



BRIEFING

Transitional approach to the upcoming employer assisted temporary work visa reforms

Date:	13 April 2021	Priority:	Medium
Security classification:	In Confidence	Tracking number:	BR 2021-1519

Action sought		
	Action sought	Deadline
Hon Kris Faafoi Minister of Immigration	Agree to the recommendations	21 April 2021
Hon Phil Twyford Associate Minister of Immigration	Copy for your information	N/A

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Susan Jones	Team Leader, Operational Policy, Immigration New Zealand	Privacy of natural persons	✓
Bronwyn Chapman	Senior Policy Advisor, Immigration Policy (Skills and Residence)		

The following departments/agencies have been consulted:

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 Withdrawn |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

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Purpose

This paper seeks your approval of the recommended approach to transitioning employers to the new employer assisted temporary work visa framework that will be implemented in late-2021. This includes a staged approach to opening the three gateways that make up the new framework, closing three employer policies ahead of the new policy being implemented, and specific treatment of employers who are accredited under the existing Accredited Employer policy and who are transitioning to the new framework.

Executive summary

You recently agreed to the detailed design of the accreditation standards for the new employer assisted temporary work visa framework (BR 2021-2254 *Employer-assisted temporary work visa reforms – employer gateway proposals*). You also agreed to an implementation date of 1 November 2021, and to accreditation being phased in from late September to allow employers sufficient time to prepare. This paper sets out some further changes that will support the transition from the existing employer assisted work visa policies to the new framework.

Opening the job check early

Employer accreditation will open in late September 2021, just over one month ahead of the new framework becoming compulsory. As an employer who is accredited under the new policy cannot support a migrant worker through the migrant gateway (visa application) until they also have an approved job check, it is proposed that the job check also opens early, either at the same time as the employer accreditation or shortly afterwards at the beginning of October 2021. This will allow employers to be more prepared to recruit a migrant worker under the new framework from November 2021 onwards.

Closing existing employer policies ahead of the new framework being implemented

The employer assisted policies that are being replaced by the new framework include three employer policies: Accreditation, Labour Hire Accreditation, and Approval in Principle. All three of these policies allow employers to apply in advance for a status, then use that status to support subsequent work visa applications under the existing employer assisted work visa policies. When the new framework is implemented these work visa policies will cease to be effective, and the employer statuses will become unusable. This paper proposes to close these three employer policies at the end of June 2021, to ensure that employers do not apply and pay for a status when they would only be able to use it for a very small period before the new framework is implemented on 1 November 2021.

Removing the initial accreditation fee for existing accredited employers

This paper proposes that employers who hold accreditation under the current Talent (Accredited Employers) policy are not required to pay a fee when making their initial application for accreditation under the new framework. To be granted accreditation under the current accreditation policy, employers must pay a high application fee and meet a high level of standards. Removing the fee for these employers will recognise that they had an expectation of accreditation that would endure for multiple years (and that it would be usable throughout), and ensures that they are not significantly disadvantaged by the change in policy. This is proposed to only apply to employers that have at least six months of their existing accreditation remaining at the time the employer gateway opens.

Implementation of the 'zero fee' requires Cabinet approval. If you agree to this proposal it will therefore be progressed as part of the Cabinet paper and Regulatory Impact Statement that is being prepared for the new accreditation, job check and employer assisted work visa fees.

Recommended action

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

- a **Note** that you recently agreed to an implementation date of 1 November 2021 for the new policy settings for the employer assisted temporary work visa framework, with accreditation being phased in from late September 2021, and becoming compulsory on 1 November 2021 (BR 2021-2254 refers)

Noted

- b **Agree** that to phase in accreditation, Immigration New Zealand will open:

- i. Employer accreditation (employer gateway) in late September (planned for 27 September) in order to allow employers to apply for accreditation ahead of the new policy becoming compulsory; and
- ii. the job check (job gateway) in late September (planned for 27 September) or early October, in order for employers to be more prepared to support an Employer Assisted Work Visa when the new policy becomes compulsory

