



## COVERSHEET

<b>Minister</b>	Hon Michael Wood	<b>Portfolio</b>	Immigration
<b>Title of briefing</b>	Accredited Employer Work Visa – Changes to Chef Eligibility Requirements	<b>Date to be published</b>	8 December 2022

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
October 2022	Accredited Employer Work Visa – Changes to Chef Eligibility Requirements	Office of the Minister of Immigration
3 October 2022	CBC-22-MIN-0047 Minute	Cabinet Office

### Information redacted

**YES / NO** [select one]

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Information withheld: Confidential advice to Government

**In Confidence**

Office of the Minister of Immigration  
Cabinet Business Committee

**Proposed changes to chef eligibility requirements for AEWV**

**Proposal**

- 1 This paper seeks agreement to make changes to eligibility requirements for chefs to access an Accredited Employer Work Visa (AEWV).

**Relation to government priorities**

- 2 The proposed changes are intended to ensure that the AEWV requirements for chefs are fit-for-purpose and align with the broader direction of the Immigration Rebalance and planned changes to the Skilled Migrant Category (SMC). The Rebalance supports the Government's plan to transition to a more productive and sustainable economy by creating the new normal for access to migrant labour.

**Executive Summary**

- 3 The sector has raised concerns that the current requirement for chefs to hold a New Zealand Certificate in Cookery (Level 4) or equivalent to access an AEWV is limiting their options to recruit chefs who do not hold formal qualifications, at a time when labour market conditions in New Zealand are tight.
- 4 I have considered several options to address these concerns. These options place different weightings on providing the employers with the ability to recruit from a larger pool of migrant chefs against minimising some of the risks of this role being used by some primarily as a pathway to residence, and concerns about migrant exploitation previously seen. I am asking Cabinet to select from the following options:
  - 4.1 Option A: No change to requirements for chefs to access an AEWV, i.e. chefs must hold a New Zealand Certificate in Cookery (Level 4) or equivalent;
  - 4.2 Option B: In addition to the existing pathway of holding a relevant qualification for a role paying at least the median wage, providing an alternative eligibility pathway for chefs with a job offer at least 1.5 times the median wage (with no qualification requirement):
  - 4.3 Option C: In addition to the existing pathway of holding a relevant qualification for a role paying at least the median wage, providing an

alternative eligibility pathway for chefs with a job offer at least 1.25 times the median wage (with no qualification requirement);

- 4.4 Option D: Removing the qualification requirement for chefs, which will have the effect of bringing chefs into line with the standard median wage threshold for the AEWV.
- 5 Regardless of the option chosen, these settings would be temporary for the next 18 months while officials work with the sector on alternatives. This may include e.g. developing robust credentials or a registration system to credibly identify skilled chefs. Alongside the AEWV, this may affect chefs' eligibility for the Skilled Migrant Category, on which consultation will begin shortly. [CAB-22-MIN-0411 refers].

**Background**

- 6 As part of the work on the Immigration Rebalance, chef roles received special consideration when setting thresholds for the AEWV. There were concerns that some chef roles are filled by migrant workers to the detriment of New Zealanders, about the use of the role primarily as a residence pathway in some cases, and about migrant exploitation.
- 7 In April 2022, Cabinet agreed to require a New Zealand Certificate in Cookery (Level 4) or equivalent overseas qualification for chefs to qualify for an AEWV, to ensure that the sector focused on filling genuine skill gaps with higher-skilled and uniquely talented chefs [CAB-22-MIN-0145 refers]. This was intended to prevent the role continuing to be used by some primarily as a migration pathway and creating a build-up of chefs coming to New Zealand with unrealistic expectations of a pathway to residence.

8 Confidential advice to Government  
[Redacted text block]

- 9 The median wage currently in place for immigration purposes is \$27.76 per hour. This will increase to \$29.66 per hour in February 2023.

*The current qualification requirements for chefs to be eligible for an AEWV may be a barrier to some*

- 10 Hospitality sector groups have expressed concerns about the current chef qualification requirements for the AEWV. While some of these concerns may stem from operational issues such as information provision and timeliness of the international qualification recognition processes (both of which are currently being addressed by the Ministry of Business, Innovation and

Employment (MBIE) and the New Zealand Qualifications Authority), the qualification requirement acts as a barrier to recruiting chefs without the required qualifications, including some highly skilled or experienced chefs.

