

Submission: Suite of Proposed Changes to the Essential Skills Visa

This submission is made collectively by the following group of migration researchers:

- Dr. Francis Collins, University of Auckland
- Dr. Allen Bartley, University of Auckland
- Prof. Richard Bedford, University of Waikato
- Assoc. Prof. Ward Friesen, University of Auckland
- Assoc. Prof. Alan Gamlen, University of Adelaide
- Assoc. Prof. Louise Humpage, University of Auckland
- Prof. Manying Ip, University of Auckland
- Assoc. Prof. Nick Lewis, University of Auckland
- Dr. Liangni Liu, Massey University
- Assoc. Prof. Jay Marlowe, University of Auckland
- Dr. Rachel Simon-Kumar, University of Auckland
- Dr. Jessica Terruhn, Massey University

Collectively we have undertaken a wide range of research over the last three decades on issues related to migration, including migration policy, the lives of migrants, questions of diversity and community, citizenship and population. This includes extensive research in New Zealand, as well as insights from migration in countries in Asia and the Pacific.

In the submission that follows we address each of the questions raised in the discussion document. Our overall view, however, is that the proposed changes will not achieve the goals set out by the government and will in fact entrench low-skilled labour migration in a way that will diminish the workplace conditions and social connectedness of migrants and broader societal social cohesion. The discussion document states that a key concern is that “there is evidence that the numbers of temporary migrants are increasing in industries with lower-skilled jobs, lower-wages and lower productivity”. The proposed changes to policy to address this concern are similar to those associated with guest worker programmes used in some other countries. These programmes do not reduce reliance on temporary migrant workers, rather they tend to *increase* this reliance while also diminishing the wages, conditions and productivity of these workers. At the same time they lead to increased segregation of migrants from society and can have very negative impacts on the wellbeing of migrants and their families.

Our submission has four key points

- The proposed income thresholds are not an appropriate means for distinguishing between people on work visas in terms of the value to New Zealand society and economy. International evidence suggests such changes have deleterious social and economic effects.
- The proposed restrictions on ‘lower skilled’ essential skills work visas – maximum durations, stand down periods and family restrictions – have substantial negative

impacts that include the creation of a permanently temporary underclass, reduced social interaction and reduced labour productivity.

- There is little or no evidence that the proposed changes will address the concerns in the discussion document around the number of people receiving work visas, levels of productivity or the wider concern of managing migration in a manner that positively effects New Zealand society and economy.
- The proposals present a risk to New Zealand's image and by association to the value of the products that we export in global markets.

We are making this submission because we strongly believe that the proposed changes to the essential skills visa will not address the concern about increasing numbers of temporary migrants in industries with lower-skilled jobs, lower wages and lower productivity. If the intention is to regulate the numbers of people on temporary visas becoming long-term residents in New Zealand, either through obtaining repeated extensions to temporary visas or through transitioning to residence, then the focus of attention needs to be on the way we meet persistent skill shortages in the labour market, irrespective of skill level, rather than income thresholds which divide Essential Skills visa holders into arbitrary classes. We are particularly opposed to the proposal that those who are earning at or above a particular income will automatically have opportunities to renew their visas or transition to other visas on-shore, while those who do not meet this threshold must leave New Zealand after three years and return to a place where they have long-term residence rights for a minimum of 12 months before applying for another work (or residence) visa in New Zealand. This is highly discriminatory and in fact will do little to address the primary issue of concern.

While there are material implications from these proposed changes for migrants, we submit that they are also detrimental to New Zealand and New Zealanders now and in the future. The proposed changes will create an underclass of segregated migrant workers for whom there is no opportunity for integration, leading to social division and future antagonism. Indeed, there are similarities between the proposed changes and earlier ignominious events in New Zealand's history of migration policy making, such as the introduction of a poll tax to preclude the arrival of the families of Chinese in the late 19th century and the targeting of migrants from the Pacific for deportation in the 1970s and 80s once the government decided these people were no longer of value.

These proposals threaten to undermine New Zealand's positive reputation for treating migrants fairly and compassionately and for establishing just labour conditions. This reputation attaches to our products as well as our place in the world more widely. Our reputation for enlightened global citizenship has served us well in being able to exert an influence well beyond our size on the global realms of culture, international diplomacy, and trade. As we target global value-added food markets, this reputation as well as the particular details of the labour practices associated with those foods will be both part of the narrative that adds value to those products, and will come under closer scrutiny. The proposals put that reputation at risk for what appears to be unclear and limited gain. Recent international concern with human trafficking and the indenture-like dimensions of the RSE demonstrate just how unexpected this scrutiny can be, and how quickly and easily our reputation can be challenged.

