



BRIEFING

Options for duration of employer accreditation following the end of one-off extensions

Date:	12 July 2023	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2223-4282

Action sought		
	Action sought	Deadline
Hon Andrew Little Minister of Immigration	Indicate your preferred option for the duration of accreditation under the AEWV following the end of one-off extensions	21 July 2023
Hon Rachel Brooking Associate Minister of Immigration	For information	NA

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Lee Gerrard	Acting Manager, Immigration (Skills and Residence) Policy	Privacy of natural persons	✓
Bronwyn Chapman	Senior Policy Advisor	Privacy of natural persons	

The following departments/agencies have been consulted
Treasury

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 Withdrawn |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



BRIEFING

Options for duration of employer accreditation following the end of one-off extensions

Date:	12 July 2023	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2223-4282

Purpose

To provide you with advice on options for the duration of employer accreditation under the Accredited Employer Work Visa (AEWV), following the end of the application of one-off extensions on 4 July 2023.

MBIE recommends retaining the settings originally agreed by Cabinet at this stage, i.e. first accreditations last 12 months, and subsequent accreditations last either 24 months (for standard and high-volume employers) or 12 months (for triangular employment and franchisee employers), and reviewing accreditation duration again when there is more compliance data to better inform risk settings.

Recommended action

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

- a **Note** that, in 2019, Cabinet agreed to the high-level design of the Accredited Employer Work Visa (AEWV), including the following durations for employer accreditation [DEV-19-MIN-0228]:
 - i. standard and high-volume accreditation would last for 12 months the first time, followed by renewal every two years
 - ii. labour-hire accreditation (later renamed triangular employment accreditation, and expanded to include franchisee employers) would last for 12 months, followed by renewal every 12 months

Noted
- b **Note** that, in December 2022, Cabinet agreed to extend all employer accreditations under the AEWV applied for before 4 July 2023 by 12 months, to support employers while they are adjusting to the new system [CAB-22-MIN-0569]

Noted
- c **Note** that the previous Minister of Immigration indicated that he would seek advice from officials about whether a permanent change in settings is appropriate, and report back to Cabinet in the first half of 2023

Noted
- d **Agree** to one of the following options for accreditation duration:
 - i. keep the original settings at this stage (status quo), i.e. first accreditation is valid for 12 months, renewals are valid for either 24 months (standard and high-volume) or 12 months (triangular employment and franchisee), and reviewing accreditation duration again when there is more compliance data to inform risk settings (**recommended option**), OR

Agree / Disagree

- ii. extend duration for initial standard and high-volume accreditations only, i.e. standard and high-volume accreditation is valid for 24 months, and triangular employment and franchisee accreditation is valid for 12 months, regardless of whether it is an initial accreditation or renewal (**second preference**), OR

Agree / Disagree

- iii. extend duration for all accreditations, i.e. all accreditations are valid for 24 months, regardless of accreditation type, or whether it is an initial accreditation or renewal

Agree / Disagree

- e **Note** that we estimate over the next ten years option d.ii. would result in annual average lost revenue of \$1,692,181, and option d.iii would result in annual average lost revenue of \$5,039,939

Noted

- f **Note** that the majority of the accreditation fee represents fixed system costs and the costs of post-decision compliance checks, which will be incurred regardless, and that, Confidential advice to Government

[Redacted]

Noted

- g **Note** that we will include a report back to Cabinet on your decision in the Green List review paper, scheduled for late August

Noted

- h **Note** that a longer accreditation duration would be implemented in early 2024, subject to any unforeseen priorities that require implementation, but that retroactive extensions could be applied to any employers who apply for accreditation between 4 July 2023 and the eventual implementation date.

Noted

Privacy of natural persons

[Redacted]

Lee Gerrard
Acting Manager, Immigration (Skills and Residence) Policy
Labour, Science and Enterprise, MBIE

12 / 07 / 23

Hon Andrew Little
Minister of Immigration

..... / /

Background

The Accredited Employer Work Visa and employer accreditation

1. The Accredited Employer Work Visa (AEWV) is New Zealand's main temporary work visa. It was introduced on 4 July 2022, as part of the Immigration Rebalance. It provides a streamlined, employer led process that helps New Zealand fill skilled worker shortages and compete internationally for top talent. It has replaced six temporary work visas and introduced a wage threshold (set at the median wage) as a proxy for skills.
2. The AEWV has a three-step process:
 - a. **Accreditation** – the employer applies to become an Accredited Employer. There are different types of accreditation for different employers:
 - i. standard accreditation – for employers with up to five AEWV holders
 - ii. high-volume accreditation – for employers with six or more AEWV holders
 - iii. franchisee accreditation – for franchisee employers, regardless of the number of AEWV holders
 - iv. triangular employment accreditation – for employers placing AEWV holders in triangular employment arrangements (e.g. labour hire), regardless of the number of AEWV holders.
 - b. **Job check** – the employer applies for a job check, which includes showing evidence that the job has been advertised and a declaration no suitable New Zealander is available for the role.
 - c. **Visa** – the migrant applies for an AEWV.

