



BRIEFING

Employer-led Gateway Framework: Next Steps

Date:	17 April 2019	Priority:	Medium
Security classification:	In Confidence	Tracking number:	3095 18-19

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	<p>Agree to the high-level design of the employer-assisted gateway framework, including disestablishing the visa categories it will replace, remuneration thresholds, the definition of 'mid-skilled', and family entitlements for lower-skilled workers.</p> <p>Discuss the proposal to retain the stand-down period for lower-skilled workers.</p>	30 April 2019

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Siân Roguski	Manager, Immigration Policy	04 901 3855	Privacy of natural persons	✓
Sam Foley	Principal Policy Advisor	04 901 1572		

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 Withdrawn |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



BRIEFING

Employer-led Gateway Framework: Next Steps

Date:	16 April 2019	Priority:	Medium
Security classification:	In Confidence	Tracking number:	3095 18-19

Purpose

This briefing provides an initial summary of consultation and seeks your initial decisions on the high-level design of the employer-assisted gateway framework, including the visa categories it will replace, remuneration thresholds, the definition of 'mid-skilled', the stand-down period and family entitlements for lower-skilled workers. These decisions will be included in the Cabinet paper being prepared which is seeking agreement to the final shape of the reforms to the employer-assisted temporary work visa system.

Executive summary

In December 2018, Cabinet agreed to consult on a new approach to employer-assisted temporary work visa settings and regional workforce planning. A key proposal is the introduction of a new employer-led gateway system for employer-assisted temporary work visas, made up of an employer gateway, job gateway and migrant gateway. The key objectives of the proposed system are to:

- increase incentives on employers to employ and train New Zealanders;
- minimise the risk of migrant exploitation and maintain the integrity of the immigration system;
- trigger integrated responses to demand for temporary migrant workers from the skills/education and welfare/employment systems to improve domestic labour supply; and
- simplify immigration processes, making it easier for employers and migrants to use the system.

Consultation was undertaken from 18 December 2018 to 18 March 2019. You are due to report back to Cabinet on the final proposals in June 2019.

Submitters supported the high-level framework of the proposed system, and its shift in focus from migrants to employers. The gateway system will reduce the number of application pathways for employer-assisted temporary work visas into one enhanced and simpler system, which will involve replacing the current six temporary work visa categories.

The employer gateway will set new requirements on all employers who wish to access migrant labour. The job gateway will take better account of different regional and sector needs, and the migrant gateway will carry out migrant capability checks. The system as a whole will ensure that we can screen out those who abuse the system, enable the Government to put tougher tests in place for higher risk employers, and provide benefits to demonstrably better employers.

This briefing seeks your agreement in principle to the new gateway framework, subject to further advice on the specific details of the accreditation standards at the employer gate. This will confirm the high-level design of the reforms to enable the Cabinet paper to be prepared seeking agreement to the final shape of reforms to be implemented.

In addition to this confirmation, we seek your agreement to other reforms of the immigration system, as follows:

- introducing a highly-paid remuneration threshold to bypass the labour market test;
- reinstating the ability for lower-skilled workers to bring their immediate family to New Zealand for the length of the migrant worker's visa; and
- changing the definition of 'mid-skilled' through a remuneration threshold increase.

This paper also provides advice on the 12 month stand-down period for lower-skilled workers who have worked in New Zealand for three years. While feedback from consultation was, as expected, not supportive of the stand-down period, we recommend that it be retained for the following reasons:

- submitters generally agreed that having a pool of migrants here in limbo indefinitely is not a good policy outcome; and
- the main alternative option suggested by submitters, creating a pathway to residence for lower-skilled migrants, would work against your other labour market objectives to increase skill levels and reduce reliance on lower-skilled migration.

However, we seek your feedback on whether you want to consider alternative options to reduce or delay some of the impacts of the stand-down period on employers and migrants. These options could include a longer period before the stand-down applies, or providing more certainty for migrants and employers by increasing the duration of lower-skilled visas.

These proposals make up one tranche of a series of decisions you will be asked to make on the employer-assisted temporary work visa changes. Further papers will be provided on the specific details of the accreditation system, regional differentiation and sector agreements, and any transitional arrangements. If you agree, the proposals in this paper will be included in Cabinet papers being prepared for June.

Recommended action

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

- a **Agree** to the high-level design of the gateway framework consisting of the Employer gate, the Job gate and the Migrant Gate

Agree / Discuss

- b **Note** that further advice will be provided on the specific detailed design of the employer gate (accreditation system) in May

Noted

- c **Agree** that the gateway framework would replace the following current visa categories: Essential Skills, Approval in Principle, Talent (Accredited Employer), Long Term Skills Shortage List Work to Residence Occupations, Silver Fern Job Search and Silver Fern Practical Experience

Agree / Discuss

- d **Agree** to introduce a highly-paid remuneration threshold of 200 per cent of the national median income in order to bypass the labour market test

Agree/Discuss

- e **Agree** to reinstate the ability for lower-skilled workers to bring their immediate family to New Zealand for the length of the migrant worker's visa and retain the existing remuneration threshold for dependent children

