

SUBMISSION



TO: Ministry of Business Innovation and Employment

SUBMISSION ON: Suite of proposed changes to the Essential Skills visa – Discussion Document

FROM: Federated Farmers of New Zealand

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RELEASED UNDER

SUBMISSION TO THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT ON SUITE OF PROPOSED CHANGES TO THE ESSENTIAL SKILLS VISA – DISCUSSION DOCUMENT

1. INTRODUCTION

- 1.1. Federated Farmers welcomes the opportunity to submit to the *Suite of proposed changes to the Essential Skills visa – Discussion Document*.
- 1.2. Federated Farmers' members are particularly interested in these changes because many farmer employers find it difficult to access domestic labour sources because of increasing urbanisation and inherent limitations to the attractiveness of living rurally.
- 1.3. Federated Farmers represents farmers in the dairy, sheep and beef and arable sectors and also has an interest in the migrant status of agricultural support industries such as shearers and rural contractors. This submission primarily uses examples from the dairy industry because it is by far the largest user of the Essential Skills Visa category. However, the general points made are equally applicable to the wider livestock and arable sector.
- 1.4. In the dairy sector, many either currently employ migrant workers on Essential Skills visas or will be required to look offshore for employees as the rural labour market, especially for skilled experienced staff, continues to tighten.
- 1.5. Federated Farmers supports the intent of the proposal to include salary as the primary means of determining skill level. For some time, farmers have been frustrated by the operation of the Australia and New Zealand Standard Classification of Occupations (ANZSCO) which does not adequately account for the range of positions and skill levels that can exist on farms, and forces farm employees to be classified as either 'farmers' or 'farm workers'.
- 1.6. The remainder of the proposed changes, are designed to reinforce the 'temporary' nature of the Essential Skills visa because an identified problem is that migrants become well-settled in New Zealand. According to supporting documents, the Government considers this undesirable because an expectation of indefinite residency in New Zealand is established and New Zealand employers are incentivised to avoid employing and training New Zealanders. We contend that for farming this is not the case and the fact that Essential Visas expire, and subsequent visas are only granted after a full labour market test which includes re-advertising the position is perfectly adequate to be clear that the visas are temporary in nature.
- 1.7. Federated Farmers submits that taken together these changes will reduce the competitiveness of New Zealand as a destination for motivated and skilled workers that are desperately needed, and be a considerable cost to business.
- 1.8. In Section 8 of this submission we outline an alternative proposal that will at least allow certain farm workers to demonstrate their value to the economy and farming using a realistic

application of the salary thresholds and offset some of the increased costs that these changes present.

2. SUMMARY OF RECOMMENDATIONS

- 2.1. Proceed with the introduction of salary to determine skill level but amend to enable skill level 4 and 5 to be able to demonstrate that they can be considered mid-skilled.
- 2.2. Reject the concept of a cap on the time a person can hold subsequent temporary visas on the basis that visa expiries and periodic labour market tests are perfectly sufficient to establish the temporary nature of the visa and that visas should be granted on the basis of need.
- 2.3. Proceed with the proposal to limit the work rights of partners of low skilled Essential Skills Visa holders.
- 2.4. Ensure that the time limit of visitors visas for partners can be aligned with the Essential Skills visa holder.
- 2.5. Continue to allow school age children of Essential Skills visa holder to be educated at a primary and secondary level as domestic students.
- 2.6. Without prejudice to the above recommendations, adopt an alternative proposal that allows level 4 and 5 migrant workers to have the prospect of moving through the farming system in order to be considered mid-skilled and ultimately, high skilled.

3. GENERAL COMMENTS

3.1. Across the country, approximately 15% of all dairy farm employees are not New Zealand citizens or permanent residents¹. This shows that the migrant workforce is incredibly important in agriculture, although it should be noted that a significant proportion of all labour units on farm are farm owners, sharemilkers or contract milkers so the percentage of migrant workers among the 50,000 people working on dairy farms is significantly less than 15%. Nevertheless, all regions of the country have difficulty recruiting capable and motivated staff to farm roles and rely on migrant labour to some degree. The need is particularly acute in Southland, Otago, Canterbury and the Central Plateau².