Agree / Disagree

- c **Note** that Cabinet agreed that the new employer assisted work visa framework would replace a suite of existing employer assisted policies, including the following employer policies:

- i. Accreditation under the Talent (Accredited Employer) policy; and
- ii. Labour Hire Accreditation under the Essential Skills policy; and
- iii. Approval in Principle under the Essential Skills policy

Noted

- d **Agree** that the existing employer policies at (c)(i-iii) above should be closed on 30 June 2021, ahead of the new employer assisted temporary work visa framework being implemented

Agree / Disagree

- e **Agree** to remove the requirement that labour hire companies must hold Labour Hire Accreditation to support Essential Skills work visas for jobs in the construction industry in the Canterbury region, in the interim period before the new policy is implemented

Agree / Disagree

- f **Note** that if you agree to (d) and (e) above, Immigration New Zealand will provide you with amended immigration instructions for you to certify, in order to give effect to these decisions, as well as key messages that will be communicated to stakeholders with regard to the changes

Noted

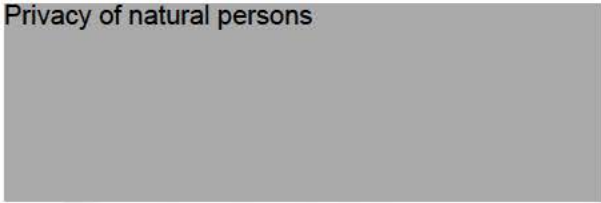
- g **Agree** in principle, subject to Cabinet approval, that employers should not be required to pay a fee for their initial application for accreditation under the new employer assisted work visa policy if:

- i. the employer holds Employer Accreditation under the existing Talent (Accredited Employers) policy that has more than 6 months duration remaining at the time the new employer gateway opens; and
- ii. the employer submits their initial application for accreditation under the new policy (regardless of which type of accreditation) within six months of the new employer gateway policy opening

Agree / Disagree

- h **Note** that implementation of (g) above requires Cabinet approval and, if you agree to (g) above, it will be progressed as part of the Cabinet paper and Regulatory Impact Statement that is being prepared for the new accreditation, job check and employer assisted work visa fees, scheduled for May

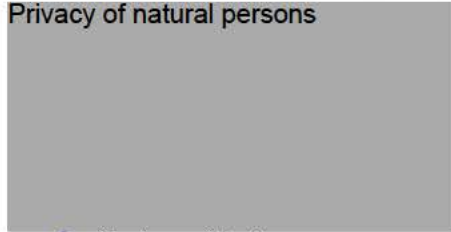
Privacy of natural persons



Stephen Dunstan
General Manager
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Ministry of Business, Innovation and
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14 / 4 / 2021

Privacy of natural persons



Andrew Craig
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and Residence)**
Immigration Policy
Ministry of Business, Innovation and
Employment

16 / 4 / 2021

Hon Kris Faafoi
Minister of Immigration

..... / / 2021

Background

1. On 28 August 2019, Cabinet agreed to a new approach to employer assisted temporary work visas [CAB-19-MIN-0439 refers]. You recently agreed to the detailed design of the accreditation standards (BR 2021-2254 *Employer-assisted temporary work visa reforms – employer gateway proposals*), and to an implementation date of 1 November 2021 for the new framework. As a result of the development of these standards, the confirmed new implementation date, and the design of the supporting technology system, Immigration New Zealand (INZ) is now in a position to recommend an approach to transitioning employers to the new framework.
2. Note that this approach recommends specific policy decisions in relation to closing existing policies and opening the three new employer, job and migrant gateways under the new policy. It does not cover more detailed processes such as requirements for existing visa holders when they want to change employer or job after the new policy is in place. These details are still being worked through and will be presented to you for agreement in the next few months along with amendments to immigration instructions to give effect to the new policy. This will occur after receiving policy decisions regarding the job and migrant gateway settings, for which you will receive a briefing from Immigration Policy this month.
3. The new framework will comprise three sequential steps:
 - a. The employer gateway (where the employer applies for accreditation),
 - b. the job gateway (where the employer applies for specific positions to be approved), and
 - c. the migrant gateway (where the migrant applies for an employer assisted temporary work visa).

