



PROGRESSIVE

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Via Email: [ESConsultation@mbie.govt.nz](mailto:ESConsultation@mbie.govt.nz)

## **Submission on Proposed Changes to the Essential Skills Visa Instructions**

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1. Progressive Enterprises (**Progressive**) has reviewed the Ministry of Business, Innovation and Employment (**MBIE**) Discussion Document (**Document**) setting out proposed changes to the Immigration New Zealand (**INZ**) Essential Skills Immigration Instructions (**Instructions**). We are grateful for the opportunity to comment.
2. As a result of reviewing the Document, these submissions are being provided to MBIE for its consideration. This submission provide some background information regarding Progressive and the Temporary Work Visa holders it currently employs to supplement its predominantly New Zealand workforce, in circumstances where shortages are encountered.
3. The purpose of our submissions is to signal our interest in an ongoing dialogue about these proposed changes, and outlines the anticipated impacts on our business. We also wish to stress the importance of providing for fair and reasonable transitional arrangements when the Instructions are implemented, in order to ensure the adverse impact of the changes is minimized, to the extent this is possible.
4. Finally, as one of New Zealand's largest private sector employers, which uses some migrant workers. we are well-placed to articulate the issues likely to be faced by many employers of migrant workers, both large-scale and smaller organisations, with employees at both ends of the skill-level spectrum.

### **Background**

5. Progressive owns and operates 184 Countdown supermarkets in New Zealand. The company is one of the largest private sector employers in New Zealand, with 18,000 team employed in our stores, support offices, processing plants and distribution centres. Our business serves almost 3 million New Zealanders each week in our stores.
6. Progressive employs a significant number of New Zealanders and is committed to recruiting, wherever possible, from the local labour market. However, it also employs temporary work visa holders, across a range of visa categories, where it is unable to meet its recruitment needs from the local labour market. Historically, this has been particularly necessary in tourist areas like Queenstown and Waiheke Island and metropolitan centres like Auckland. More recently, Progressive has also found it necessary to source migrant labour in other parts of New Zealand, for example, Canterbury and other areas of the South Island.

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7. Currently, Progressive has over 900 employees who are employed on work visas, predominantly being a mix of open work visas and Essential Skills Work Visas. These team represent five per cent of Progressive's total workforce. By virtue of the scale of our business, we would be amongst New Zealand's largest employers of migrant workers and, in particular, of Essential Skills Work Visas. These team are employed in a range of permanent roles in our business, including Department Managers, Retail Assistants, Nightfill Assistants, Checkout Operators and Supervisors, Bakers and Assistant Bakers.
8. When recruiting new workers for roles in our supermarkets, Progressive seeks to exhaust the local labour market first. It is only where there are no suitable local candidates that we look to fill gaps using migrant labour. In order to access local labour during recruitment, our application process asks for applicants to nominate their current status to be employed in New Zealand. When screening and short-listing for stores, recruiters will prioritise NZ citizens and residents. Only when this short-list is exhausted recruiters will consider visa holders for the vacancies available. We also have additional questions which ask those holding visas about expiration dates and conditions. We also have relationships with WINZ and recruit with them, particularly when we look to open certain new stores.
9. Progressive takes pride that so many Kiwis get their first jobs with us. We are committed to providing opportunities for young New Zealanders and to help them to develop their skills and careers. For example:
- (a) For High School students, Progressive has the Countdown SEEDS Gateway programme. Students part of this programme come into our stores for 10 weeks (1 day per week) to gain work experience and support the transition from school to employment. In this time they gain 19 NCEA Level 2 Credits and spend time across the different departments within our stores. This could lead to a career in retail or a pathway into an apprenticeship in bakery or butchery.
  - (b) All new team members can gain the New Zealand Certificate in Retail Level Two, by completing their 12 week online induction. This provides them with 45 Level 2 credits.
  - (c) Team Members in store have the opportunity to develop further skills with the support of their manager and undertake the New Zealand Certificate in Business Level 3 and Level 4.
  - (d) Team members who desire to specialise in a trade either, Bakery or Butchery, can complete their Bakery or Butchery Apprenticeship in our stores. This is provided by Competenz the Industry Training Organisation and upon completion will provide a trade qualification in either Bakery or Meat Retail.
  - (e) All team members in supermarkets are trained in stores for their general roles. Those who work with us have the opportunity to develop leadership skills, through formal and informal education, and progress their careers into store leadership, and beyond.
10. Progressive is also committed to paying competitive rates above the minimum wage for our entry-level roles in stores. In general employees enjoy entitlements in excess of the statutory minimums (pay rates, benefits, and employment policies are all attractive). In relation to our entry level roles for youth, we pay the adult rate. We also work carefully to ensure that as an employee gains more experience over time, their rate of pay increases, in order to reflect their enhanced skills and experience and to ensure they are being paid the market rate for that role.
11. Despite our recruitment, development and reward strategies in place for New Zealand, there is insufficient availability of New Zealand citizens and residents for roles in our supermarkets. We have no alternative than to source these candidates from offshore/fill these roles with migrant workers.