- 11 Despite a large number of chefs arriving in New Zealand in recent years who will be eligible for the 2021 Resident Visa, there appears to be a labour shortage in the sector, as businesses are struggling to recruit sufficient numbers of chefs under current pay and conditions. This may also be contributing to the sector's desire to relax the qualification requirements.
- 12 There are currently around 70 AEWV applications for chef roles being processed by Immigration New Zealand, with many requiring further information to determine whether they meet the qualification requirement.

### **Options to address barriers to entry for highly skilled chefs**

*We need to balance workforce issues against a risk of a return to previous issues*

- 13 Chef roles have traditionally been a key pathway to residence, with some concerns about migrant exploitation. Chef roles are classified as ANZCO Level 2 (the second highest level). However, the definition captures a wide range of skills within a chef role and is at risk of role inflation. Large numbers of chefs were on temporary work visas prior to the Rebalance changes. As at September 2021, there were around 4,200 chefs on Essential Skills visas alone. This made chef the second biggest Essential Skills role. Chefs have also consistently been among the top occupations represented in Skilled Migrant Category residence applications (around 700 people from 2017-19).
- 14 Alongside the sector's concerns about access to migrant chefs, we therefore need to consider issues of migrant exploitation and the build-up of a pool of chefs in New Zealand with unrealistic expectations of obtaining residence. I do not consider that the same issues apply to cooks, as there is currently a much narrower pathway to residence.

*Various options place different weightings on our objectives*

- 15 I have considered several options to address these concerns. These options place different weightings on providing the employers with the ability to recruit from a larger pool of migrant chefs against minimising some of the risks of this role being used by some primarily as a pathway to residence and concerns about migrant exploitation previously seen. I am asking Cabinet to select one from the following:
  - 15.1 Option A: No change to requirements for chefs to access an AEWV. i.e. chefs must hold a New Zealand Certificate in Cookery (Level 4) or equivalent
  - 15.2 Option B: In addition to the existing pathway of holding a relevant qualification for a role paying at least the median wage, providing an alternative eligibility pathway for chefs with a job offer at least 1.5 times the median wage (with no qualification requirement)

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- 15.3 Option C: In addition to the existing pathway of holding a relevant qualification for a role paying at least the median wage, providing an alternative eligibility pathway for chefs with a job offer at least 1.25 times the median wage (with no qualification requirement)
- 15.4 Option D: Removing the qualification requirement for chefs, which will have the effect of applying the standard median wage threshold to chefs for the AEWV.
- 16 Option A mitigates immigration risks around chefs, particularly while decisions on Skilled Migrant Category settings are still pending, but does nothing further to address the sector's immediate workforce concerns.
- 17 Options B and C provide a pathway for highly valued chefs without the required qualifications to obtain an AEWV. The 1.5 times the median wage threshold is consistent with the proposed future requirements for skilled employment under the Skilled Migrant Category. However, based on sector survey information, only a small number of better-paid head and executive chefs would benefit from adding an income-based alternative under Options B or C:
- 17.1 Remuneration surveys from Hospitality NZ (2021) and the Restaurant Association (2022) show an hourly rate for head chefs of up to \$45, with averages of \$27.65 and \$30.14 respectively (against a median wage of \$27.76, with 1.5 times median wage \$41.64).
- 17.2 Executive chefs in the Restaurant Association survey were earning an average hourly rate of \$36.37, or average annual salary of \$95,706.
- 17.3 A lower pay threshold of 1.25 times the median wage would likely only capture a few more chefs compared to 1.5 times the median wage. Data from AEWV applications indicates that employers are currently only willing to offer to the vast majority of applicants the median wage or slightly more.
- 17.4 None of the around 70 current on-hand AEWV applications for chef roles would meet a wage threshold set at either 1.25 or 1.5 times the median wage.
- 18 Option D would effectively align the chef role with the standard threshold that applies to all AEWV roles, except those exempted from the median wage requirement through transitional arrangements or sector agreements. It would best meet the sector's immediate workforce needs without going below the standard median wage threshold. However, it would mean that there are no additional checks in place at the AEWV stage to mitigate against the build-up of a pool of chefs in New Zealand with unrealistic expectations of obtaining residence and issues of migrant exploitation. This is mitigated to some extent by the imminent consultation on new Skilled Migrant Category settings, which will allow a discussion to begin with the sector on how highly-skilled chefs can be captured, as discussed below.