An employer cannot progress through the job check unless the employer holds accreditation, and a migrant worker cannot apply for the work visa unless the job they have been offered has been approved through the job check process.

4. Cabinet agreed that the new framework would replace the current Essential Skills, Work to Residence – Talent (Accredited Employers), Work to Residence – Long Term Skill Shortage List, Silver Fern Job Search (already closed) and Silver Fern Practical Experience temporary work visa categories. Under the new policy these visa types will become the one new employer assisted temporary work visa. The employer policies linked to these temporary work visa categories will also be replaced. This includes the Accredited Employer policy (part of the Work to Residence – Talent visa category), the Labour Hire Accreditation policy (part of the Essential Skills visa category) and the Approval in Principle policy (also part of the Essential Skills visa category). Under the new policy these will also no longer exist, and any employer that wants to support a migrant on the new work visa will have to go through the new employer accreditation and job check.
5. Two measures have already been implemented as part of transitioning to the new framework. These are closing the Silver Fern Job Search visa category, and updating the salary threshold required for Talent (Accredited Employers) work visa applicants from \$55,000 to \$79,560 per annum. Both of these measures were implemented at the end of 2019.
6. The following principles have been used to guide the development of the transitional arrangements set out in this paper, in particular capturing the key concerns that employers will have about the transition:
 - a. Employers have clarity around what policy applies to them, and certainty around what their options will be to transition to the new framework.

- b. Employers maintain access to migrant workers throughout the transition, where there is a genuine labour or skill gap.
 - c. The use of overlapping systems and policies is minimised so that there is a clear pathway for external users to transition to the new system.
 - d. Impacts on INZ's ability to deliver its services are minimised.
 - e. Disadvantages to onshore migrant workers caused by the sequential nature of the new system are minimised.
 - f. The arrangements align to INZ's strategic direction and future operating model.
7. The approach to transitioning employers will be supported by a new technology system that will enable more efficient decision making. This will be done by removing many administrative steps and automating (with appropriate controls) parts of the assessment process. This new system and the employer assisted work visa reforms are being progressed by an INZ programme internally branded as the Advanced Digital Employer-Led Processing and Targeting (ADEPT) Programme. Further information on the progress of these pieces of work including policy, technology and change management can be found in the monthly updates provided by the ADEPT Programme. The most recent update was provided on 13 April 2021 (BR 2021-3014 refers).

Transitional approach

Implementing the three gateways

A staged implementation approach is proposed for transitioning employers and migrant workers

8. As noted above, you recently agreed to an implementation date of 1 November 2021 for the new employer assisted temporary work visa framework, with accreditation being phased in earlier from late September 2021 (BR 2021-2254 refers). Opening employer accreditation early will enable employers to apply for accreditation ahead of the new policy becoming compulsory. It is recommended that the job check opens at the same time or shortly after employer accreditation but also before the new policy becomes compulsory. This will enable employers to be more prepared to support a migrant worker to apply for the new employer assisted temporary work visa when the new framework becomes compulsory. The transition period will therefore be from the end of September 2021 to 1 November 2021, as set out below.
- a. Employers will be able to apply for and be granted accreditation from the end of September 2021, and a job check from late September 2021 or early October 2021 (if they have been granted accreditation).
 - b. During this 'pre-accreditation' period, the existing employer assisted work visa policies will remain effective, including Essential Skills, Talent (Accredited Employer) and Long Term Skill Shortage List temporary work visa policies. Migrant workers will be able to apply for a visa under these policies until the migrant gateway opens on 1 November 2021.
 - c. On 1 November 2021 the migrant gateway (and new employer assisted temporary work visa) will open. This will be a strict enforcement date where migrants will not be able to apply for visas under the existing employer assisted work visa policies and all three new gateways will be open. Applications under the existing policies that are submitted before 1 November 2021 will continue to be processed and may be approved after this date, and visas granted under the existing policies will remain valid until their expiry date. However, visa applications submitted under the new framework will not be accepted unless the employer has progressed through employer accreditation and job check gateways.