### **Impact of Proposed Essential Skills Changes**

12. We believe that there will be areas where the changes proposed in the Document will impact on our business, which we address below.
- (a) Wherever possible, we seek to use our Accredited Employer status for employees earning over \$55,000 per annum, to enable them to apply under the Work to

Residence Visa Category. If an employee cannot meet this threshold, and if they do not have access to an open work visa to facilitate their employment, the Essential Skills Work Visa would be the visa category that is relied on. It follows then that the majority of our Essential Skills Work Visa holders are employed in roles that will be classified as low and mid-skilled under the proposed changes, based on their remuneration levels. Our most common Essential Skills job roles are:

- (i) Baker: skill level 3 position (ANZSCO code 351111).
  - (ii) Retail Supervisor: skill level 4 occupation (ANZSCO code 621511).
  - (iii) Sales Assistants: skill level 5 position (ANZSCO code 621111).
  - (iv) Other general occupations such as warehouse operatives, night-fill staff etc, which are likely to be at ANZSCO skill level 4 or 5.
- (b) Analysis of the likely career trajectory that holders of these positions will have also indicates that over a three year period, it is unlikely that these employees will be eligible for pay increases to bring the hourly rate above the \$35.24 amount that would enable them to be classified as high skilled. Only Store Managers and some Assistant Store Managers would earn above this rate.
- (c) Based on this analysis, the proposed changes will now mean that the majority of Essential Skills work visa holders within Progressive will be subject to the maximum visa duration of three years, and a significant number of these employees will also not be able to have their family members accompany them. These outcomes will have the following impacts to our business:
- (i) Increased difficulty in recruiting for roles: We anticipate difficulty recruiting as a result of fewer available candidates/potentially less attractive proposition for migrants who are only eligible for a three year visa (renewed annually for low skilled) and cannot bring their family with them.
  - (ii) Increased administrative cost and burden on the business: Due to the increased complexity of the system and the need to re-recruit for low and mid skilled roles on a three yearly cycle, there will be significant costs to our business in: managing the pipeline of migrant worker staff and forward planning for resourcing needs; ensuring ongoing immigration compliance requirements are met; as well as opportunity costs that are incurred as a result of time spent re-training and getting a person familiar with our in house systems and processes and the "Countdown way" of doing things. It is also disappointing to lose good team once we have invested in their training and development.
- (d) We also believe that in the future there will be less candidates in the international and domestic market for filling our low and mid-skilled positions as a result of the flow-on effects of this policy taking hold. Currently we employ a number of open work visa holders (mainly in low skilled roles) who are in New Zealand on the basis of their partnership with an Essential Skills work visa holder. In many cases, the Essential Skills work visa holder themselves are in positions that will be classed as low skilled under the new policy. Therefore, over time the number of open work visa holders in the market will decrease as more lower skilled workers are required to stand down offshore (and their partners/spouses who currently hold open work visas will need to leave with them) together with the fact that in future lower skilled work visa holders will not be able to bring their dependent partner/spouse with them.
- (e) Given the significant number of our employees who hold roles that we expect will be classified as mid or low skilled, our expectation is that the combination of these

two outcomes will have a substantial (negative) impact on our business' ability to recruit migrant labour when we need to fill labour shortages.

### **Matters for MBIE's Consideration**

13. In recognition of the fact that the matters included in the Document have already been agreed in principle by Cabinet and in the interests of maintaining a constructive dialogue, Progressive would like to recommend the following factors to MBIE as matters which should be given consideration when determining the specifics of the new Essential Skills work visa policy.