Agree/Discuss

f **Agree** that partners will only be eligible to work if they obtain a job and are approved through the new gateway system

Agree/Discuss

g **Agree** to retain the 12 months stand-down period for lower-skilled temporary work visa holders after they have spent three years in New Zealand

Agree/Discuss

h **Discuss** your preferred approach to further options to reduce or delay some of the impacts of the stand-down period on employers and migrants; and

Yes/No

i **Agree** to change the definition of mid-skilled by raising the mid-skilled remuneration threshold to 100 per cent of the national median wage

Agree / Discuss

Siân Roguski
Manager, Immigration Policy
Labour, Science and Enterprise, MBIE

Hon Iain Lees-Galloway
Minister of Immigration

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PROACTIVELY RELEASED

Context

1. Public consultation was undertaken on a new approach to employer-assisted temporary work visa settings and regional workforce planning from 18 December 2018 [CAB-18-MIN-0608.01 refers]. A key proposal is the introduction of a new gateway framework for assessing employer-assisted temporary work visas. The proposed changes have the following objectives:
 - increase incentives on employers to employ and train New Zealanders and improve wages and conditions;
 - minimise the risk of migrant exploitation and maintain the integrity of the immigration system;
 - trigger integrated responses to demand for temporary migrant workers from the skills/education and welfare/employment systems to improve domestic labour supply; and
 - simplify immigration processes making it easier for employers and migrants to use the system.
2. Cabinet invited you to report back in June 2019 with final proposals following public consultation. Consultation closed on 18 March, and resulted in a total of 947 submissions across all the proposals (an additional 300 submissions from individual migrants, submitted by the NZ Migrant Network, were received after the last advice sent to you).
3. Following analysis of submissions, officials are preparing advice across four streams of work that span the proposals:
 - the employer gateway framework, including implementation and a range of smaller policy issues;
 - Sector Agreements;
 - regionalisation of the labour market test and skills shortage lists; and
 - domestic alignment between labour market agencies.
4. This briefing focuses on the first stream of work on the employer gateway framework. It summarises consultation feedback and seeks your decisions on a range of issues.

A new gateway framework for employer-assisted visas

Cabinet agreed to consult on replacing six current temporary work visas with an employer-led gateway framework

5. The gateway framework shifts the focus of the system on to employers. It would require all employer-assisted temporary work visa applications and migrants to meet the requirements of three 'gates' where checks are completed (in some cases these checks might be undertaken at the same time):
 - *the employer gateway* - where employers would be accredited to enable them to hire a migrant;
 - *the job gateway* - where (for most applications) checks will be made to make sure that no New Zealander is able to fill the job being recruited for; and
 - *the migrant gateway* - where checks will be made to make sure the migrant is of good character and health.

6. All employers would need to be accredited in order to hire migrants under the new employer-assisted system. Migrants would not be able to submit an application unless the employer is accredited and the job had been approved through the job gateway. Annex One contains a high-level diagram of the proposed system.
7. Cabinet agreed that the proposed gateway framework would replace six temporary work visa categories: Essential Skills, Approval in Principle, Talent (Accredited Employer), Silver Fern Job Search and Silver Fern Practical Experience, and Long Term Skill Shortage List (LTTSL) Occupations visa categories. These changes are intended to reduce and simplify the policy suite and make the system easier to navigate for employers and migrants.

Feedback from consultation is mostly supportive of the gateway framework and has raised no additional concerns about replacing the existing categories

8. About 60 per cent of submitters fully or partially supported the overall employer-led gateway system. Fifty two per cent of submitters supported an accreditation framework for employers seeking to support temporary work visas.
9. Although the overall change was largely supported, there were some concerns that the proposed changes could increase the time it takes to recruit migrants and could increase the compliance burden on employers. The specific concerns included the potential cost of accreditation, the cost of increased wages and paperwork adversely affecting small businesses, difficulty of fulfilling 'pastoral care' requirement for small businesses, and the concern that the proposed accreditation period is too short and should be increased. This is in addition to concerns around processing times.
10. Businesses also have concerns around meeting the accreditation criteria, especially the 'upward pressure on wages and conditions'. Most employers and business groups said that the gateway framework needs to be implemented in a way that minimises administration costs and time on employers, particularly smaller ones.
11. There was no specific feedback from consultation about replacing the Essential Skills visa, the Approval in Principle or the Talent (Accredited Employer) visas. The key features of these categories will be largely translated to the new gateway framework i.e. people who use these polices generally should be able to use the new gateway framework.
12. We also received no specific feedback regarding the Silver Fern visa categories or the disestablishment of the LTSSL work to residence category. However, support for pathways to residence more generally was a common theme of submissions from both employers and migrants. Various industries wanted to ensure that migrants in their industries have the ability to obtain residence.

