displacement risks are mitigated. MSD's role in labour market testing is discussed later in the paper.

- iii. *Limited grounds on which an employer could refuse to employ someone referred to them by MSD.* This aims to ensure that employers have legitimate basis for not employing New Zealanders where MSD refers them.
- c. *In low-supply regions: visas granted for up to 3 years upfront for jobs paying below the median wage.* This is intended to reflect the fact that there is unlikely to be significant movement in the nature of the displacement risk over time. Thus, once the market has been tested, some compliance cost relief can be provided by providing a longer term for the visa.

Proposed tighter settings

- 23. This setting is intended to reflect the circumstances where there is a more significant risk of displacement. It covers all low-paid jobs in cities and regions. In these circumstances it will be important to regularly test the market to ensure that the circumstances that warranted the visa continue to persist. Labour market testing can be strengthened to better meet your objectives and can be operationalised more effectively.
- 24. There are three main parts to the proposal to strengthen regional labour market testing:
 - a. Change in INZ's and MSD's roles regarding when a LMT has been met for lower-paid roles
 - b. Decisions for employers with multiple vacancies
 - c. Other improvements

Changing INZ's and MSD's respective roles is a key change to strengthen the LMT for roles paid below the median wage

- 25. Officials have discussed a number of options for strengthening the LMT for lower-skilled roles. The key difference lies in which agency (INZ or MSD) has the key role in deciding whether the role has met the LMT after being referred to MSD for a check on whether there are job seekers available.
- 26. Currently, INZ make the decision on the LMT for applications for migrants. MSD's role is to provide a skills match report (SMR) which outlines the client referrals made and the employer response. The current process faces challenges. There is sometimes inconsistency in presentation of the SMR, which makes it difficult for INZ to operationalise INZ's response to the SMR. Equally, INZ frequently accept employer reasons for rejecting MSD referrals and overturn MSD's views, which undermines the function of the SMR.

27. There are two key options to enhance the status quo:

Table 2: Options to enhance the Status Quo

	A. Enhanced Status Quo (INZ retains decision on whether the LMT has been met)	B. MSD makes decision on whether the LMT has been met
Training at MSD	<ul style="list-style-type: none"> • Provide additional training for MSD staff to improve quality of presentation of report • Provide additional training to INZ staff to ensure it can better processes reports from MSD 	<ul style="list-style-type: none"> • Same as enhanced status quo
Reasons for Rejection	<ul style="list-style-type: none"> • Develop a limited bank of acceptable reasons for a MSD referral to be rejected for an employer • Provide that an employer will fail a LMT if the employer rejects an MSD referral (if the reasons for rejection are not within the rules) 	<ul style="list-style-type: none"> • Same as enhanced status quo
Skills Match Report	<ul style="list-style-type: none"> • MSD to report to INZ about the reasons the employer has rejected a referral • INZ to determine whether the rejection was justified on the basis of the rules 	<ul style="list-style-type: none"> • MSD to provide decision about whether the employer has failed the LMT (on the basis of unduly rejecting an MSD referral) • INZ has no discretion to overturn MSD's recommendation

28. MBIE and MSD recommend option B, with the following approach:

- MSD provide INZ with a response on whether the LMT has been met or not following a check against job seekers registered with MSD
- an employer will fail the LMT if they reject an MSD referral of a relevant client (except in defined circumstances)
- an employer will pass the LMT if MSD refers no-one and other conditions are assessed as met by INZ².

29. We consider that this approach has the potential for greater impact (in terms of increased placement of MSD referrals³) and is much clearer for agencies and employers. It will create incentives for MSD to improve the quality of its referrals and should be cheaper and quicker overall as there is reduced duplication of assessments by both MSD and INZ.

30. There will be opportunities to explore systematic approaches to MSD fast-tracking decisions where they have no suitable clients to refer, with the accompanying ability to make this transparent to employers, in order to reduce uncertainty and duplication of effort. As an example, where a sub-regional area has very low supply and high demand, such as Queenstown, MSD and MBIE may elect to provide a streamlined LMT, by maintaining a local list of occupations for which they no longer provide an SMR report (as happens currently).

31. Overall it is expected that the change will result in an increase in the number of failed LMTs, with the consequence that employers will be unable to recruit a migrant given the availability of New Zealanders. Aligned to this, the changes may result in an increase in complaints from employers, with a clearer focus on the MSD decision whether to accept an employers'

² Note that INZ are responsible for assessing the adequacy of any advertising and the reasons for the employer not accepting any direct applicants

³ The absence of a clear decision from MSD it is likely to be a driver of the high referral/low placement rate that has been observed to date: less than 4% of referrals through this process result in job placement (900 successful placements for 25,000 referrals per annum, since October 2015).

reason for rejecting an MSD referral. This may increase pressure on existing agency complaints systems, while the new system beds in.