#### **(a) Ensuring Fair Transitional Arrangements**

- (i) As a person employed in a mid or lower skilled role will only be allowed to spend a maximum period of three years in New Zealand, we submit that the inclusion of a reasonable transition policy is appropriate. The purpose of this transitional policy would be to ensure that both employers and migrant workers already in New Zealand on Essential Skills Work Visas are given a reasonable opportunity to manage the impact of this new policy on businesses and lives.
- (ii) As an example, a Checkout Operator who has already been on a work visa for three plus years when the new Instructions become effective should not immediately be prevented from securing a further work visa when the Instructions come into force. This would be disruptive for the business, and incredibly unsettling for the person involved.
- (iii) We submit that the following points would represent fair transitional arrangements:
  - (1) Overall, we believe it is important that the transitional arrangements allow employers time to adjust to what will be significant impacts, when the new policy comes into force.
  - (2) One way to ease the transition, would be to enable for the new Instructions to apply to any migrant worker in New Zealand from the date their current visa expires. We would be happy to discuss this further with MBIE.
  - (3) At the very least, there must be a fair and reasonable period of transition for people who have already been in New Zealand on visas for more than three years, or for those approaching the end of their current visa term.
  - (4) If a person already in New Zealand makes a further Essential Skills Work Visa application for a job role that is classified as low skilled, if the dependent family members are already in New Zealand, they should be allowed a further visa for a grace period of at least one year – to allow sufficient time for the family to determine the most suitable next steps for themselves.
- (iv) Without a transitional policy in place, Progressive risks losing a number of team who have already been in New Zealand for three years or more and/or who are in low skilled roles. However, including a transitional policy in the INZ Instructions will allow employers to plan for impending vacancies which will occur throughout the business as a result of migrant workers who reach the maximum period of time in New Zealand suddenly being ineligible for further work visas and having to depart New Zealand and/or as a result of an employee's family members no longer being eligible for further visas.

- (v) It is also worth noting the Supermarket Collective Agreement with the Company was with FIRST union covering people who undertake work in our stores has a provision relating to minimum staff hours. The absence of transitional arrangements would adversely impact team hours in store and potentially have the unintended consequence of creating an employment relations problem for the business, under the Collective.
- (vi) Having reasonable transitional arrangements in place is also essential to protect New Zealand's international reputation as a destination for global job-seekers and in order to treat those migrants already here supporting our economic growth respectfully and fairly.

**(b) Alignment of new Policy with Essential Skills in Demand List Policy Objective**

- (i) The occupation of Baker is included on the current Immediate Skill Shortage List (**ISSL**) for all regions within New Zealand. As such, employers, including Progressive, rely on overseas workers to fill the skilled occupation of a Baker. (Note the majority of our bakers are New Zealand citizens, however it is necessary for us to fill shortages with migrants). However, we are competing with other countries to attract people with these skills to come to New Zealand.
- (ii) We are aware that the inclusion of an occupation on an Essential Skills in Demand List makes it easier for applicants to apply for and be issued work visas enabling them to take up work in New Zealand in their occupation. However, if the proposed changes to the Essential Skills Instructions are implemented this will discourage people wishing to come to New Zealand.
- (iii) If the proposal regarding the hourly rate is implemented, and people working in these roles are only granted one year work visas and allowed a maximum stay of three years in New Zealand, this will create a situation where people will not wish to work in this occupation in New Zealand. People may also not want to come to New Zealand to work as Bakers as they may also have no potential pathway to residence. As a consequence, this proposed policy change is highly likely to reduce the pool of qualified people able and willing to work in this occupation in New Zealand.
- (iv) It is our view that making occupations included on the Essential Skills in Demands Lists subject to the remuneration thresholds for determining their visa length and ability to have dependent partners and children accompany them will result in all these acknowledged labour shortages increasing, across all relevant occupations. This is because fewer people will want to come to New Zealand to work in these occupations where they may not only have any pathway to residence, but they also have a very limited time in which they are able to work in New Zealand and may not be able to have family accompany them. Such people will in all likelihood look to other countries where their desire to be able to reside permanently can be met.
- (v) It is our view that the proposed changes to the Essential Skills Instructions and the likely detrimental impact on attracting workers with skills which are in demand in this country are incompatible with one of the strategic aims of immigration policy: which is to recognise occupations where there is objective evidence that New Zealand employers struggle to fill their vacancies. Where this position is clearly established, the policy intent is to provide an easier pathway for people able to fill those vacancies to obtain the necessary work visas.