Recommendation: replace the current temporary work visa categories with the new gateway framework

13. On the whole, there was support for the proposed gateway system. We therefore recommend that you agree to adopt the high-level design of the gateway framework. While the employer and job gateways would require more administration up-front for most employers, the changes as a whole would provide more certainty and a better service for compliant employers. The highly-paid pathway and Regional Skills Shortage Lists will streamline the immigration process for highly-skilled jobs. The migrant gateway will be more efficient as the employer checks will be done in advance, providing more certainty and lower costs for migrants.
14. The changes will also ensure that we can screen out those who abuse the system, and enable the Government to put tougher tests in place for higher-risk employers. This could lead to an increase in such employers recruiting migrants on open work visas (although there

are a finite number of these) or seeking to avoid the new system. We will need to monitor these potential impacts closely.

15. In light of the concerns expressed in the submissions about the specific standards and criteria for accreditation, further work is being done on the specific accreditation settings. Detailed advice on the specific requirements for accreditation will be provided in May.
16. We recommend that the six existing policies be replaced by the new employer-assisted framework in order to simplify the wider system. The objective and outcomes of the Essential Skills and Talent (Accredited Employer) visas, along with the Approval in Principle (AIP) accreditation for employers, will be largely translated to the new gateway framework. People who use these policies should be able to access the new gateway framework.
17. The implications of replacing the Silver Fern and LTSSL work to residence categories do not appear to be significant. The Silver Fern visa categories are small-scale and poorly targeted, and most people who obtain a LTSSL temporary visa do not transition to residence under the LTSSL residence pathway. There were no significant concerns expressed in the consultation. Future applicants who would have applied for these visa types would be likely to be able to apply under the new employer-assisted category, or would have alternative options such as the Skilled Migrant Category (SMC). Further detailed information on these categories is contained in Annex Two.

Introducing a highly paid remuneration threshold

Cabinet agreed to consult on increasing the remuneration threshold required to bypass the labour market test

18. Cabinet agreed to consult on the proposal that if a temporary migrant worker is being paid a sufficiently high remuneration rate, a labour market test is not needed for that role. For employers with standard accreditation, migrants paid at least 200 per cent of the national median income (currently \$104,000 per annum) would be deemed to meet a labour market test (for premium accredited employer the threshold was 150 per cent). Employers would still be required to pay a market rate for the occupation, and not just meet the highly-paid threshold.
19. Under current settings, no matter how highly-paid or highly-skilled a worker may be, they are still subject to a labour market test, unless they are employed by an accredited employer and on a work-to-residence visa, or on the LTSSL. In principle, paying a migrant worker a high remuneration generally reflects a genuine skills shortage and the value that the employer has placed on that migrant's unique skills and experience. It follows that a high level of remuneration could be considered as sufficient labour market testing for skilled workers.

Feedback from consultation was generally supportive of having a highly-paid threshold

20. Forty five per cent of those who submitted supported the highly paid threshold, 35 per cent did not support it, 15 per cent were unsure and 5 per cent had no opinion. Larger employers were more supportive of the proposal, and there was no clear majority amongst smaller employers as to whether they supported it or not.
21. Concerns with the threshold included that it would impose additional costs on business and impact a number of skilled workers, with the suggestion that it should be a phased increase. However, some of these submitters may not have understood the proposal, for instance some submitters thought it determined whether migrants could be recruited at all. A significant number of employers also thought that the threshold should be lower, or should be determined based on industry or regional pay rates.

We estimate that around 3,700 migrants annually may earn more than the proposed threshold

22. In 2018, we estimate that around 1,250 of the 42,270 Essential Skills visa holders earned more 200 per cent of the median wage, the proposed income threshold for standard accredited employers. In addition, we estimate that around 2450 of the 6,800 migrants under the Talent (Accredited Employer) policy earned more than 150 per cent of the median wage, the proposed threshold for premium accredited employers. These figures provide an indicative number of migrants who could meet the proposed highly paid threshold in the future. For the employers of these workers, and the migrants themselves, the job check process will be faster and more streamlined than the current system as they will not be required to do a labour market test.
23. There is a risk that wage is not necessarily a proxy for skill, meaning that the threshold might not be high enough to target the highly-skilled workers wanted for New Zealand's labour market and may result in displacing a New Zealander from that role. These risks are marginal given the relatively small percentage of workers who would be eligible to bypass the labour market test.
24. In total, around 7 per cent of migrants would be expected to pass through the job gate as highly-paid migrants, a relatively small number of the total. The main occupations approved in the 2017/18 financial year that were paid above the proposed threshold were resident medical officers, general practitioners, university lecturers, construction project managers and software engineers. The threshold would be sufficiently high to recognise genuinely skilled migrants.

Recommendation: introduce the highly-paid remuneration threshold

25. We recommend that you agree to introduce the highly-paid remuneration threshold for highly-skilled workers. Overall we do not expect the highly-paid threshold will displace New Zealanders, or have a negative impact on wages and conditions. The threshold would streamline the job check for highly-skilled workers, which would be consistent with the aims of simplifying the system and increasing the skill levels of migrants.