By contrast socially just, creatively constructed, and humanely administered migration rules might not only foster more productive workplaces, but it can offer new narratives that will add value to New Zealand products. There is strong evidence from the early period of the RSE that those firms who embraced the scheme and built relationships with the island communities from which they recruited workers saw a range of productivity and sales gains [1].

We welcome the opportunity to discuss these concerns in person as part of the consultation process.

Please contact:

Francis L. Collins, PhD
University of Auckland
+64-9-9233129
f.collins@auckland.ac.nz

[1] Roorda, M. (2011). *Review of the Recognised Seasonal Employer (RSE) worker pilot training programme*. Evaluate Research. Online resource available at: <https://mfat.govt.nz/assets/securedfiles/Aid-Prog-docs/Evaluations/2011/Feb-2011/Review-of-the-Recognised-Seasonal-Employer-Worker-Pilot-Training-Programme.pdf>

Using wage or salary information to help determine skill level and access to Essential Skills migrants

Proposal 1: Introduction of remuneration thresholds to determine skill levels and associated visa conditions for Essential Skills visas

Consider the proposal of aligning the remuneration thresholds for the Essential Skills visa with the remuneration thresholds for the Skilled Migrant Category.

What impacts or implications do you foresee from defining lower-, mid- and higher-skilled Essential Skills migrants in this way?

Give details of the occupations or sectors and wage or salary levels you are thinking of.

Our view is that using remuneration thresholds to define lower-, mid- and higher-skilled migrants is not an appropriate approach to recognising the range of skills and contributions that migrants make to their workplaces and communities or what is needed within New Zealand's workforce. Instead these thresholds will reinforce the unequal value attached to different jobs and could contribute to the association of particular jobs only with purportedly 'lower skilled' migrants and, in the process, discourage local populations from pursuing these occupations. Alongside the proposal for maximum durations, the introduction of income thresholds risks creating greater segmentation in the labour market along the lines of nationality and, as a result, race/ethnicity.

The key effect of these proposed changes will be to impose tighter restrictions on relatively lower-income migrants and to reinforce their marginal position in society. Because these thresholds are being tied to other visa conditions, such as the proposed maximum duration for lower-skilled migrants, they will create transience in the workforce in ways that are not beneficial to migrants, to employers and other workers or to New Zealand society and economy as a whole.

The discussion document identifies a key goal of these proposals is "incentivising employers to invest more in training and/or offering better wages and/or terms and conditions". While this may happen in some instances, we submit that in many cases these changes will reinforce lower wages and conditions below the lower skilled threshold for employers who are willing to rely on transient workers.

This effect is evidenced in other countries where remuneration thresholds are used to grade the skills of migrants and then establish different rights associated with their visas. Singapore, for example, operates a broadly three-tiered system where workers are either low-skilled, mid-skilled and high-skilled, with each visa category based on monthly income thresholds (\$2200 for mid-skilled and \$3300 for high-skilled). Migration specialists studying the effects of these policies in Singapore over recent decades are unanimous in identifying that they create inequality, undermine the rights of migrants, stigmatise key occupations and are associated with segregation and antipathy towards non-Singaporeans on time-limited visas who have no ability to integrate into mainstream society [2]. We submit that these effects would be very undesirable for New Zealanders and New Zealand society.

[2] For recent examples see:

Yeoh, B. S., & Lam, T. (2016). Immigration and Its (Dis) Contents: The Challenges of Highly Skilled Migration in Globalizing Singapore. *American Behavioral Scientist*, 60(5-6), 637-658.

Ye, J. (2016). *Class Inequality in the Global City*. Palgrave Macmillan UK.

Reinforcing the temporary nature of the Essential Skills visa and managing the settlement expectations of temporary migrants

Proposal 2a: Introduction of a maximum duration for lower-skilled Essential Skills migrants

Consider the option of a three years for a maximum duration for lower-skilled Essential Skills visas.

What impacts or implications do you foresee from the proposed maximum duration for lower-skilled Essential Skills visa holders?

Give details of the occupations and industries you are thinking of.

The proposed introduction of a three year maximum duration for lower-skilled Essential Skills visas will reinforce the marginal position of people on work visas in the labour market and create opportunities for increased exploitation. This proposal effectively establishes a guest worker programme in New Zealand that is similar to those that operate in East and Southeast Asia and in the Middle East, and have been intermittently used in North America and Europe. The effects of these programmes on the conditions experienced by migrants are well known.