Accreditation duration and checking compliance with accreditation standards

3. In 2019, Cabinet agreed that employer accreditation would be valid for the following periods [DEV-19-MIN-0228]:
 - a. standard and high-volume accreditation would last for 12 months the first time, followed by renewal every two years
 - b. labour-hire accreditation (now triangular employment and franchisee accreditation) would last for 12 months, followed by renewal every 12 months.
4. The shorter first accreditation for standard and high-volume employers reflects that Immigration New Zealand (INZ) has limited information about an employer's compliance at their first accreditation, and employers must make forward-looking commitments (e.g. completion of employment standards learning modules and settlement support activities). Once an employer has demonstrated compliance during their first accreditation, they can move to a longer accreditation cycle.
5. The ongoing shorter accreditation period for employers using triangular employment and franchisees reflects the higher risk of migrant exploitation associated with these business models.
6. Accreditation and re-accreditation checks are intended to be relatively light-touch. Where possible, INZ runs automated checks to determine whether an employer meets the requirements (e.g. checking they are not on a list of employers who have breached employment standards). However, where further evidence would be required to verify whether an employer meets the requirements, the accreditation/re-accreditation form only requires a declaration by the employer, which will generally be taken at face value. Further evidence may be requested from the employer if there are particular warnings or risk rules that indicate they may not meet the requirements.

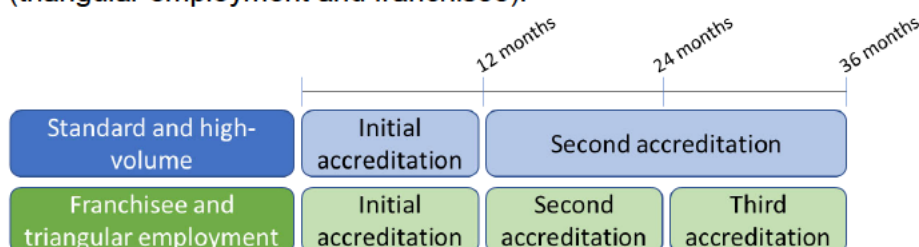
7. The streamlined upfront checks on employers are backed up by a system of post-decision checks of whether employers are complying with the accreditation standards. This system of post-decision checking is called the Accredited Employer Risk Monitoring Review (AERMR) programme. It is conducted throughout the accreditation period and can include desk-based review of information held on an employer, requiring employers to provide evidence of compliance, and site visits. If information found during AERMR (or through other investigations) shows an employer is not complying with the accreditation standards, their accreditation can be immediately revoked.
8. AERMR checks (which commenced in 2023) will cover about 15 per cent of accredited employers in the first year, including 100 per cent of employers with franchisee and triangular employment accreditation. The first stage of AERMR activities (desk-based checks) is underway for the first cohort of employers accredited in the first year of the policy. Work is now progressing to contact employers where initial assessments indicate that they may not meet the accreditation requirements, or there is insufficient information available to mitigate potential risks, and to begin site visits where appropriate (including for 50 per cent of employers with franchisee and triangular employment accreditation).

Cabinet agreed to a one-off extension of accreditations, which has now expired

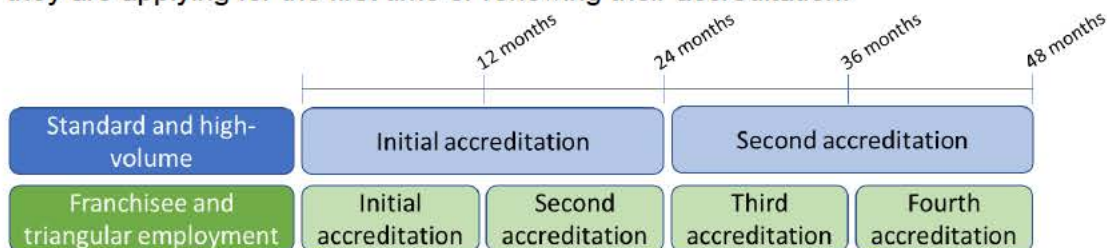
9. In December 2022, Cabinet agreed to extend all initial employer accreditation periods under the AEWV applied for before 4 July 2023 by 12 months, to support employers while they are adjusting to the new system [CAB-22-MIN-0569]. This was also at a stage where job checks were taking longer to process than expected, a situation that has now been addressed. This effectively gave all employers a 24-month first accreditation. This was agreed as a one-off extension, but the previous Minister of Immigration noted that he would seek advice from officials about whether a permanent change in settings is appropriate, and report back to Cabinet in the first half of 2023.
10. As of 4 July 2023, the one-off extensions are no longer being applied to new accreditation applications. 26,862 employers applied for accreditation between applications opening in mid-2022 and 4 July 2023, and have benefitted from the one-off extension/24-month initial accreditation. This cohort's initial accreditations will expire between July 2024 and July 2025 (and they will have to get reaccredited every two years thereafter for standard and high-volume employers). There is still a relatively strong inflow of new accreditation applications (averaging 375/week over the last three months), however we expect the rate of new employers entering the system to eventually decrease.
11. This briefing provides advice on options for accreditation duration following the end of the one-off extensions.