Stand-down period for lower skilled temporary migrants

Cabinet agreed to consult on whether the stand-down period should be changed

26. Changes made in August 2017 mean that lower-skilled¹ Essential Skills migrants who have worked in New Zealand for three years are subject to a 12 month stand-down period where they must leave New Zealand. The stand-down period is intended to prevent a pool of lower-skilled, lower-paid migrants building up in New Zealand that are well-settled but have no pathway to residence.
27. Prior to this policy, lower-skilled temporary migrants could roll over their visas indefinitely, provided their jobs continued to pass a labour market test. This meant that they could become well-settled here and lose ties to their homeland, effectively becoming de facto residents but without the rights that go along with residence and citizenship. This created a range of negative impacts:
 - their visa is based on a job offer, and so despite being well settled, if they are injured, no longer able to work, or they lose their job, they lose the basis for their visa and need

¹ Currently lower-skilled migrants are those migrants that are employed in jobs at:

- ANZSCO skill level 4 and 5 and who earn below 150% of the median income
- ANZSCO 1-3 and who earn below 85% of the median income

The proposed changes would increase the threshold for ANZSCO 1-3 jobs to the median income.

to leave the country, leaving them in an insecure situation and vulnerable to exploitation;

- they don't have access to the same rights, benefits and Government support as New Zealanders, such as subsidised tertiary education— their children may have grown up here but would be unlikely to be able to afford tertiary education; and
- there are fewer incentives on employers to access the domestic labour market while they continue to employ a well-settled, low-paid migrant.

28. The consultation process tested whether, in the context of the proposals, the policy objectives for the stand-down period can be met in other ways.

Most submitters supported removing the stand-down period

29. As expected, the majority of employers and migrants felt that the stand-down period was “unfair” and wanted to see it removed. Employers indicated that they need migrants at all skill levels, not just those that are highly-skilled. Employers were concerned that they would lose valuable and productive employees, potentially only to replace them with another migrant. There were also concerns around labelling some migrants as lower-skilled. A small minority were in favour of the status quo. The themes among suggested alternatives were:

- introduce a pathway to residency for migrants staying in the same job for a long period and upskilling, where employer checks and industry-specific skill analysis should be used instead of skills or salary;
- remove the stand-down because if a migrant passes a labour market test there is a genuine shortage; and
- increase the time allowed in New Zealand before the stand-down applies. The stand-down period may not align with the time required for training and development programmes to upskill migrants or otherwise fill the vacancy.

30. Some submitters noted that the combination of the stand-down and 12-month visas for lower-skilled temporary migrants created added uncertainty for employers and migrants.

The stand-down period has a range of impacts for employers and migrants

31. The full impact of the stand-down policy will not be felt until after August 2020, as the three year period only began for lower-skilled migrants who were approved after August 2017 and lower-skilled migrants who were recruited at this time will need to leave New Zealand. Given this, it is difficult to assess the full impacts of the policy at this time. The first year evaluation report of the changes indicates that the introduction of skill bands and the stand-down has increased the complexity of visa processing for Immigration New Zealand. It has led to more employers and migrants attempting to inflate their jobs in order to avoid the stand-down, for example, retail supervisors claiming to be retail managers. Given the incentives for this behaviour, Cabinet also agreed to additional funding to support INZ assurance and verification activity.

32. Of the approximately 50,000 Essential Skills migrants in the country as at 31 January 2019, just over 9,000 had been in New Zealand on Essential Skills visas for 3 years or more. Around 2,000 of those are currently classified as lower-skilled and would be directly affected by the three year stand-down period from August 2020. The three most common regions for long-term lower-skilled migrants were Canterbury, Otago and Auckland. The most common occupations were dairy farm workers (670), retail supervisors (150), and aged or disabled carers (140). However, if Cabinet agrees to increase the mid-skilled remuneration threshold to the median wage, we estimate that the number of long-term ES migrants classified as

lower-skilled, and therefore affected by the stand-down, could increase to approximately 4,000 to 5,000.

For migrants

33. The impacts of the stand-down period on migrants are likely to be mixed. The stand-down was intended to reduce the vulnerability of temporary migrants by setting realistic settlement expectations i.e. ensuring that migrants understand that temporary visas are temporary. Having a large group of long-term temporary migrants indefinitely in limbo, without any of the rights and obligations of residents, creates a great deal of uncertainty for those migrants and their families.
34. However, for many migrants, the ability to work and earn money here is an incentive to want to maximise their length of stay. Many will assume that the longer they remain here, the more likely it is that they will eventually qualify for residence. It is not surprising that most migrants do not support the stand-down policy.
35. The stand-down policy creates more incentives for employers to increase wages and upskill lower-skilled migrants. Migrants who are able to increase their wages to above the threshold within the three years, or who get promoted into a higher-skilled role, would avoid the stand-down. For other lower-skilled migrants, the stand-down helps to set realistic settlement expectations.