- 19 Chef roles traditionally involve significant on-the-job experience, especially as a chef progresses beyond a level 4 qualification skill level. I therefore also considered industry experience as a possible pathway for an AEWV. However, it is very subjective, difficult and time-consuming for Immigration New Zealand to accurately assess work experience, especially overseas experience, and nearly impossible to assess in some markets. It is therefore not an appropriate pathway without significant further policy and operational work, and I do not recommend progressing it at this time.

*If we change the settings, I recommend we do so temporarily while asking the industry to identify a robust solution for identifying skilled chefs.*

- 20 Regardless of the option selected, I recommend that this is presented as a temporary measure while officials work with the sector on alternatives. There may be merit in putting more responsibility on sector bodies to come up with solutions to demarcate skilled chefs without other qualifications. It would need to be a robust system that government was confident represented an appropriate bar for assessing genuine skills, rather than a rubber stamp process. A period of 18 months would give medium-term certainty and allow time for robust systems to be identified.

*Further work is underway on residence pathways for chefs under the new Skilled Migrant Category*

- 21 Work on a robust system to demarcate highly skilled chefs links closely with work under the Skilled Migrant Category. Under the proposed future settings for the Skilled Migrant Category, chefs would only be eligible for the residence pathway if they earn 1.5 times the median wage, or hold an independent qualification at Bachelor's level or above. A level 4 qualification, as currently required for an AEWV, would not qualify. We want to be able to have a pathway to residence for highly skilled chefs, while reducing the risks traditionally associated with this role.
- 22 As part of the consultation process, officials intend to work with the sector on potential options for highly skilled chefs who do not meet the income or qualification requirements under the Skilled Migrant Category. This will be included in the report back to Cabinet in January/February 2023.

### **Implementation**

- 23 Changes to AEWV eligibility criteria for chefs would require changes to immigration instructions and to Immigration New Zealand's enhanced immigration online system (ADEPT), including the Job Check and AEWV application forms. The changes could be prepared within one month of a final Cabinet decision on the policy being made, and then implemented in the next available ICT release. Subject to Cabinet agreement on 3 October, this could be implemented in December.
- 24 Given the immediate workforce needs raised by the sector, I will implement the policy change agreed to by Cabinet prior to December, subject to operational feasibility of any work-around to the ADEPT system.

25 I am also seeking delegated authority to implement more permissive settings for chefs under the AEWV in the immediate term (including for on-hand applications) until the new settings are phased in (no later than December 2022). In considering any more permissive settings for the immediate term, I will take account of:

25.1 broader Immigration Rebalance settings and be no more permissive than the standard AEWV median wage threshold that applies to most roles.

25.2 the operational feasibility of making changes.

### **Financial Implications**

26 There are no financial implications of this proposal.

### **Legislative Implications**

27 There are no legislative implications of these proposals, beyond changes to immigration instructions (tertiary legislation).

### **Impact Analysis**

### **Regulatory Impact Statement**

28 This paper does not require a Regulatory Impact Assessment as it has no direct legislative implications.

### **Climate Implications of Policy Assessment**

29 There are no direct climate implications of these proposals.

### **Population Implications**

30 This proposal may enable slightly higher numbers of temporary AEWV holders to enter New Zealand, but we do not expect it to have any significant population implications.

### **Human Rights**

31 This paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Consultation**

32 These proposals have been discussed with Immigration New Zealand and MBIE's Tourism Policy team. Due to time constraints, other agencies have not been consulted.

## Communications

33 I intend to announce these changes soon after decisions are taken.

## Proactive Release

34 This paper will be proactively released after announcements are made, subject to redactions as appropriate under the Official Information Act 1982.