- (vi) In light of the above, we submit that the final INZ Instructions should allow that occupations which are included on any of the Essential Skills in Demand lists at the time a work visa application is made will be deemed to be mid-skilled (unless the hourly rate meets the higher skilled threshold), meaning workers will be granted three year work visas, regardless of the hourly rate being paid. This approach will also enable these workers to bring their partner and/or children with them to New Zealand.

**(c) Consideration of Pay Thresholds for ANZSCO Skill Level 1/2/3**

- (i) The proposal contained within the MBIE Document sets out that the remuneration threshold for lower-skilled occupations at ANZSCO skill level 1/2/3 is \$15.75 to \$23.49 per hour.
- (ii) We appreciate that one of the intents of the new policy is to allow migrant workers a three year window to upskill into a more skilled and/or higher paid position, in order to then transition into being classified as being in a high skilled role and therefore able to remain in New Zealand beyond the three year maximum. However, we are concerned that in some instances the top end of the remuneration threshold for lower skilled occupations at ANZSCO levels 1/2/3 may be too high.
- (iii) By way of example, we refer to the occupation of Baker, which is a skill level 3 occupation. Progressive currently has a large number of work visa holders employed as (qualified and trainee) Bakers. However, the majority of people employed as qualified Bakers within Progressive are receiving an hourly rate just below \$23.49, meaning that they will be classified as low skilled. Bakers are waged and are paid in line with printed rates in their employment booklet.
- (iv) According to the [www.careers.govt.nz](http://www.careers.govt.nz) website, trainee Bakers usually earn between \$33,000 p.a. - \$35,000 p.a.. Qualified bakers usually earn between \$35,000 p.a. - \$67,000 p.a.. It can take a number of years to build up the necessary experience to justify being paid at the top end of this earnings range. However, most of our bakers are within this range and their earnings are reflective of their level of experience.
- (v) A qualified baker who has been with Progressive for over a year (which is generally when they would become a Charge Baker) would likely be on an hourly rate of \$22.34 and therefore would still be classified as low-skilled. As at the date of these submissions, Progressive only has four Bakers who are paid above \$23.49 per hour.
- (vi) In order for a baker to transition into the higher skilled classification, s/he would need to earn at least \$35.24 per hour, which, based on a 40 hour week is approx. \$73,000 p.a. and is outside of the indicative earnings guidelines on the [www.careers.govt.nz](http://www.careers.govt.nz) website. Therefore, under the proposed changes, people employed as Bakers within Progressive, even those who are mid-career with regard to their experience level, may still be classified as mid or low skilled and subject to the three year maximum length of stay. Dependent on the pay rate, it is also possible that many of these employees will not be eligible to have their dependent family members stay with them in New Zealand. Even the most experienced of our Baker staff are unlikely to be able to transition through to the higher skilled classification.
- (vii) It is our submission that MBIE should review the remuneration thresholds as follows:

- (1) Consider decreasing the top end threshold for lower skilled worker classification in ANZSCO skill level 1/2/3 occupations. Our view is that this may require only a slight reduction – for example to \$22.00 per hour.
- (2) Consider decreasing the entry level threshold for higher skilled worker classification for ANZSCO skill level 1/2/3 occupations.

**(d) Recognition of Regional and/or Industry-Specific Constraints**


- (i) We also wish to request that MBIE gives consideration to whether there should be certain regional or industry-specific exceptions to these policy changes, where there are acknowledged struggles faced by employers in recruiting suitably qualified staff. Auckland, Canterbury, Queenstown and, Waiheke Island are particular areas where it is extremely difficult to attract local staff.

**Conclusion**

14. Our priority is to recruit and upskill New Zealanders and permanent residents wherever we can. In conclusion, the proposed changes addressed in the Document will have a negative impact on Progressive Enterprises' ability to attract staff to fill gaps, which we cannot meet with New Zealand labour. Our request is that MBIE provides careful consideration to the specific detail of the policy, taking into account feedback from the variety of submitters, including our feedback provided above. We hope that the transitional arrangements are given particular consideration.
15. As outlined above, we would welcome the opportunity to participate alongside MBIE and other stakeholders in the ongoing process with respect to the proposed changes.

Yours sincerely

s 9(2)(g)(i), s 9(2)(a)



General Manager Corporate Affairs