9. The pre-accreditation period will enable employers to apply for accreditation and a job check before the strict enforcement date - a 'head start' so that they are more prepared to support a migrant worker on the new employer assisted temporary work visa when the new policy takes effect. This head start will reduce the risk of migrants facing a delay in obtaining or being able to apply for a work visa due to the employer needing to progress through the first two gateways, and will help enable onshore migrants to remain lawfully in New Zealand. This approach will also enable INZ to better manage the processing of applications that are submitted in the new system and under the new policy, as not all three gateways will open at the same time.
10. To ensure that employers are not disadvantaged by submitting an application early during the pre-accreditation period, it is recommended that the proposed duration of accreditation granted in this period is 12 months from the date the migrant gateway opens (1 November 2021), rather than 12 months from the date the accreditation is granted. For example, if accreditation is granted 20 days before the migrant gateway opens, the accreditation will be granted with a duration of 12 months and 20 days. This would also apply to job check applications, which are currently proposed to be valid for 6 months.
11. INZ is working towards opening the new employer accreditation and job checks on 27 September 2021. INZ will seek your approval of these dates when providing new immigration instructions for you to certify.

Associated risks can be mitigated by targeted communications

12. The requirement to actively complete two steps before supporting a migrant is a significant shift for most employers. While some employers will apply for accreditation and a job check during the pre-accreditation period, there is still a risk that some onshore migrants will be unable to apply for the new work visa before their existing visa expires, due to the employer not having progressed through the first two gateways. While this is an ongoing risk presented by the sequential nature of the new policy, it is greater during the transition as employers and migrants become familiar with the new process. Approximately 10,000¹ onshore work visas under the existing employer assisted work visa categories are due to expire in the 3 months following 1 November 2021 (approximately 50% of all onshore work visas expiring during this period). This cohort is at greatest risk of being unable to access the migrant gateway when they need to.
13. This risk will be mitigated through the staged implementation approach, as well as targeted and comprehensive communications to visa holders, employers and other key stakeholders. Communications will include encouraging employers to apply for accreditation during the pre-accreditation period if they want to be able to assist a migrant worker's visa application in the months following the strict enforcement date of 1 November 2021. It will also include reminding visa holders whose employer assisted work visas are expiring in the months following 1 November 2021 to allow plenty of time before their visas expire to apply for a new one, which may include applying under the existing employer assisted policies in advance of the new policy being implemented. This may cause a surge in applications under the existing policies that INZ will need to process. However, applicants whose visas expire while their application is in process may be granted an interim visa to maintain their lawful status in New Zealand.
14. For a small window during the pre-accreditation period it will be possible for an employer to hold accreditation under the new policy while also supporting an application for an Essential Skills work visa under the existing policy. There is a risk that employers and migrants in this situation will assume that the Essential Skills work visa will be approved as a result of the employer holding accreditation. This risk will be mitigated by communications informing employers, applicants and other stakeholders that the normal requirements for the existing

¹ This cohort may be bigger or smaller at the time the new policy is implemented, depending on the number of work visas that are granted between now and then, and whether further visa extensions are implemented.

policies need to be assessed and met, despite an employer holding accreditation under the new policy.