32. Providing Ministers agree to the recommended approach, officials will undertake further work on transition to the new system. This work will include the design and trialling of MSD and INZ systems to support and implement this change.

Acceptable reasons for rejecting an MSD referral

33. Officials propose that an employer be able to reject an MSD referral and still pass the LMT when:
 - a. MSD determines that the employer has adequately engaged with MSD's broader programme of Active Labour Market Policies; or
 - b. The employer has rejected the referral for a limited number of specified reasons.
34. Officials will provide further advice to the Ministers for Social Development and Immigration on what the specified acceptable reasons for rejecting a referred MSD client should be (such as non-attendance at interview or failed drugs test for a vacancy in a high-risk environment).
35. The intention would be to reduce the acceptable reasons for an employer to reject a client to a set of measurable, reportable reasons that can lead to ongoing process improvement for MSD's referrals and support for MSD clients to meet the standards that employers expect. Where employers reject a candidate, the process could involve MSD's case management to identify the need for remedial training and other supports needed.

Officials propose that employers of high volumes of migrants would have additional requirements

36. For those employers seeking to fill multiple vacancies with migrant workers, officials propose that, where MSD puts forward clients as suitable, trainable and available, the employer is required to take on board some of these clients in order to pass the LMT. This allows the employer some choice (for example they may not have capacity to take on board large numbers of inexperienced staff) but would still require the employer to make a genuine effort to employ New Zealanders.
37. Officials propose that, where employers propose to recruit multiple migrants for a set of vacancies, that they be required to employ a ratio of at least one in every three MSD referrals.
38. This proposal is simple and will be relatively difficult for employers to bypass. However, it is a blunt tool that may not be appropriate in all circumstances. In addition, as it sets a minimum requirement, it may incentivise employers to do the minimum in order to meet requirements when in practice they could support more. The ratio could, however, be altered over time to reflect the way the policy plays out in practice. We recommend that the Ministers for Social Development and of Immigration should be able to vary the ratio for all employers, if circumstances change.

Other improvements to the LMT process

39. Officials propose that you agree to strengthen and clarify existing LMT settings to improve delivery of the policy intent by changes relating to:
 - a. documentation;
 - b. advertising
 - c. driving licenses, and
 - d. training.

Documentation

40. Officials propose that employers must document and provide the requirements for the role to

MSD, including any requirements in excess of the ANZSCO description (such as multiple years' experience). Employers must also document their reasons for opting not to employ an MSD client, which will be shared with MSD for them to then decide whether or not to support the employer. This information is then provided to INZ for verification of any incoming migrant applications.

41. This would provide a set of measurable, reportable reasons that can lead to ongoing process improvement.
42. It would also enable INZ to carry out verification to ensure that the migrant applying for a role has the skills, experience and qualifications that the employer claimed to need. Officials also propose that you reinforce the requirement that, where an employer has identified that they require skills and/or experience and/or qualifications in addition to the ANZSCO description of an occupation, the migrant applying must meet or exceed those requirements.

Advertising to include specification of pay and can be via new advertising platforms

43. Officials propose requiring that, for advertising to be considered sufficient for labour market testing, an employer must include the salary offering. This would enable easy verification that New Zealanders and migrants were offered comparable rates of pay. It would also enable greater transparency, and support verification of market rates.
44. Pay will need to continue to meet market rates. While an ongoing challenge, there are existing mitigations in place. Guidance and expectations for employers will be clarified and readily available.
45. Officials also propose to extend the definition of acceptable advertising to include LinkedIn and an employer's own website, given the effectiveness of such recruitment methods. This suggestion was raised during consultation as a key issue for employers.

Driving licenses

46. Officials propose removing the ability of employers to reject an applicant for not having their own vehicle, or driver's license, unless operating a vehicle is a requirement for doing the job that is being recruited for.
47. The rationale for this change is that, in cases where transport is particularly difficult (for example, due to a lack of public transport) or the employees are on shift work where public transport is not available, employers will need to give consideration to providing solutions to transport issues.