## Recommendations

The Minister of Immigration recommends that the Committee:

- 1 note that in April 2022, Cabinet agreed that there should be a qualification requirement for chefs to access an Accredited Employer Work Visa [CAB-22-MIN-0145 refers];
- 2 note that this has been set as a New Zealand Certificate in Cookery (Level 4) or overseas equivalent, but that the sector has raised concerns that this is a barrier to the recruitment of chefs who lack formal qualifications;
- 3 agree to EITHER:
  - 3.1 Option A: No change to requirements for chefs to access an Accredited Employer Work Visa, i.e. chefs must hold a New Zealand Certificate in Cookery (Level 4) or equivalent;OR
  - 3.2 Option B: In addition to the existing pathway of holding a relevant qualification for a role paying at least the median wage, providing an alternative eligibility pathway for chefs with a job offer at least 1.5 times the median wage (with no qualification requirement);OR
  - 3.3 Option C: In addition to the existing pathway of holding a relevant qualification for a role paying at least the median wage, providing an alternative eligibility pathway for chefs with a job offer at least 1.25 times the median wage (with no qualification requirement);OR
  - 3.4 Option D: Removing the qualification requirement for chefs, which will have the effect of bringing chefs into line with the standard median wage threshold to chefs for the AEWV.
- 4 agree that the AEWV requirements for chefs is a temporary measure for 18 months while officials work with the sector on alternatives, which may include identifying an alternative credible assessment regime;



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- 5 note that I will report back to Cabinet in January/February 2023 on options for chefs who do not meet the requirements to access the proposed new Skilled Migrant Category settings [CAB-22-MIN-0411 refers];
- 6 note that I will announce the changes soon after Cabinet decisions, with a view to implement the new settings in early December, or sooner if operationally feasible;
- 7 agree to delegate authority to the Minister of Immigration to implement more permissive Accredited Employer Work Visa settings for chefs in the immediate term (including for on-hand applications) until the new settings are phased in, i.e. no later than December 2022, taking into account broader Immigration Rebalance settings and operational feasibility.

Authorised for lodgement

Hon Michael Wood

Minister of Immigration



# Cabinet Business Committee

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Accredited Employer Work Visa: Changes to Chef Eligibility Requirements

Portfolio                      Immigration

On 3 October 2022, the Cabinet Business Committee, having been authorised by Cabinet to have Power to Act [CAB-22-MIN-0432]:

- 1        **noted** that in April 2022, Cabinet agreed that there should be a qualification requirement for chefs to access an Accredited Employer Work Visa (AEWV) [CAB-22-MIN-0145];
- 2        **noted** that the qualification requirement has been set as a New Zealand Certificate in Cookery (Level 4) or overseas equivalent, but that the sector has raised concerns that this is a barrier to the recruitment of chefs who lack formal qualifications;
- 3        **agreed** to remove the qualification requirement for chefs, which will have the effect of bringing chefs into line with the standard median wage threshold to chefs for the AEWV;
- 4        **agreed** that the decision in paragraph 3 above will be a temporary measure for 12-18 months while officials work with the sector on alternatives, which may include identifying an alternative credible assessment regime;
- 5        **noted** that the Minister of Immigration (the Minister) will report back to the Cabinet Economic Development Committee in February 2023 with options for chefs who do not meet the requirements to access the proposed new Skilled Migrant Category settings;
- 6        **noted** that the Minister will announce the changes soon after Cabinet decisions, with a view to implement the new settings in early December, or sooner if operationally feasible;
- 7        **authorised** the Minister to implement more permissive AEWV settings for chefs in the immediate term (including for on-hand applications) until the new settings are phased in, i.e. no later than December 2022, taking into account broader Immigration Rebalance settings and operational feasibility.

Jenny Vickers  
Committee Secretary

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**Hard-copy distribution: (see over)**

**Present:**

Rt Hon Jacinda Ardern (Chair)  
Hon Kelvin Davis  
Hon Dr Megan Woods  
Hon Carmel Sepuloni  
Hon Andrew Little  
Hon David Parker  
Hon Nanaia Mahuta (part of item)  
Hon Damien O'Connor  
Hon Michael Wood  
Hon Kiri Allan

**Officials present from:**

Office of the Prime Minister  
Department of the Prime Minister and Cabinet