Estimated volumes and resourcing requirements

15. Approximately 6,300 applications for accreditation are estimated to be received through the employer gateway in the one-month pre-accreditation period. This is based on updated monthly forecasts for accreditation applications, and an assumption that the employers who apply during the pre-accreditation period will be those that have employer assisted work visa holder employees with visas expiring in the first three months of the new policy opening, which will cause an initial spike in application volumes.
16. While there are still some unknown factors it is expected that the majority of these applications will be quick to process due to the ease of the application process and the clear policy requirements. A portion of these applications will require additional assessment and verification, based on risk. The speed with which the volume of applications for accreditation can be processed will be largely reliant on the ratio of employers that will be considered as requiring this additional effort. For example, an application for standard accreditation that has no specific risk indicators may be completed within days, but an application that requires additional in-depth verification will require additional time and resource.
17. A maximum of approximately 18,500 job check applications may result from these accreditations, across the first 3 months of the job gateway being open, based on the assumption that each application is only for one position. However, as an employer will be able to include multiple positions for the same role in one job check application, the actual volume is likely to be much lower. While some of these applications will also be able to be completed within days, job check applications will require more manual assessment than accreditation applications and may therefore take longer to process. Processing efforts will likely be focused on these applications.
18. It is not expected that all of the accreditation and job check applications received during the pre-accreditation period will be decided before 1 November 2021 i.e. before the new policy becomes compulsory. INZ continues to work through the operational impacts of the transition, including human resource requirements and potential prioritisation methods to mitigate the risk of processing delays during the transition period and in the initial months of the policy being open. However, this staged implementation approach to transition is still considered to be the best option as it is most closely aligned to the guiding principles outlined in paragraph six, and the intended outcomes of this approach are expected to be achieved. Migrants that are nearing their visa expiry date still have the option of submitting an Essential Skills work visa application before 1 November 2021 if their employer has not progressed successfully through the employer and job gateways. Further advice on INZ's operational readiness in regard to the application volumes and resource planning will be provided to you before the gateways are implemented.

Other options were considered

19. A transition period for all three gateways was considered. This option is similar to the recommended option but the existing employer assisted work visas would remain open after 1 November 2021. This would allow a migrant to apply under the new policy if the employer has already been granted accreditation or a job check, while allowing them to still access the existing employer assisted work visa policies if the employer has not yet progressed through these gateways (dual-policy system). This option would further mitigate the risk of migrants not being able to access the migrant gateway when they need to, however it is not recommended for the following reasons:
 - a. A dual policy system is likely to cause confusion to applicants as they would need to make a decision on which policy they can or should apply under, each with different requirements and conditions attached.

- b. It would result in the full transition to the new system being delayed, especially as users may prefer to stay with the process familiar to them for as long as they are able.

Closing existing employer policies ahead of the new policy being implemented

20. It is recommended that the following employer policies are closed prior to the new policy being implemented:

- a. Accredited Employer applications under the Talent (Accredited Employers) policy,
- b. Labour Hire Accreditation applications under the Essential Skills policy, and
- c. Approval in Principle (AIP) applications under the Essential Skills policy.

21. All three of these policies allow employers to apply in advance for a status, then use that status to support subsequent work visa applications under the existing employer assisted policies. These will be replaced by the new employer assisted temporary work visa framework. When the new policy comes into effect, employers that hold any of the above statuses will be unable to 'use' them to support visa applications as they will be required to hold accreditation under the new policy instead. If these employer policies are not closed early, employers would be able to apply for a status that they would only have a very short time to use, or even no time to use if the application was not processed before the new policy comes into effect. Closing these existing policies to employers will therefore:

- a. ensure that employers do not apply and pay for accreditation or an AIP when they would only be able to use them for a fraction of the normal duration, which will:
 - i. remove the perception of INZ being unfair, particularly for applications with a high fee; and
 - ii. minimise pressure on INZ to process applications quickly in order for employers to make use of the status granted; and
- b. reduce the length of time where INZ is assessing, and employers are holding, employer statuses under the old and new policies, which will:
 - i. reduce confusion for stakeholders about the requirements and conditions of these statuses; and
 - ii. free up INZ staff to be trained in preparation for the new policy and system and to process any influx in work visa applications that are submitted under the existing policies before 1 November; and
- c. consequentially, ensure an overall smoother transition to the new policy settings.

22. Applications received before the existing policies close will continue to be processed until they are decided. The longer it takes to decide these applications the smaller the benefit to the employer becomes and the more pressure there will be on INZ to decide the applications to ensure that employers have time to make use of the status granted. This is of particular concern with AIP applications that require consultation with the relevant unions and take at least eight weeks to process. It is therefore preferable to close these policies as early as possible to ensure that the intended outcomes (noted above) can be achieved.