Training

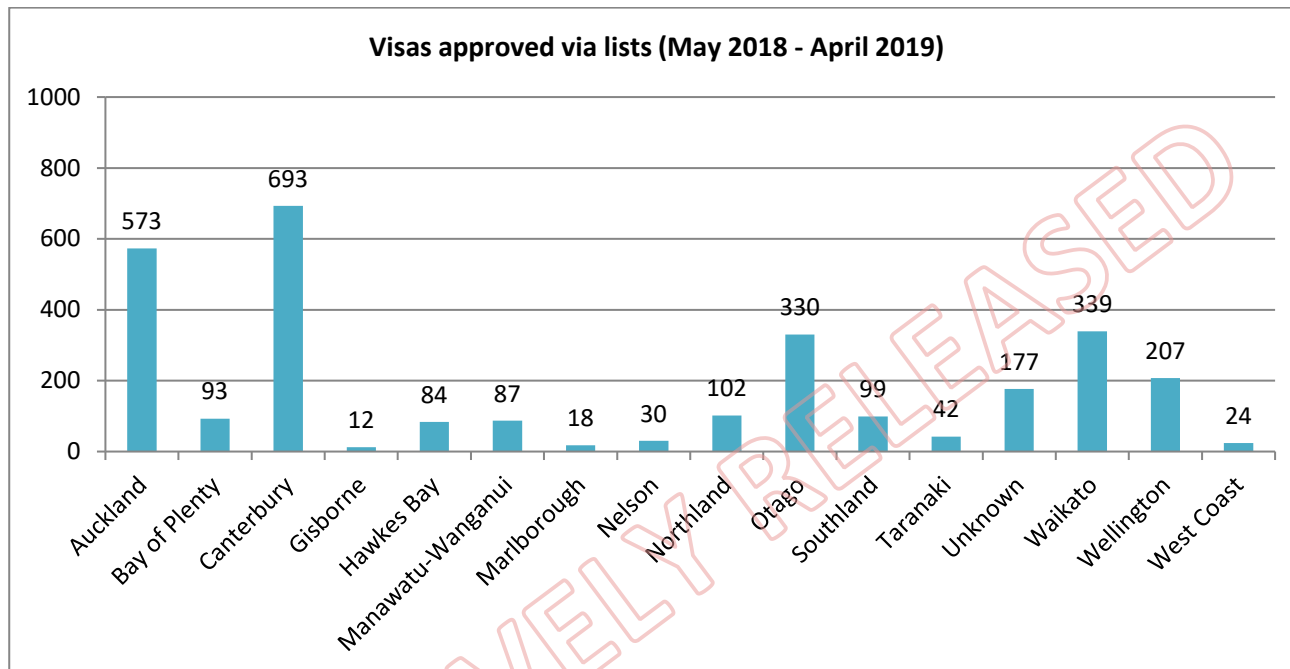
48. MSD's role is to prepare its job seeker clients so that they are work-ready. Officials propose that, where a candidate is rejected only because they lack training which MSD is able to provide or facilitate within four weeks, the candidate is still considered suitable, available and trainable. This provides an incentive for employers to work with MSD on arranging and delivering suitable pre-employment and work-readiness training for clients.

Addressing skill shortages

49. Currently, employers seeking to employ migrants for an occupation listed on one of the skill shortage lists do not have to advertise to test whether any New Zealand workers are available, suitable and trainable for the role.
50. Despite keen industry interest in seeing occupations reflected in the skill shortage lists where employers experience unmet demand, analysis of essential skills visa numbers shows that only a minority of skilled migrants are approved under the lists. This is largely because the requirements specified in the lists aren't being met (i.e. the worker applying for the visa does not have the qualifications and/or work experience or licencing set out in the skill shortage lists). Instead, even where occupations are on the list, the majority of visas are being approved through a LMT.

51. Analysis also indicates that further regionalising the skill shortage lists would primarily benefit main centres, rather than regions. Figure 2 below shows the regional distribution of visas approved via the lists during this period:

Figure 2: Visas approved via Lists 1



52. Officials used visa approvals data to test a range of models for regionalising skill shortage lists including:

- A lower threshold for occupations to go onto the lists (10 visas, rather than 50)
- A variable threshold, based on the size of the region's skilled employment

53. Even with the regionally-adjusted threshold, regions without main centres would see few or even no occupations on their lists, while regions with main centres would see a reasonable number of occupations included. The primary benefits of skill shortage lists experienced by regions appears to be their role in signalling opportunities to both domestic and migrant workers of higher-skilled jobs available. However, officials consider that this could be done through other means than regional skill shortage lists.

54. In response to the analysis above, officials consider that an alternative approach is needed to achieve the policy intent of ensuring regional labour market characteristics are better reflected in how the job gateway operates.

55. Rather than continuing the regional skill shortage lists (including the Construction and Infrastructure Skills Shortage List (CISSL)), officials recommend restricting revised Regionalised Skill Shortage Lists to the cities: Auckland, Christchurch, Wellington, Dunedin and Hamilton metropolitan areas. Based on visa data, population estimates, and regional employment growth forecasts, officials anticipate that only Auckland, Christchurch, Wellington and Hamilton are likely to see sufficient numbers of visas approved under the lists to justify the resource required to maintain the lists.

Long Term Skill Shortage Lists (LTSSL)

56. Under current settings, occupations are added to the LTSSL if they are deemed to be in shortage across all regions in New Zealand, and/or where there is evidence of sustained

global shortage. There is no set process for reviewing or removing occupations which have been added to the list.