Options for accreditation duration following the end of one-off extensions

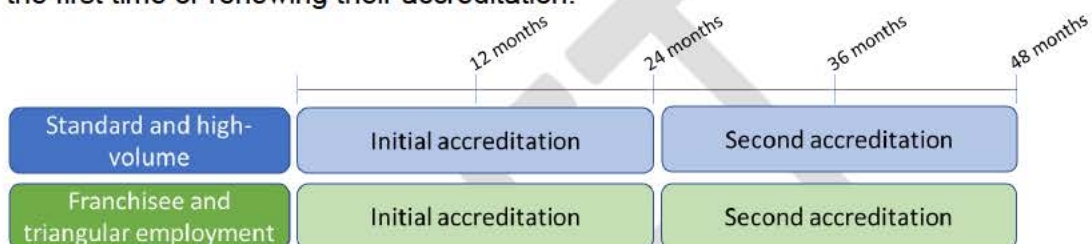
12. We have identified three options for accreditation duration in future:
 - a. **Option 1: Keep original settings (status quo).** An employer applying for their first accreditation would get a duration of 12 months, and employers applying to renew their accreditation would get either 24 months (standard and high-volume) or 12 months (triangular employment and franchisee).



- b. **Option 2: Extend for initial standard and high-volume accreditations only.** All standard and high-volume employers would get 24 months, and all triangular employment and franchisee employers would get 12 months, regardless of whether they are applying for the first time or renewing their accreditation.



- c. **Option 3: Extend for all accreditations.** All employers would get 24 months, regardless of their accreditation type, and regardless of whether they are applying for the first time or renewing their accreditation.



13. We have assessed the options based on the objective of striking the most appropriate balance between upholding objective of accreditation (to prevent non-compliant employers from hiring workers on the AEWV) and minimising compliance costs for employers. Our advice also sets out the financial implications of each option, as reducing how often employers need to renew their accreditation will affect how much revenue is collected through application fees.

We recommend keeping the original settings (option 1) at this time and reviewing them again when more robust compliance data is available

14. A permanent extension in accreditation duration at this stage would increase the risk of employer non-compliance and harm to migrant workers, for a number of reasons:
- a. Over time, it is intended that data gathered through the AERMR programme will help INZ to refine their risk profiles for employers, allowing us to loosen or tighten upfront accreditation checks if the data shows that there is more or less risk than previously thought. AERMR is still in its early stages, meaning that we do not have enough evidence to support changes to the original accreditation settings. Extending the duration of accreditation would mean that, once better data starts to become available from AERMR, any changes to tighten accreditation checks would take longer to flow through to employers.
 - b. While AERMR checks will continue regardless of the duration of an employer's accreditation, only about 15 per cent of accredited employers will be subject to AERMR checks in any one year. For employers who are not subject to any checks through the AERMR programme, re-accreditation is the opportunity to undertake additional verification and assurance in response to any concerns that have arisen during the previous accreditation period. For example, if there is evidence to suggest an employer has underpaid a migrant worker (recorded as an alert or warning against the employer), INZ may request time, wage and tax records as part of the accreditation application to verify that the employer is complying with their obligations. Extending the accreditation period would mean it takes longer for these employers to be subject to this additional checking.