23. As the early closure of these policies has not previously been signalled externally, it is also important to provide sufficient notice to employers and other affected stakeholders of the

closures. It is therefore recommended that these employer policies close on 30 June 2021, four months before the implementation date of the new policy. INZ will be clear in communications to employers about the potential processing timeframes and the date that the employer statuses will no longer be usable, so that employers can make an informed decision about proceeding with an application prior to the closures.

24. Diagram 1 shows a visual representation of when the existing policies will close and the components of the new policy will open, including the staged approach set out earlier in the paper. Note in particular that the existing employer assisted work visa policies, including Essential Skills, will remain open and accessible to migrants and employers until 31 October 2021 i.e. until all three gateways under the new policy are open. Employers who apply for an employer status before they close and are successful will be able to use that status to support subsequent work visa applications until 31 October 2021. If they do not apply before they close they will still be able to support Essential Skills work visa applications during this period, even if they no longer hold an employer status (the Essential Skills requirements will need to be met for the application to be approved, including demonstrating that there are no suitable New Zealand workers available to take up the work on offer). Details of each existing employer policy and the implications of closing them are outlined below.

Diagram 1. Opening and closing of existing and new policies across 2021



Employer Accreditation under the Talent (Accredited Employers) work policy

25. It is recommended that Employer Accreditation under the Talent (Accredited Employers) policy is closed ahead of the new policy being implemented. Accreditation granted under this policy is valid for 24 months. It enables the employer to recruit migrants paid above a certain remuneration threshold without the need to test the New Zealand labour market, and provides these migrants with a pathway to residence (this is the Work to Residence – Talent (Accredited Employers) temporary work visa).
26. Until the new policy is implemented, employers who hold valid accreditation will continue to be able to recruit migrant workers on a Talent (Accredited Employers) work to residence visa. Talent (Accredited Employers) work visas will remain valid until their expiry date, and the visa holder's pathway to residence will be maintained even if the employer does not maintain their Accredited Employer status. If an employer does not submit an accreditation application before the policy closes, the Essential Skills policy will remain available for employers to access migrant labour in the interim period before the new policy opens, where there is a genuine need i.e. where there are no suitable New Zealand workers available to take up the work on offer.

Approval in Principle under the Essential Skills work policy

27. It is recommended that Approval in Principle (AIP) under the Essential Skills policy² is closed ahead of the new policy being implemented. Essential Skills work visa applications require checks on the employer and details of the employment, as well as a labour market test to ensure that there are no suitable and available New Zealand workers who can take up the work on offer. The AIP policy enables employers to apply to INZ for these checks to happen ahead of the work visa application, and for multiple roles at once.
28. AIP is normally granted for six months, and for specific occupations and a certain number of positions. It therefore provides some certainty to employers around their ability to recruit migrants for these roles, in advance of the work visas being submitted. It also means that the Essential Skills work visa applications supported by employers holding AIP are subject to a simplified assessment process, as most of the employer and job related checks are completed as part of the AIP application. Employers who apply for AIP therefore often have high volume seasonal recruitment needs. Industries that are high users of the AIP policy include construction, food and beverage services (this includes wineries), agriculture and forestry, and tourism.
29. AIP applications take at least eight weeks to process (often longer due to consultation required with other agencies) so even if INZ were to accept applications beyond 30 June 2021, there would be limited benefits to the employer as the Essential Skills work visa policy may have been replaced by the time the AIP application is completed.
30. The cohort of affected employers is expected to be low as the number of AIP applications being submitted has dropped significantly over the last 6-12 months due to the border closure (only 61 AIP applications were accepted for processing from March 2020 – February 2021, compared to 156 in the 12 months prior). There are two key factors that will minimise any disruption to these employers as a result of closing the AIP policy early, and mean that there is little benefit to employers in leaving the policy open:
- a. **Employers normally apply for AIP in advance of needing migrant labour**
Employers who normally use AIP apply in advance of when they need migrant workers, and those who want to support Essential Skills work visa applications from July 2021 to November 2021 are therefore likely to submit their applications before July regardless of whether the policy is closed early. As AIP is normally valid for six months, these employers will continue to be able to use the AIP (if granted) until the new policy is in place. Historically AIP has been used by a range of employers during this period, including those from the red meat processing, ski, construction, forestry and tourism industries. INZ will work with employers to ensure they are prepared.
 - b. **The Essential Skills category will remain open until the new policy is implemented**
If employers are not granted AIP or do not apply in time, they will still be able to recruit migrant workers on Essential Skills work visas without an AIP, right up until November 2021 when the new policy is fully implemented.
31. AIP employers who want to recruit migrant workers in the first few months of the new policy opening (historically this includes wineries and tourism operators) will need to progress through the employer and job gateways under the new policy. The new accreditation and job check (where multiple positions will be able to be included in one job check application) will provide the same certainty to employers about access to migrants as AIP. However, they may not be able to get this certainty as far in advance as they normally do for migrant labour that they need from November 2021 onwards, due to the new policy not yet being open.