57. At this stage, officials propose to retain the LTSSL for 2020. However, as volumes of visas issued through the LTSSL are low we propose reviewing the need for the LTSSL, including:
- a. whether occupations should remain on the LTSSL where volumes of visas granted are low; and
 - b. what transitional arrangements are required if occupations are removed, particularly to manage any flow on effects to skilled residence policy settings which are linked to the LTSSL.
58. This would provide migrants and employers with certainty over the transition period to the new employer assisted temporary work visa settings.

Defining skill level via regional median wages

59. You requested further advice on the potential impacts of using a regionalised median wage, rather than the national median wage, as the salary threshold for determining access to either more, or less favourable immigration settings.
60. In general, temporary migrants are receiving lower wages than that of the working population, both in regions and in cities. For the general working population, median hourly earnings are higher in cities than in regions – currently the median hourly earnings for people in paid work ranges from just over \$22 in Manawatu-Whanganui, up to just over \$27 in Wellington.
61. One of the key aims of the reforms is that employers place more New Zealand workers into jobs, including through improving the attractiveness of jobs to New Zealanders.
62. By setting a national wage threshold which applies in the regions and in the cities, employers are incentivised to raise wages in the regions (so that they are able to access the looser immigration settings). Over time, using the national median wage as a threshold is expected to contribute to a reduction in shortages felt by employers, as wages offered are lifted and jobs in the regions become more attractive to New Zealanders.
63. Setting a regionalised wage (i.e. continuing the wage differential between the regions and the cities) would not create as strong an incentive to increase wages (because the regional median is likely to be lower). It would also introduce additional complexity into the system.
64. It is important to note that paying below the wage threshold does not mean an employer cannot get a visa for a temporary migrant worker. Rather, employers who pay above the median wage for a job will have a streamlined labour market test and be able to get a longer duration visa, without the stand down period.

Constitutional conventions

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The Role of Hubs

74. The current LMT process has largely focused on job seekers who are MSD clients. There are, though, other groups who are close to the labour market whose suitability, availability and trainability for vacant roles could be tested. These include:
- a. The under-employed sub-group
 - b. The potential labour force (which includes people who report that they would be willing and available to work, as well as those who would have been willing to work but were not available because of other commitments), and
 - c. Those who class themselves as Not in the Labour Force (NILF).
75. To date, these non-beneficiary groups have not been a specific target for MSD. Recently, however, Jobs and Skills Hubs have been working to proactively identify and activate this population group.
76. The first Hub was established in 2012 as part of the government's response to the 2010 / 2011 Christchurch earthquakes and was named the Canterbury Skills and Employment Hub (CSEH). The CSEH was able to co-ordinate between employers, workers, MSD and other providers of active labour market policies (such as schools and other education providers) so that it could better place workers in jobs and build a pipeline of available labour. Employers were incentivised to use the Hub as it was responsible for administering the LMT in the Canterbury region. This effectively meant that, in order to obtain a migrant, an employer had to work with the hub to identify any possible sources of New Zealand labour. Given that hubs could assist employers with a broader group of available labour (rather than just beneficiaries), the hub was able to increase the number of people placed in the region.
77. Given the scale of non-beneficiaries that could be activated across New Zealand, there is a potential argument to be made that Hubs could play a role in all regions. This, however, would be a significant investment. At this stage, given the work being undertaken on the Welfare overhaul and how the welfare system services non-beneficiaries who need employment assistance, we consider it pre-emptive to establish hubs for all regions.
78. One option to mitigate the cost of setting Hubs up in all regions may be to expand the functions of the hubs already funded. Given the sectoral focus of the existing hubs deployed as part of the Sectoral Workforce Engagement Programme (SWEP), such hubs would be difficult to reconcile with regional approach to labour market testing.
79. An alternative option may be to explore the deployment of hubs where there are large non-beneficiary populations (for example, in the urban areas). Constitutional conventions

Domestic response to the immigration system

80. The consultation paper indicated one objective of the proposed changes to the immigration system to trigger a domestic response to the increased demand for workers. The aim was for the immigration system to trigger shifts in how Government invested in the education and welfare systems to respond to the changing labour market dynamics.
81. We are reporting separately to you on the role of Regional Leadership Groups (RLGs). Broadly the RLG proposal is to establish regional bodies to assess local labour market dynamics and provide recommendations to supply side agencies (including welfare, education and immigration) about shifts in the local markets that may warrant a shift in

agencies' approach to those regions. This will help ensure the system remain responsive to the local labour markets. Officials consider that both the welfare and education systems currently enable flexibility to respond to shifting local needs and operate programmes that are flexible and responsive to demand. Further, as part of both the ROVE and the Welfare Overhaul, the agencies remain committed to ensuring that their levers remain as responsive as possible to local labour market dynamics.

Next Steps

82. Official propose that you refer this briefing to the Ministers of Education and Social Development for discussion, in particular on the role of MSD in the labour market test.

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