- c. The expectation that they may be subject to compliance checks as part of the reaccreditation process may act as a disincentive for less compliant employers to apply to renew their accreditation. Extending the duration of accreditation would allow these employers to continue hiring migrant workers for a longer period.
 - d. Any extension in the duration of accreditation also extends the deadline for employers to complete Employment New Zealand's online employer modules (everyone who makes recruitment decisions within an accredited organisation is required to complete these once every accreditation period). We consider that this is likely to have a relatively low effect on the incidence of migrant exploitation, however we note that it could mean that an employer can employ AEWV holders for up to two years without anyone in the organisation having ever completed the modules.
15. We also consider that any benefits to employers from extending accreditation would be limited. The reaccreditation process will be relatively quick and straightforward for most employers. As noted above, it will be primarily based on declarations, with employers generally not asked to provide additional evidence unless there are particular risks or concerns present. Anecdotal evidence suggests that employers are generally finding the accreditation process easy to navigate, and are primarily concerned about the cost¹ and the ongoing requirement to maintain records in case they are requested by INZ.
 16. While extending accreditation duration will reduce some of the compliance burden on employers by reducing how often employers are required to complete the employer modules, it is unlikely to address the other issues raised. Records will need to be maintained throughout the accreditation period, regardless of duration. Furthermore, without any additional Crown funding or reduction in verification and assurance activity, extending accreditation duration would require an increase in fees at the next fees review to recover lost revenue from the extensions, as a significant proportion of the accreditation fee represents fixed system costs and the costs of the AERMR programme, which are still incurred regardless of accreditation duration.
 17. We therefore recommend maintaining the original settings (option 1) and reviewing the duration of accreditation again when there is enough data from the AERMR programme to better inform our risk settings. If AERMR data indicates higher than expected compliance rates for certain groups, this would support consideration of extending accreditation duration for those groups.

If you wish to provide a permanent extension, we recommend only doing it for initial standard and high-volume accreditations (option 2)

18. Both options 2 and 3 will increase the risk of employer non-compliance and harm to migrant workers. However, option 2 is the lower-risk option, as the increased risks are limited to the first 24 months the employer is in the system.
19. For franchisee employers and those using triangular employment arrangements, evidence suggests there is an ongoing higher risk of exploitation associated with the nature of their business model. We therefore strongly advise returning to 12-month accreditations for this group until there is enough data from the AERMR programme to do an informed review of the settings. We note that we have already committed to do a review of the franchisee accreditation category in 2024, and that the AERMR programme aims to have completed checks on 100 per cent of franchisee employers by this stage.
20. We note that option 3 would reduce some complexity in the system, as the same accreditation duration would apply to all employers. However, we consider that the increased risk of non-compliance and harm to migrants outweighs this benefit.

¹ Accreditation fees are: standard employers – \$740, high-volume employers – \$1,220, franchisee employers – \$1,980, employers using triangular employment arrangements – \$3,870.

21. We also note that option 3 would address concerns raised by the Franchise Association of New Zealand that shorter accreditation durations for franchisees puts them at a disadvantage compared to non-franchise operators in the same sector (although it would not address their other complaints, i.e. that the higher accreditation fee puts them at a disadvantage, and that a separate accreditation category unfairly paints all franchises as bad employers). However, we consider that the available evidence about exploitation risk in franchise businesses warrants the differential treatment at this stage, and (as above) note that these settings will be reviewed as more evidence becomes available.

Financial implications of permanent extensions

22. Both options 2 and 3 will result in lost revenue. The future volume of accreditation applications is highly uncertain at this stage. However, we have made an upper bound estimate of the lost revenue based on the assumption that the current trend of accreditation applications continues². Over the next ten years, we estimate an average annual revenue loss of **\$1,692,181** under option 2, and **\$5,039,939** under option 3.
23. The resource that would have been used to process accreditation renewals would be reallocated to other visa products. However, the majority of the accreditation fee covers fixed system costs and the cost of the AERMR programme, which will still be incurred. Confidential advice to Government

Agency consultation

25. The Treasury supports MBIE's recommended option due to the concerns around increased risk of employer non-compliance and harm to migrant workers. Furthermore, options 2 and 3 will result in lost revenue without fee increases, and the next fee and levy review is not scheduled until 2024. Confidential advice to Government

Next steps

26. If you want to extend duration permanently (option 2 or 3), this will need to be confirmed by Cabinet before it can be communicated and implemented. We intend to include the report back on accreditation duration in the Green List review Cabinet paper, which is scheduled for consideration in late August 2023.
27. Extensions to accreditation duration would be implemented in early 2024, subject to any unforeseen priorities that require implementation. However, an announcement could be made immediately following Cabinet decisions to give employers certainty ahead of the ICT changes. Extensions could be retroactively applied to employers who apply for accreditation between 4 July 2023 and the eventual implementation date. Once you have confirmed your preferred option, if it is either option 2 or 3, we will complete more detailed work and report back to you with a confirmed implementation date.

² We acknowledge that the number of new applications will drop over time, but cannot reliably estimate how large the drop will be, so consider the most appropriate approach for costings at this stage is to assume that the current trend will continue.