For businesses

36. The two key negative impacts of the stand-down period identified by employers are:
 - the stand-down makes it harder to attract lower-skilled temporary migrants; and
 - there is a loss of productivity if experienced and productive, albeit lower-skilled, migrants are forced to leave after three years.
37. The evidence does not indicate that the stand-down period has had a negative impact on New Zealand's relative attractiveness to lower-skilled migrants. In fact, the number of Essential Skills applications approved for ANZSCO skill level four and five jobs increased by 53% between 2016 and 2018. The majority of lower-skilled migrants come from lower-income countries, such as the Philippines and India, which have significantly larger populations than New Zealand, and where the opportunity to work in a developed country, even for three years, is still attractive.
38. The stand-down period is likely to affect up to 4,000 – 5,000 employees across the country, so is unlikely to have any significant economy-wide impacts. However, at an individual firm level some employers may lose trained and productive lower-skilled workers and may have to replace them with less experienced workers (New Zealanders or other migrants). We note, though, that if these migrants are integral to the business, employers have the opportunity to upskill and offer higher wages to move them up to a mid- or higher-skill band over the three-year period. The stand-down period may also make migrants less attractive in comparison to New Zealand workers, which would support the Government's wider objectives to reduce the reliance on lower-skilled migrant labour over time.

Recommendation: Retain the existing stand-down period

39. We recommend that the stand-down period is retained. Submitters generally agreed that having a pool of migrants here in limbo indefinitely is not a good policy outcome. However, submitters' most commonly proposed solution, an ongoing pathway to residence for lower-skilled workers, would undermine the objectives of the policy review by:
 - reducing the overall skill level of permanent migration - lower-skilled workers would need to either replace other more skilled migrants in the residence programme, or the

planning range in the residence programme would need to be increased to provide for lower-skilled migrants;

- creating incentives for lower skilled migrants to try to extend their temporary stay – providing the opportunity for residence would provide a significant incentive for migrants to seek ways to maximise their stay here. including through fraud;
- increasing the vulnerability of those migrants to exploitation – if residence is a potential incentive for lower-skilled migrants they may be prepared to put up with poor working conditions for longer to achieve their aims; and
- not necessarily resolving the underlying labour shortages- migrants with residence have more choices and may choose to move to more attractive jobs or regions once they obtain residence, while their old jobs may end up being filled by new migrant workers.

40. It would be possible to retain the stand-down period but make some changes to reduce or delay some of the impacts on employers and migrants. The options you could consider are outlined below. The options have been assessed against the following criteria:

- effectiveness at managing the pool of long-term temporary migrants;
- effectiveness at reducing negative impacts on businesses; and
- consistency with wider objectives of the review, i.e. reducing lower skilled migrants increasing opportunities for New Zealanders and increasing the skill levels of migrants.

Table One: Assessment of options to reduce the impact of the stand down period

Option	Effectiveness at managing the pool of long-term temporary migrants	Effectiveness at reducing negative impacts on businesses	Consistency with wider objectives of the review
Allow a longer period in New Zealand before the stand down applies i.e. four years (the New Zealand Council of Trade Unions has suggested six years).	This would still prevent a pool of migrants building up but a longer period could mean that people become well-settled and make it harder for them to leave. The longer the period the harder it would be for people to leave New Zealand.	Some employers have argued that it takes longer than three years to either upskill a migrant into a mid- or higher-skilled role or train a New Zealand worker. This would allow more time to allow this training to be effective.	Would slightly reduce the incentives on employers to replace migrants with New Zealand workers or improve pay and conditions as they would be able to keep the migrant worker for longer.
Provide more certainty that lower-skilled workers can stay for up to three years by granting longer duration visas (this is already proposed for premium employers in regions with tight labour markets and could also be part of a sector agreement).	This would retain the stand-down in its current form and therefore ensure that a pool of long-term temporary migrants does not become established.	Would reduce some of the compliance burden and uncertainty on employers and migrants to apply every year and could give employers more confidence to invest in training and upskilling their migrant workers.	Would mean that the labour market is not being tested as often for lower-skilled workers, which would reduce the opportunities for New Zealand workers.

<p>Open a one-off pathway to residence for currently well-settled migrants (i.e. those already here) by reopening the South Island Contribution visa and/or expanding it to the North Island (you have previously agreed not introduce a North Island pathway (briefing 3085 17-18 refers).</p>	<p>Would retain the stand down period for future workers but it would possibly increase expectations that further 'amnesties' will be granted.</p>	<p>This would reduce the impacts of the policy for migrants (and employers) who were here before the policy change in 2017 and confirm the stand-down for those migrants who came after 2017 and were aware of the stand-down when they arrived.</p>	<p>Would have a short-term negative impact on the overall skill level of the New Zealand Residence Programme.</p>
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41. We seek a discussion with you on whether you want to consider these alternative options to reduce or delay some of the impacts of the stand-down period on employers and migrants. These options are not mutually exclusive-you could decide to implement one or more of them.