² This does not include AIP under the Foreign Crew of Fishing Vessels policy, which is out of scope of the temporary work visa reforms.

32. Leaving the AIP policy open until November 2021, and 'converting' approved positions that have already been labour market tested as part of an AIP into a valid job check under the new system was considered as a way of resolving this issue. This is not recommended for the following reasons:
- a. The job check settings will be different (in some cases stricter) than the existing job settings under AIP policy and immigration instructions. It would be inconsistent to allow employers to support applications for the new visa type when they haven't met the new requirements.
 - b. This may give employers more certainty about the job being approved, but it would not guarantee that the employer will be granted accreditation.
 - c. From an operational and technology perspective this solution would be difficult to implement, and is not considered to be justified as a temporary measure.
 - d. The staged approach with employer accreditation and the job check opening early (as explained earlier in the paper) will already help resolve this issue. INZ has relationships with key AIP employers through the Sector and Skills Relationship Managers, so are able to work closely with them to help minimise any disruption. INZ is also looking at ways of prioritising applications during the transition period, and may prioritise applications from high-use employers that have immediate recruitment needs.

Labour Hire Accreditation under the Essential Skills work policy

33. It is also recommended that Labour Hire Accreditation under the Essential Skills policy is closed ahead of the new policy being implemented. Accreditation granted under this policy is valid for 12 months and enables migrant workers supported by the employer to be granted longer term visas. For most labour hire employers Labour Hire Accreditation is voluntary, therefore if an employer does not submit a Labour Hire Accreditation application before the policy closes, the Essential Skills policy will remain available for employers to access migrant labour in the interim period before the new policy opens, where there is a genuine need.
34. Labour Hire Accreditation is compulsory where the labour hire company is supporting an Essential Skills work visa application for a job in the construction sector in the Canterbury region. In this scenario, if the employer does not apply for accreditation before the policy closes there will not be an alternative channel to support a migrant in this type of job on an Essential Skills work visa until the new policy is implemented. It is therefore recommended that when Labour Hire Accreditation is removed, the requirement for compulsory Labour Hire Accreditation is also removed, so that employers maintain access to migrant labour where there is a genuine need.
35. Introducing compulsory Labour Hire Accreditation for construction jobs in the Canterbury region was agreed by Cabinet in 2015 as part of a suite of changes to support the Canterbury rebuild (EGI Min (15) 8/6 refers). This decision was made in order to reduce the risk of migrant exploitation in the rebuild, for similar reasons to those rationalising the move to requiring all labour hire employers to meet additional accreditation standards under the new policy (as detailed in BR 2021-2254). We acknowledge that removing the compulsory Labour Hire Accreditation requirement in the interim period (July 2021 to November 2021) loosens the requirements for a subset of labour hire employers before tightening them for all labour hire employers under the new policy. However, this is considered to be the most practical approach because:

- a. it ensures these employers maintain access to migrant labour where there is a genuine need and are therefore minimally disadvantaged by the Labour Hire Accreditation policy closing early,
 - b. at this stage in the rebuild there is no clear greater risk of exploitation for these jobs in Canterbury than the rest of New Zealand,
 - c. there are only six labour hire employers located in Canterbury whose Labour Hire Accreditations are due to expire between 1 July 2021 and 1 November 2021, i.e. who are most likely to be affected by this change, and
 - d. labour hire employers supporting an Essential Skills application will still be subject to the normal employer checks that help reduce the risk of migrant exploitation.
36. Visa holders employed by employers with Labour Hire Accreditation will continue to be able to work for those employers, and their current visas will remain valid until their expiry.