- Migrants become more dependent on their employers to maintain their status and are as a result likely to accept working conditions and wages that they would not do if they had greater rights. Greater restrictions on temporary status is known to be associated with increased irregularity in migration and exploitation of migrants who are made vulnerable by these policies.
- The maximum duration on migrants' visa status also discourages people from becoming part of communities and society at large, leading to greater marginalisation and segregation. Effectively it creates a second class of people who do not presently or even in the future have the possibility of participating in mainstream society. This is harmful for New Zealand social cohesion and contradicts the emphasis that has been placed for many years on integration and settlement by successive New Zealand governments.
- Particular jobs become increasingly associated with migrants, which effectively stigmatises these jobs and discourages local populations from undertaking them.
- Temporary guest worker programmes also create space for intermediation by brokers and agents who profit from exactly the complexity of rules and regulations that workers and employers have to negotiate – their influence also tends to disempower migrants.
- Once a programme of this kind is established it is very difficult to conclude as parts of the labour market will become increasingly reliant on people on temporary visas and conditions in these areas will decline as a result of the transience of the workforce.

There is considerable evidence for these impacts. Studies in Canada, for example, indicate that people in the Temporary Foreign Worker Program (TFWP) work 30-50% more hours than other workers, are more vulnerable to health and safety risks and exposed to more coercive work arrangements because of their visa status and lack of pathway to residence [3]. Related research in Canada has also demonstrated that the restrictions on migrant rights in the TFWP puts "downward pressure on workplace rights for all Canadian workers" [4]. In New Zealand, we have already seen a growth in exploitation of migrant workers where those people are in situations where there are few if any opportunities available to remain long term [5].

These negative consequences are a direct result of increasingly restrictive approaches to the rights of people on work visas, such as those outlined in the proposed reforms. Rather than "increasing the attractiveness to employers of New Zealanders, including beneficiaries and school leavers", the maximum duration will reinforce the perception that particular jobs are

associated with migrants who accept lower wages and conditions. Once established, it will be very difficult end this kind of programme.

There are also negative implications for the quality of workplaces and the ability of employers to utilise skilled work. In New Zealand the major sectors of the labour market that are most likely to be affected by this change are hospitality, farming, construction and health and social practice. In all of these industries areas we submit that the introduction of maximum durations will create an unstable workplace environment. Furthermore, it will not achieve the proposed policy goal of decreasing the number of people on work visas; instead, it will lead to greater transience and limit the ability for employers to develop the workforce they need and for New Zealand to benefit from the presence of migrants. For example,

- In the care sector, these proposals would mean that it is likely that, as an increasing number of New Zealanders enter aged care, they will be cared for not by people who have many years' experience in New Zealand and the time to build up meaningful relationships but rather by short-term workers focused on earning income before departure. This would likely diminish the service quality of aged care in a context of an increasing age demographic across New Zealand.
- In the dairy sector, maximum durations will reduce the ability of farmers to plan for the long-term and may diminish the productivity of farms if skilled farm workers look to other countries for migration opportunities.
- The impact of increased transience may create particular concerns for health and safety in these sectors, as greater turnover of staff on work visas can reduce the level of experience and seniority in the workplace. There is evidence for declining health and safety associated with the growth of guest worker programmes in Canada [3].
- In ethically sensitive high-value food products markets New Zealand firms need to avoid questions that might be asked about exploitation of migrant labour, in relation to uneven rights.

One of the stated rationales for the introduction of maximum durations is that some migrants who are classified as 'low skilled' are becoming too well-settled in New Zealand. We acknowledge that migration policy cannot encourage all those on temporary visas to contemplate residence on a long-term basis. However, we submit that there is a need to provide appropriate, but managed, pathways to residence for those migrants who are in areas of labour demand, irrespective of skill level. The proposed establishment of maximum durations for those on lower incomes is discriminatory and will not address the real needs for workers that exist in key sectors of the economy. In instances where such need is demonstrated we submit that the government should look at creating more stable pathways to residence in order to enhance integration into social and community life for migrants with a range of skills and more predictable access to employees for employers (see alternative in relation to Proposal 2b below).

[3] Preibisch, K., & Otero, G. (2014). Does citizenship status matter in Canadian agriculture? Workplace health and safety for migrant and immigrant laborers. *Rural Sociology*, 79(2), 174-199.

[4] Taylor, A., Foster, J., & Cambre, C. (2012). Training 'expendable' workers: temporary foreign workers in nursing. *Globalisation, Societies and Education*, 10(1), 95-117.