Reinstating family entitlements for lower-skilled workers

Cabinet agreed to consult on allowing lower-skilled workers to bring their partners and dependent children to New Zealand with them

42. After the August 2017 policy changes, lower-skilled workers could not bring their partners or children to New Zealand unless they qualified for a temporary work visa or visitor visa in their own right. Mid and higher-skilled workers are allowed to bring their partners and dependent children to New Zealand for the duration of their visa, and their partners are eligible for an open work visa. Cabinet agreed to consult on the proposal to reinstate family entitlements for lower-skilled workers. Under this proposal, the partner would be granted a visitor visa unless they are able to obtain an employer-assisted visa in their own right.
43. This proposal is consistent with Government Priority 3, to deliver compassionate government and create an international reputation we can be proud of, as it would support a migrant's right to family life.

Feedback from consultation is mostly in support of reinstating family entitlements for lower-skilled workers

44. The majority of licenced immigration advisors, employers and temporary employees supported reinstating family entitlements, on the grounds that this change will be fair, humanitarian, and allow migrants to contribute economically, culturally and socially to New Zealand. Another benefit cited was that workers wouldn't need to leave for a family visit each year. One concern was that this proposal undermines the temporary nature of a visa of this type for both business and migrant, and provides (potentially false) hope for residency. Some felt it should be dependent on work duration and accommodation provisions.
45. Some submitters felt that restricting the ability of partners to work could have negative impacts on migrant families, by reducing opportunities for partners to settle and integrate in their local communities, and by reducing family incomes.
46. New Zealand employees were almost equally split for and against the proposal, in favour because of fairness and against due to reasons of pressure on the economy and infrastructure.

Reinstating the ability to bring family is likely to have marginal fiscal and labour market impacts

47. The current policy was implemented in August 2017, and only affects migrants who applied for their first Essential Skills visa after that date. Family members who were already here in August 2017 will be able to stay until August 2020 (when the first stand-down period comes into effect). However, there has been a drop in the number of partners and children of ES visa holders approved between 2017 and 2018, of around 3,000 people. Around 1,000 of these were children who would previously have qualified as domestic students.
48. We would assume that if the family entitlements are reinstated that we would see around 3,000 - 4,000 additional family members in New Zealand per year following the changes. These migrants would have some impacts on the housing, health and education systems. We will be discussing these impacts with the relevant agencies, including the Ministry of Education, considering that dependent children would have access to primary and secondary education as subsidised domestic students. However, they would only be able to access tertiary education as full fee-paying international students.

Partners could apply to work if they pass through the new gateway framework

49. Research carried out by MBIE has shown that partners of workers can have a negative impact on labour market outcomes for New Zealanders. Therefore it is proposed that partners of current workers would be granted a work visa only if they passed through the new gateway framework, to ensure labour market testing takes place and New Zealanders are not disadvantaged.
50. However, this could have some negative impacts on these families as it would create barriers to partners being able to work. Generally employer-assisted visas are only granted for full time jobs (a minimum of 30 hours per week). This could leave these families in a worse situation than most New Zealand families, as they would not have access to Government income supplements and benefits. We will need to continue to monitor these impacts.

Recommendation: reinstate family entitlements

51. We recommend reinstating family entitlements for lower-skilled temporary workers as this would be a humanitarian decision consistent with Government Priority 3. The temporary nature of the visa would still be emphasized due to the retention of the stand-down period, to ensure that there are no expectations of long-term settlement. The labour market impacts would be managed by ensuring partners must pass through the new gateway framework to be granted a work visa in their own right.
52. The ability to bring in dependent children would continue to be subject to the existing income requirements in the Essential Skills category to ensure that any children brought in have adequate living conditions. There is a risk of migrant children living in poverty if the temporary worker does not earn enough to support them. As of 1 July 2018, Essential Skills work visa holders need to earn at least \$42,944.20 per annum to support dependent children for a visitor or student visa. This is based on the maximum jobseeker support and the accommodation supplement combined with a family tax credit for one child.

Increasing the mid-skilled remuneration threshold

Cabinet agreed to consult on raising the mid-skilled remuneration threshold to 100 per cent of the median wage

53. Under current settings, there is a group of mid-skilled migrants at ANZSCO levels 1-3 that are paid between 85 per cent (\$21.25 per hour) and 100 per cent of the median wage, and are able to continuously roll over their temporary work visa subject to a labour market test.

These workers, however, would not qualify for residence under the Skilled Migrant Category as that salary threshold is set at the median wage.

54. Cabinet agreed to consult on raising the mid-skilled remuneration threshold to 100 per cent of the national median wage (currently \$25 per hour, or \$52,000 per year based on 40 hours per week). This would bring it into line with the threshold for the Skilled Migrant Category and would ensure that this group of temporary migrants is unable to continuously roll over their visa, without having the stability of a pathway to genuine residence.

Feedback from consultation does not support this change to the threshold

55. As expected, most submitters did not support the proposed increase. Over 70 per cent of responses to this question were against the increase. This was on the grounds that it would be unfair to small businesses, unaffordable for employers, increase the potential for exploitation, and that some businesses would lose even more valuable employees to the stand-down period.
56. Suggestions were that the threshold should be based on different wage levels dependent on industry and/or region (rather than a national median-based figure), that the increase should be phased, and that use of pay level to define skill is flawed and discriminatory. Employment costs cannot be moved without an associated impact on the competitiveness of businesses and general inflationary pressures.
57. However, we note that the change to the mid-skilled threshold would not prevent employers from recruiting migrants below the median wage.