3.2. For the avoidance of doubt, we set out Industry standard positions on farms below:

3.2.1. Operations Manager³

3.2.2. Farm Manager

3.2.3. Assistant Farm Manager

3.2.4. Herd Manager

¹ 2017 Federated Farmers – Rabobank Remuneration Survey Report, pg 12

² MBIE Support information - Dairy

³ Principally used on large corporate farmers without day to day involvement of owners

3.2.5. Assistant Herd Manager⁴

3.2.6. Farm Assistant

- 3.3. While dairy farm assistant can be regarded as an industry entry level role, other positions generally require at least two years' experience. All positions require as a minimum a good attitude, good time management, livestock sense, general skill with vehicles and an ability to stay drug and alcohol free while at work. Farms range in size and structure so not all farms will have all positions but most farms need a mixture of experience levels to be profitable and have high performing teams.
- 3.4. The dairy industry has grown rapidly since the early 2000s both in terms of productivity, and employment. The dairy industry has added new jobs at an average of 3.7% per year, twice the national average. To a large extent this has been enabled by access to experienced migrant labour at the herd manager and assistant herd manager level through the Immediate Essential Skills Shortage list. This tool which allowed New Zealand dairy farmers to compete for the international supply of skilled labour was withdrawn for medium skilled positions in 2016 and since that time, New Zealand's competitiveness as a destination for quality migrant workers has reduced due to increased uncertainty of job security. Shorter visas and more frequent labour market tests have led migrants to consider more friendly countries. Anecdotally we understand that Australia and Canada have been particularly common alternative destinations.
- 3.5. Further restrictions on medium skilled positions such as herd manager and assistant herd manager, as proposed in the discussion document, will further reduce New Zealand's ability to attract quality applicants from overseas and, crucially, the ability to retain the skilled migrant workers we already have in New Zealand. Given one of the proposals is a three-year cap on the length of time a migrant can stay in New Zealand, it is clear to us that one of the intentions of the changes is to reduce the ability of New Zealand to retain quality migrant workers, even where labour shortages still exist. Federated Farmers does not support this goal and therefore cannot support the proposed changes to achieve it.
- 3.6. The dairy industry has been working very hard for some years to address domestic labour shortages including promoting the industry through the Go Dairy programme, introducing the Sustainable Dairying: Workplace Action Plan and being involved in group employment schemes in Mid Canterbury and the Waikato. DairyNZ, in particular, should be heralded for investing significantly in support for good employment practice and investing in attracting new entrants to the industry through the Primary Industry Capability Alliance, as well as unilaterally. Federated Farmers is currently engaged with the Ministry of Social Development and the Primary Industry Training Organisation to develop a farm apprenticeship scheme which will include pre-employment training focussed on careers changers and those not currently in employment, education or training. It will also involve after employment pastoral

⁴ This position will not be used by all farms and it can be common for farm assistants to progress directly to herd manager.

care. It is in the industry's interests to have a stable supply of capable and motivated New Zealanders excited about opportunities in the dairy industry.

- 3.7. However, this is a long term problem that has elements beyond farmers' control including increasing urbanisation that reduces the pool of available local applicants, the inherent isolation of living on farms that does not suit everyone and socio-economic factors that have led to low unemployment in many dairying areas. When seeking employees, farmers are not just asking someone to move to a new job, but likely move to a new area where they have no support network and will face difficulty in establishing new links because of a low population base.
- 3.8. Farmers in New Zealand are exposed to international market fluctuations in a way that is rare among developed countries. For this reason, they are fast adopters of technology. Stats NZ Industry Productivity Statistics have shown agriculture's average productivity growth per labour unit over 1978-2015 to be three times that of the general economy. In later years, technological advances in farming have meant that farms need a higher skill level and a greater technological awareness than is often not understood.