[5] Stringer, C. (2016). *Worker Exploitation in New Zealand: A Troubling Landscape*. The Human Trafficking Research Coalition. Online resource available at: <https://www.workerexploitation.co.nz/>

Proposal 2b: Introduction of stand down period for lower-skilled Essential Skills migrants

Consider the option for a year-long stand down period following the maximum duration for lower-skilled Essential Skills visas.

What impacts or implications do you foresee from these proposed changes?

Give details of the occupations and industries you are thinking of.

The stand down period is a common technique used in guest worker programmes, limiting the time migrants can spend but allowing them opportunities to return in the future. Alongside maximum durations, this reinforces some of the key concerns that we raise above in relation to proposal 2a, in particular in terms of the level of transience that is created by these proposed changes. Stand down periods make people reliant on returning and accepting conditions offered by employers without any ability to accrue further rights, skills and experience regardless of the contributions they make to the economy and society.

These policies also hamper efforts at establishing and enforcing greater workplace protections and rights. Indeed, rotation policies have been shown to reduce migrants' willingness to question the way they are treated in the workplace because of the increased obligations that they have to employers. Diminished workplace conditions then become a norm that can apply to all workers, regardless of whether they are temporary migrants, permanent residents or indeed native-born citizens [6].

The effect of such stand down periods and maximum durations can also be to increase unauthorised migration as individuals are forced to make difficult choices between remaining covertly after their visa expires and leaving for a stand-down period after which they may not be able to return for further work. An international example where stand down periods are used is South Korea, a context where one of us (Collins) has conducted extensive research. His findings show that stand-down periods have the effect of incentivising undocumented labour for some migrants and employers. This is because workers have to choose between the legal path of returning home that risks employment and income streams or overstaying the time limits on visas in order to maintain current employment. Employers too risk losing exactly those experienced staff who they wish to retain [7]. In ongoing research Collins is undertaking in the dairy and healthcare sector in New Zealand, this has been exactly the concern expressed by employers even under the current settings – that the uncertainty around the issuing of visas is jeopardising their ability to keep the best (migrant) staff [8].

[6] Preibisch, K., & Otero, G. (2014). Does citizenship status matter in Canadian agriculture? Workplace health and safety for migrant and immigrant laborers. *Rural Sociology*, 79(2), 174-199.

[7] See, for example:

Collins, F. L. (2016). Migration, the Urban Periphery, and the Politics of Migrant Lives. *Antipode*, 48(5), 1167-1186.

Collins, F. L. (2016). Labour and life in the global Asian city: the discrepant mobilities of migrant workers and English teachers in Seoul. *Journal of Ethnic and Migration Studies*, 42(14), 2309-2327.

[8] Collins, F.L. (2015-2020). *Nation and Migration: population mobilities, desires and state practices in 21st century New Zealand*. Research project funded by a Rutherford Discovery Fellowship from the Royal Society of New Zealand.

Alternative Proposal

We propose, rather than set maximum durations on the time that people on essential skills work visas can remain in New Zealand and tie this to remuneration thresholds, the

government maintain the current approach and consider implementing a system for gaining points towards residency through the time that migrants spend in New Zealand. We believe that rather than discouraging people from becoming settled, effective immigration policy should encourage people who are in areas of need and wish to live in New Zealand to become part of communities and society and reward that with the granting of increased rights. This could be achieved, for example, by allowing people on work visas who had legally worked full time for a set duration (perhaps 3 or 5 years) to be granted extra points in their residency application.

This alternative removes the sense that a particular skill level or being above an income threshold that half of New Zealand's working population falls below is somehow a criterion for successful settlement. We submit that there should be no discrimination by skill or income on temporary workers gaining points towards residence if they have worked in New Zealand for a specified minimum period in areas in the labour market where we have clearly defined demand for non-resident workers. None of them should be required to have a stand-down periods. They should not be forced to be "transient" workers; they are workers fulfilling essential tasks in New Zealand's labour market and making wider contributions to communities and the society at large.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Proposal 3: Require the partners of lower-skilled Essential Skills visa holders to meet the requirements for a visa in their own right

Consider the proposal to require the partners of lower-skilled Essential Skills visa holders to meet the requirements for a visa in their own right.

What impacts or implications do you foresee from these proposed changes?

Give details of the occupations and industries you are thinking of.

We oppose the proposal to require partners of lower-paid essential skills visa holders to meet the requirements for a visa in their own right. The impact of these proposals are to treat migrants only as workers and to ignore their social lives that are critical to establishing valuable community connections and contributions and making the most of the presence of migrants.