We estimate that around 10,000 migrants would be affected by the proposed threshold

58. Currently we estimate that around 40 per cent of Essential Skills visas granted are for lower-skilled jobs (around 16,000 migrants in 2017/18). If the mid-skilled remuneration band is increased, we estimate that around 65 per cent of jobs would be classified as lower-skilled. Based on Essential Skills visas approved in 2017/18, this would mean around 10,000 migrants that were previously in the mid-skilled bracket would now be classed as lower-skilled and would be subject to the stand-down period. If the stand-down period was retained, this group of workers would be required to leave New Zealand for one year once they spend three years here on an employer-assisted visa.
59. The main groups of occupations affected would be construction trade workers, food trade workers (i.e. chefs), hospitality and retail managers, and automotive trade workers. The affected workers would predominantly be in Auckland (around 50 percent of them).

Recommendation: Increase the mid-skilled remuneration threshold

60. We recommend that you agree to increase the mid-skilled remuneration threshold to the New Zealand median wage. While this would mean that approximately 10,000 more migrants would be subject to the stand-down period, this will ensure that a pool of well-settled temporary migrants who do not have a pathway to residence does not build up.

Next Steps

61. Further work is underway which will feed into further briefing papers in April and May. These papers will seek your decisions on a range of issues, including:
 - the levels and standards for employer accreditation;
 - regional labour market test and lists;

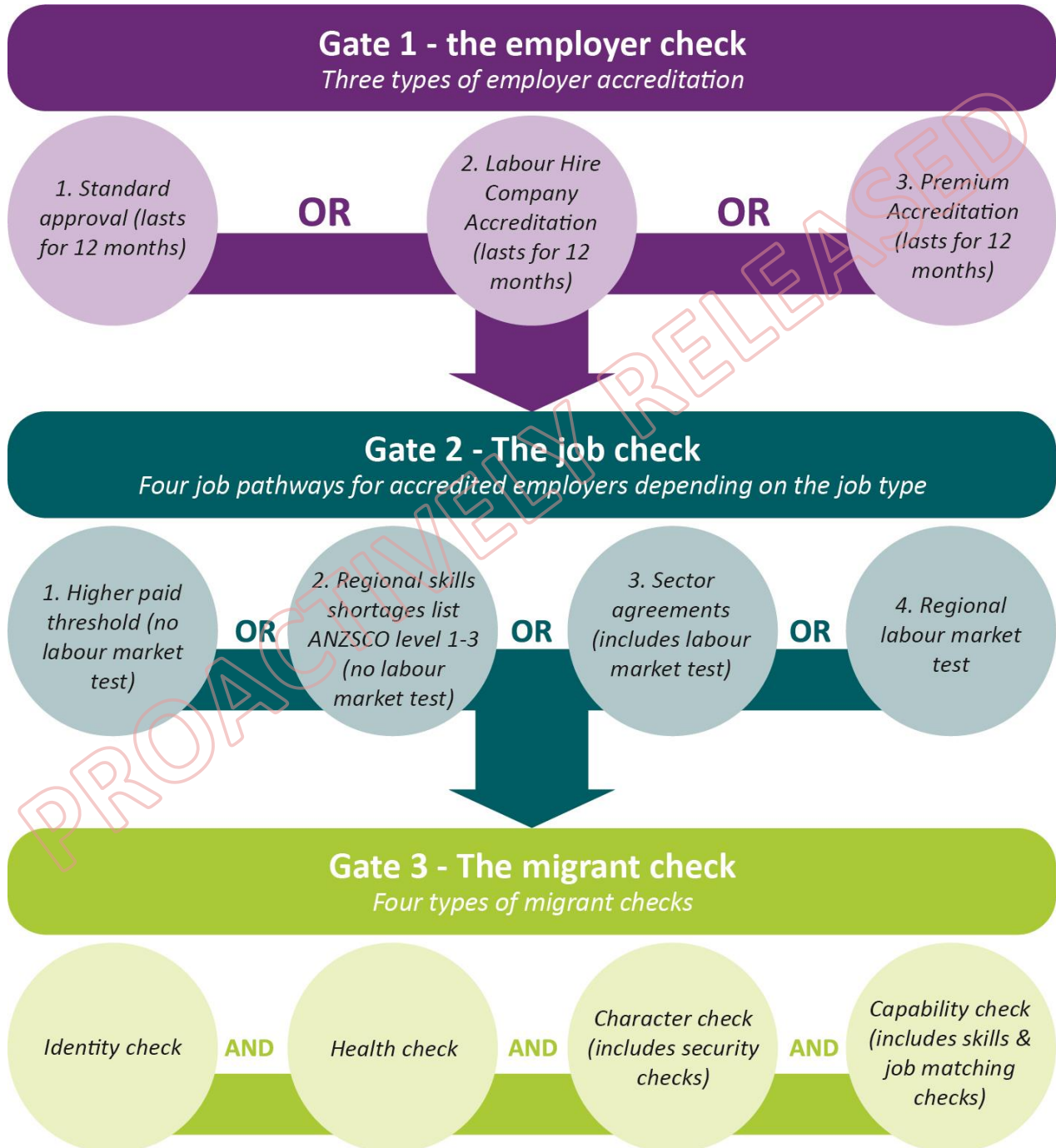
- the approach to sector agreements;
- domestic labour market responses and planning;
- migrant capability checks; and
- audit and assurance processes and costings and fees.