4. USING SALARY AS A MEANS OF ESTABLISHING SKILL LEVEL

- 4.1. The discussion document notes that ANZSCO can be a blunt instrument that prohibits employers accessing very good quality, skilled people because the ANZSCO skill level is often misallocated. We have certainly seen this effect in the dairy industry where despite the fact there are a range of positions, from entry level to full control of the farm, ANZSCO has assigned only two codes to the industry – Livestock Farmer (dairy) and Livestock Farm Worker (dairy).
- 4.2. We note that the proposal introduces two thresholds to be reviewed and updated annually
 - 4.2.1. A lower salary threshold based on the median wage is currently \$23.49 per hour or \$48,859 per annum for a 40 hour week.
 - 4.2.2. A higher threshold based on 1.5 times the median wage which is currently \$35.24 per hour or \$73,299 for a 40 hour week.
- 4.3. Federated Farmers supports the introduction of salary thresholds to help determine skill level and acknowledges that ANZSCO can be clumsy with respect to determining skills. We also support the proposed thresholds on the basis they are aligned with the those introduced for the Skilled Migrant Category.
- 4.4. However, we do object to the failure of the proposals to consider any farm position below assistant manager⁵ as being eligible for inclusion the mid-skilled range of occupations. For the sake of ease of reference, we have reproduced the table below that sets out how salary is proposed to be used to determine skill level.

⁵ There is some confusion about what skill level is assigned to Assistant Farm Manager. We understand it as skill level 1.

Proposed Essential Skills skill levels and associated visa conditions					
Skill level	Remuneration thresholds		ANZSCO	Visa length	Children & partners
Higher-skilled	\$35.24+ per hour	And	1/2/3/4/5 ⁶	Up to 5 years	Yes
Mid-skilled	\$23.49 - \$35.24 per hour	And	1/2/3	Up to 3 years	Yes
Lower-skilled	\$15.75 ⁷ - \$23.49 per hour	And	1/2/3	Up to 1 year	No
	\$15.75 - \$35.24 per hour	And	4 & 5		

- 4.5. Dairy farm occupations farm assistant, assistant herd manager and herd manager are classified under ANZSCO as 'farm worker' which makes them skill level 5. Skill level 4 and 5 candidates are eligible to be determined high skilled if they meet a threshold of \$35.24 per hour but not to become mid-skilled by meeting the lower threshold of \$23.49 per hour.
- 4.6. We accept the premise of the changes which is that ANZSCO does not accurately determine skill level and so salary should be used as a proxy. In fact, the discussion document notes that it will be used as the 'primary' means of determining skill level. Therefore, it would be much more in keeping with the intention of the change to allow employers of migrant workers such as herd managers and assistant herd managers, to demonstrate the elevated skill level they possess through paying a salary at lower threshold.
- 4.7. In other words, the discussion document accepts that skill level 4 & 5 can be high skilled (which is why they are eligible for recognition under the higher threshold) but does not contemplate that they could be mid-skilled. This is not consistent with the principles behind the change, or common sense.
- 4.8. **Recommendation: Proceed with the introduction of salary to determine skill level but amend to enable skill level 4 and 5 to be able to demonstrate that they can be considered mid-skilled.**

5. THREE YEAR MAXIMUM DURATION FOR LOWER SKILLED POSITIONS

- 5.1. Federated Farmers does not support the imposition of a maximum duration for how long a migrant worker can be in New Zealand on temporary visas. There is simply no compelling reason for forcing a migrant worker to leave New Zealand for a mandatory stand down period when the need for that labour unit cannot be met by the domestic labour supply.
- 5.2. Whether or not a migrant worker is eligible for a temporary work visa should be based on whether the need for overseas labour exists for that occupation, at that time. The very reason

⁶ ANZSCO 4 and 5 Essential Skills applicants will be required to provide additional information about relevant work experience and qualifications.