We submit that:

- These proposals will encourage people on essential skills visas to live in transnationally split households, away from their partners and children. The effects of such households has been shown to be detrimental for intimate relationships and for the maintenance of family lives. Since family life and support are essential for incentivising migrants' adaptation to new environments, these proposals will deter migrants' labour force performance and integration[9].
- The absence of partners will likely reduce community involvement of essential skills visa holders – leaving them segregated from society only as workers without the family support to live as part of and contribute to communities.
- The restriction of partners will have a stark gender impact on places where migrants live and work in New Zealand. In key sectors like health care, construction and dairy farming that we are researching currently, there are significant differences in the gender of essential skills visa holders – overwhelmingly male in construction and dairy farms and predominantly female in health care.
- Detaching individuals from their families and communities in this way risks making them vulnerable to exploitation and victimisation. The proposed change would result in groups of migrant workers staying in New Zealand without family support, and without the stabilising social anchors that make it possible for people to flourish and become successful members of society.
- A lesson can be drawn from our own history, in terms of denying the ability of Chinese workers in the gold fields from bringing spouses/families during the 1870s. This policy had long term effects in the marginalisation of Chinese in New Zealand and was one of the things that the government issued a formal apology to the New Zealand Chinese community in 2002. This is not an experience that we wish to see New Zealand repeat.

The cases of Canada [10], Singapore [11] and South Korea [12] are again instructive in observing the negative effects of these proposals. In Canada, scholars have observed that the inability to bring families and inaccessibility of social resources creates low levels of trust and belonging amongst migrant workers as well as resistance to migration from non-migrants who witness the effects of greater inequality and exclusion [9]. In both Singapore and South Korea, lower and mid-skilled migrants may not be accompanied by their partners and children. The effect in the highly gendered areas of domestic and care work and construction in Singapore [11] and manufacturing in South Korea [12] is the presence of large numbers of married men and women who live in the country as single people. Their social networks are almost entirely constrained to same-gender connections and there is minimal if any integration into the communities they live within or near to [11 and 12]. This could easily become the case in sectors like farming, construction and health care in New Zealand if the proposed changes are implemented.

In all employment sectors in New Zealand, there is evidence that workers who value the opportunities that their employment offers and who are happy and socially and culturally grounded are more productive and more likely to be reliable and creative in the workplace. One of the problems repeatedly identified by industry in their calls for low-wage migrant labour is that domestic workers are unreliable, uncommitted to stable home lives, and transient. Strong family relationships make for more productive workers, just as they make for more settled citizens who are more likely to make community contributions.

We submit that a socially inclusive migration policy supports the maintenance of family connections and the interests of migrants as full participants in civil society who can be supported by the relationships they choose to establish rather than as workers only, separating them from the one's they love.

[9] Mazzucato, V., Dito, B. B., Grassi, M., & Vivet, J. (2017). Transnational parenting and the well-being of Angolan migrant parents in Europe. *Global Networks*, 17(1), 89-110.

[10] Taylor, A., & Foster, J. (2015). Migrant Workers and the Problem of Social Cohesion in Canada. *Journal of International Migration and Integration*, 16(1), 153-172.

[11] Ye, J. (2014). Migrant masculinities: Bangladeshi men in Singapore's labour force. *Gender, Place & Culture*, 21(8), 1012-1028.

[12] Seo, S., & Skelton, T. (2017). Regulatory migration regimes and the production of space: The case of Nepalese workers in South Korea. *Geoforum*, 78, 159-168.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Proposal 4: Require the children of lower-skilled Essential Skills visa holders to meet the requirements for a visa in their own right

Consider the proposal to require the children of lower-skilled Essential Skills visa holders to meet the requirements for a visa in their own right.
What impacts or implications do you foresee from these proposed changes?
Give details of the occupations and industries you are thinking of.

We also oppose this proposal for the same reasons that are noted above in relation to proposal 3. In addition, we submit that:

- Children of people on essential skills visas become important contributors to wider communities. In some cases, such as those working in rural areas, their presence is welcomed for maintaining or increasing the size of schools and providing a connection between migrants and the wider community.
- In many cases, the children of essential skills visa holders currently in New Zealand are already part of communities and society. Where their parents on essential skills work visas are in areas of labour demand children we should not be limiting the ability of children to live with their parents.

Alternative Proposal

We propose that the status quo situation of allowing essential skills visa holders to support their partners and children to accompany them to New Zealand. We argue that people on work visas are able to make adequate choices about their ability to support their families during the time in New Zealand. We also submit that if the government develops policies that support more stable pathways to residency for migrants, irrespective of skills, then the presence of partners and children are a fundamental dimension to successful integration into society.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982