62. Your decisions on this, and the forthcoming papers, will be incorporated in a final Cabinet paper. At this stage we are planning for the draft Cabinet paper (or papers) to be discussed at the Labour Market Ministers meeting on 29 May 2019. Officials are also available to discuss this paper and the recommendations.

PROACTIVELY RELEASED

Annex One: Gateway framework model

- The following diagram shows the high-level summary of the employer-led gateway framework as consulted on.



Annex Two: Silver Fern and LTSSL visa categories

Silver Fern Visas

1. The Silver Fern work categories were established in 2009 with two main objectives: to attract highly skilled young people to New Zealand; and to match these workers to the needs of the economy by providing a pathway for them to remain in New Zealand upon gaining skilled employment.
2. There are two categories of Silver Fern work visas:
 - the *Silver Fern Job Search* visa: a nine month, non-labour market tested, open work visa which allows job search and employment. Applicants must be aged 20-35 years and meet minimum requirements for skill level/qualification. There is a cap of 300 applicants per year; and
 - the *Silver Fern Practical Experience* visa: a two-year non-labour market tested work visa granted to holders of Silver Fern Job Search visas if the applicant has an offer of skilled employment. Applicants may be able to apply for residence under the Skilled Migrant Category. There is no cap on this category, but applicants must have held a Silver Fern Job Search visa first, meaning the pool of Practical Experience applicants is limited to less than 300 per year.

The implications of replacing the Silver Fern categories do not appear to be significant: the categories are small scale and poorly targeted

3. In 2018, there were 250 Job Search visa holders and 120 Practical Experience visa holders. Of the cohort of Practical Experience visa holders the main occupation groups were business and systems analysts and programmers and sales, marketing and public relations professionals. In the cohort of 103 Silver Fern visa holders who arrived in New Zealand in 2014, 77 per cent converted to residence within five years, 3 per cent were on temporary work visas and 18 per cent had left New Zealand by 2018. While there is a high rate of conversion to residence, the overall numbers of visa holders in this category each year are minimal.
4. In addition, the system for allocating Silver Fern visas is inefficient. Applications are open just once a year and visas are awarded on a first-come, first-served basis. The visas are potentially awarded to the quickest, not the best, candidates. The policy is open to anyone with a bachelor degree and does not recognise work experience.
5. The impacts of disestablishing the Silver Fern visa will be minor. The numbers of Silver Fern visa holders in the pool each year is minimal. Potential and current applicants will be able to apply for other visa categories.

LTSSL Visas

6. The LTSSL work to residence policy allows a migrant who has a job that meets the requirements of the LTSSL to obtain a work visa valid for 30 months. After two years the migrant is able to apply for residence, provided they earn at least \$45,000 per year.

The implications of replacing the LTSSL categories do not appear to be significant: most people who obtain a LTSSL temporary visa do not transition to residence under the LTSSL residence pathway

7. In 2017/18, 1,012 temporary visas were approved under the LTSSL work to residence category. Of those, 369 were chefs, and 159 were electricians, and 73 were physiotherapists. However, only 245 principal applicants were granted residence. Most people granted work visas under this policy do not end up transitioning to residence under

the LTSSL resident visa category. Because most people with skills on the LTSSL also qualify for residence under the SMC, it is likely that they use the LTSSL to get to New Zealand quickly to start their job and then shift to SMC when they get here rather than waiting for two years.

8. There has been an increase in the number of visas granted under the LTSSL work to residence category over the last two years. It is likely that this is partly driven by changes to the SMC which has made it more difficult to qualify for residence. It is likely that we will also see an increase in the transition rates to residence. Table one below shows this trend.

	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Resident visa	116	164	158	186	216	245
Work visa	496	569	693	665	779	1,012

9. The main occupations transferring to residence under this visa category in the 2018/19 year, out of the 211 visa holders that we have data for, were as follows:
- 107 Chefs;
 - 22 Electricians;
 - 10 Civil Engineering Professionals;
 - 10 Physiotherapists;
 - 10 Software and Applications Programmers; and
 - 7 Veterinarians.
10. The impact of disestablishing the residence pathway under the LTSSL would be relatively minor. The numbers qualifying under this category are small and most migrants would continue to have a pathway to residence under the SMC as they would be eligible for bonus points for being on the LTSSL. Further work will be undertaken to establish how the LTSSL itself aligns with the proposed Regional Skill Shortage Lists.