⁷ Indexed to the minimum wage.

for time limited visas, forcing farmer employers to advertise and lodge the vacancy with the Ministry of Social Development is to test the labour market and ensure that there are no New Zealanders who are capable and willing to take up the role. Even if subject to a cap of three years, a migrant could lose their position after only one year if a suitable New Zealanders can be found. Federated Farmers considers this perfectly adequate to reinforce the temporary nature of the visa.

- 5.3. Farmers invest heavily in training their staff through close on-the job training and over three years, employees learn the farming system, they become proficient with the machinery and technology on the farm and they fit well into the farm team. In rural areas the labour shortages are deep, and likely to be long term so for the dairy sector the only result a three-year cap will achieve is forcing capable, trained staff to leave New Zealand, only for the employer to have to employ another migrant worker from overseas. This will simply add cost to business without adding one New Zealander to the labour force and will make New Zealand much less competitive in attracting migrant workers.
- 5.4. In fact, the three-year cap on migrant workers will act as a disincentive for farm businesses to invest in training and development of migrant workers, because they know that they will not be able to move them through their business before they are required to leave.
- 5.5. **Recommendation: Reject the concept of a cap on the time a person can hold subsequent temporary visas on the basis that visa expiries and periodic labour market tests are sufficient to establish the temporary nature of the visa and that need should determine whether a visa is granted or not.**

6. PARTNER VISAS

- 6.1. The discussion document proposes restricting the work rights of partners of low skilled Essential Skills Visa holders. They are currently eligible to be granted an open work visa which allows them to work in any capacity for any employer and remains valid as long as their partners visa does.
- 6.2. We support a revision of these terms. on the basis that while Essential Skills visa holders have attained the r position following a rigorous labour market test, the work rights granted to partners have not. It is sensible to restrict work rights of partners if or until they are granted an essential skills visa in their own right.
- 6.3. However, while we accept the argument for restricting automatic work rights of partners, Federated Farmers does not necessarily agree with the discussion documents apparent objectives of seeking migrant without family, or with family that they leave in their home country. Migrant workers add value to New Zealand by working in sparsely populated rural areas. Single people coming to such environments without a local support network may struggle to adjust without their family.
- 6.4. Further, migrant families provide much needed critical mass in rural areas and add massive value to local schools, community groups and sports clubs. It is not in the interests of the migrants or the country for New Zealand to target globetrotting migrant workers who either have no family or leave them it at home. Among the social negative impacts of such a

strategy, it will have also have negative economic impacts such as encouraging remittances of wages back to the country of origins, compared to being spent it in the local economy.

- 6.5. Visitor's visas are currently issued for a maximum of nine months. Federated Farmers submits that to avoid discouraging those with families, visitor's visas should be issued for a length of time equal to the Essential Skills visa of their partner and be able to be extended if subsequent Essential Skills visas are obtained.
- 6.6. **Recommendation: Proceed with the proposal to limit the work rights of partners of Essential Skills Visa holders for low skilled occupations.**
- 6.7. **Recommendation: Ensure that the time limit of visitors visas for partners can be aligned with the Essential Skills visa holder.**

7. CHILDREN'S VISAS

- 7.1. Federated Farmers does not support the proposal to require the children of migrant workers to become international students and therefore leave the exposed to international school fees.
- 7.2. Just as we do not want to discourage the right migrant workers from choosing New Zealand by restricting too far the ability to bring partners, we also do not want to restrict the ability to bring children. Federated Farmers contends that asking for international fees of approximately \$12,000 per year from migrant workers is unfair and mean-spirited considering the contribution that these people are making to the economy and the taxes they pay. While it is true, as noted in the supporting Cabinet paper, that over the short term migrant workers are unlikely to sufficiently cover the cost of educating their children by taxation, the business they support will be more profitable and will be more productive because of their presence, increasing tax revenue.
- 7.3. The children of migrant employees make a vital contribution to rural communities by populating schools, social and community groups and sports clubs for which they may struggle to stay viable otherwise.
- 7.4. **Recommendation: Continue to allow school age children of Essential Skills visa holder to be educated at a primary and secondary level as domestic students.**

8. ALTERNATIVE PROPOSAL

- 8.1. Federated Farmers questions the need to reinforce the temporary nature of Essential skills visas. We also object to the introduction of maximum duration for consecutive temporary visas and the limitation proposed to put on the children for low skilled workers. However, we acknowledge that these proposals have been agreed to in principle, and that many of the implications we have raised in this submission have been considered in the supporting documents.