Transitioning employers who are accredited under the current Accredited Employer policy

37. Accredited employers are able to support migrants on a Talent visa without the need to test the labour market, as long as the job pays above a certain remuneration threshold. They are also able to attract highly skilled migrant workers as the Talent visa provides a pathway to residence. Employers are required to meet high standards and pay a fee of NZ\$2,130 (or \$600 for a subsequent application) in order to be granted accreditation and access these benefits. After the strict enforcement date of the new policy, employers will no longer be able to recruit migrants on a Talent visa, thereby diminishing the benefit of the accreditation they paid and met the requirements for.
38. It is recommended that employers who hold accreditation under the current Talent (Accredited Employers) policy are not required to pay a fee when making their initial application for accreditation under the new policy. This is to recognise that these employers had an expectation of accreditation that would endure for multiple years (and that it would be usable throughout), and ensures that they are not significantly disadvantaged by the change in policy. They will still be assessed under the applicable immigration instructions and may be declined if they do not meet them. It is recommended that a fee not apply:
- a. for employers who have more than six months duration remaining of their existing accreditation at the time the employer gateway opens (planned for 27 September 2021); and
 - b. only for the initial application made under the new policy; and
 - c. only if that initial application is made within 6 months of the new employer gateway opening; and
 - d. regardless of which type of accreditation the employer applies for under the new policy.
39. There will be approximately 1,400 employers who will hold accreditation with more than six months duration remaining at the end of September when the new employer accreditation (gateway) is planned to open. Not requiring these employers to pay an accreditation fee is expected to result in a loss of revenue of approximately NZ\$730,000. This is based on the accreditation fees currently being estimated by the ADEPT Programme that will be progressed through the fee setting process³.

³ These estimates are not yet confirmed but have been used as they are a more accurate indication than the indicative fees included in the 2019 Employer-Assisted Work Visa Business Case.

40. The application fee setting process will account for the transitional cost of moving to the new system, including the zero fee for these employers. Implementation of this fee requires Cabinet approval and will be progressed as part of the Cabinet paper and Regulatory Impact Statement that is being prepared for the new accreditation, job check and employer-assisted work visa fees. This work is underway with the Cabinet paper planned to be submitted in May.

Next steps

41. If you agree that employer applications should be closed ahead of the new policy being implemented, INZ will prepare amended immigration instructions for you to certify later this month, in order to give effect to these decisions.
42. If you agree that the cohort of accredited employers described in paragraph 38 should not be required to pay a fee, INZ will progress this as part of the Cabinet paper and Regulatory Impact Statement that is being prepared for the new accreditation, job check and employer assisted temporary work visa fees.
43. As noted in BR 2021-2254 *Employer-assisted temporary work visa reforms – employer gateway proposals*, you will also receive a further briefing in April covering details on the definition of a franchise employer and a summary of the job and migrant gateway settings. You will then receive briefings with amended immigration instructions that are required to implement the policy decisions on all three gateways.

Communications

44. The changes set out in this briefing will be communicated to affected stakeholders as soon as possible after decisions are received. If decisions are received by the end of April then approximately 6 weeks' notice of closing the employer policies early will be able to be provided to stakeholders.
45. A communications and engagement plan with key messages for these changes is currently being developed. The plan will include regular communications such as communicating changes to immigration instructions through the release of an amendment circular and on the INZ website, and targeted emails to affected migrants and employers. It will also include more comprehensive communications such as meetings with industry and sector leads. The plan will be shared with your office prior to it being actioned.