- 8.2. Therefore, without prejudice to the above recommendations we propose that a compromise solution could be found by properly using the salary threshold to determine skill level for all occupations in dairy farming and not excluding those below assistant farm manager, which are a large majority.
- 8.3. We propose that those in occupations currently classified as skill level 4 and 5 be incentivised to upskill by making them eligible for classification as mid skilled by meeting the lower salary threshold.
- 8.4. Not all dairy farm workers will be able to attain this salary threshold. Given the number of hours worked per week are generally greater than those worked in other sectors, an hourly salary of \$23.49 per hour acknowledges skill, capability and progression through the industry. For example, the average salary across the dairy industry is between \$19.00 and \$21 per hour⁸ for what we would consider medium skilled positions such as herd manager and assistant herd manager, meaning only those that are quite considerably above average could be consider for being mid-skilled. This would be expected because the national median wage will be inflated by the higher wages, and living costs, in Auckland and Wellington.
- 8.5. This proposal will allow those that come to New Zealand as farm assistants, assistant herd managers, or herd managers to progress over the course of three years and have a prospect of being considered mid-skilled. By having access to further visas after the initial three years, they can also continue developing in the industry to a point where they may meet the high skill level need to be considered for residency.
- 8.6. Below, we outline the proposal in a table using a similar format as above.

Alternate Option - Essential Skills skill level and associated visa conditions					
Skill Level	Remuneration thresholds		ANZSCO	Visa length & restrictions	Children & partners
Higher-skilled	\$35.24+ per hour	And	1/2/3/4/5 ⁹	<ul style="list-style-type: none"> Up to 5 years; no 12 month stand-down 	Yes
Mid-skilled	\$23.49 - \$35.24 per hour	And	1/2/3/4/5	<ul style="list-style-type: none"> Up to 3 years; no 12 month stand-down 	Yes
Lower-skilled	Minimum wage - \$23.49	And	1/2/3/4/5	<ul style="list-style-type: none"> Up to 1 year; 12 month stand-down. 	No

- 8.7. **Recommendation: Adopt alternative proposal that allows level 4& 5 migrant workers to have the prospect of moving through the farming system in order to be considered mid-skilled and ultimately, high skilled.**

⁸ Federated Farmers-Rabobank Remuneration Survey Report

⁹ ANZSCO 4 & 5 Essential Skills applicant will be required to provide additional information about work experience and qualifications to reduce the incidence of falsified employment agreements.

9. SEASONAL VISAS

- 9.1. Federated Farmers has no objections to the proposed granting of visas only for the season for which the migrant is employed. From the point of view of dairy farming, we consider that it is not accurately considered a seasonal occupation. While the word 'seasonal' may sometimes be used to describe dairy farming, that's because the workload for a given position fluctuates with the season. However, for the positions that are being filled under the Essential Skills visa scheme, there is sufficient work for a full time job permanently.
- 9.2. We expect that if visa applications are made on the basis of a fixed term employment agreement that is less than 12 months, then the visa will be issued only for the term of the agreement.

10. ABOUT FEDERATED FARMERS

- 10.1. Federated Farmers of New Zealand is a primary sector organisation that represents farmers and other rural businesses. Federated Farmers has a long and proud history of representing the needs and interests of New Zealand farmers.
- 10.2. The Federation aims to add value to its members' businesses. Our key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:
- 10.2.1. Our members may operate their businesses in a fair and flexible commercial environment;
- 10.2.2. Our members' families and their staff have access to services essential to the needs of the rural community; and
- 10.2.3. Our members adopt responsible management and environmental practices.

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