



Immigration Alert February 2019

**Significant changes ahead for employer-assisted work visas:
What you need to know**





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Proposed policy change

On 18 December 2018, the Ministry of Business, Innovation, and Employment (MBIE) [proposed significant changes](#) to the employer-assisted temporary work visa framework including an emphasis on regional workforce planning. The proposed framework will require over 16,000 New Zealand employers who wish to employ visa holders to become accredited. The proposed framework shifts the policy from being migrant-led to employer-led, and will require employers to demonstrate that they:

- comply with New Zealand immigration and employment law
- treat visa holders fairly and within the law, and
- invest in the training and hiring of New Zealand citizens.

The consultation period is now open. Submissions are due by **18 March 2019**. It is expected that the new framework will become policy by mid-2019.

The new framework in context

Based on figures from MBIE, there were 234,000 temporary work visas issued in 2017/18. Of these, 47,000 were “employer-assisted” (around 20%). “Employer-assisted” is a new phrase. It means that, in some way, the employer was required to be involved directly with the application’s success - either through becoming accredited, meeting the labour market test and completing an Employer Supplementary Form, lodging an Approval in Principle (AIP), or supporting a Silver Fern job placement application.

The new framework proposes an additional step for all employers who wish to support employees with these types of work visas. Under the proposal, this is referred to as the “Employer Gateway” in which employers must demonstrate that they meet certain standards in order to employ migrants on specific types of visa.

The specific visa types are:

- Essential Skills
- Approval In Principle
- Talent (Accredited Employer)
- Work to Residence – Long-term Skill Shortage List Occupation
- Silver Fern (Practical Experience)
- Silver Fern (Job Search)

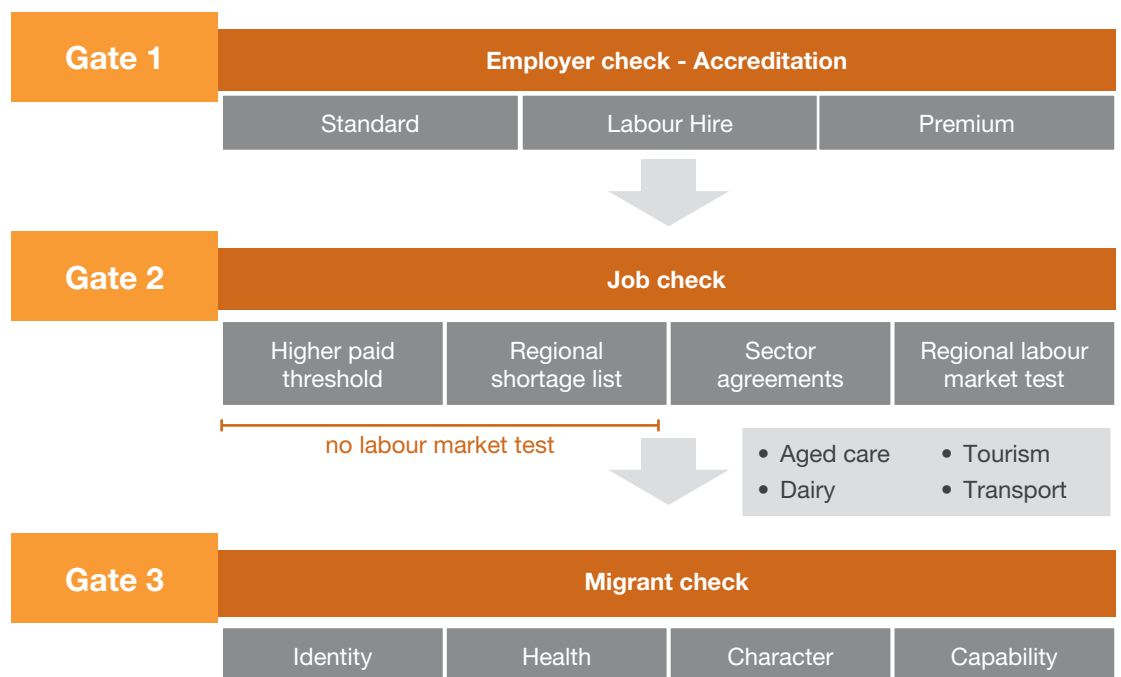
Visa applications made by the remaining 80% of migrants who do not hold employer-assisted work visas will not necessarily fall under the new framework unless the employer also hires employer-assisted visa holders.

The proposal also contemplates **replacing the Essential Skills in Demand lists with Regional Skills Shortage lists** so that skill shortages are better developed in line with actual need and provide a stronger signal to temporary migrants of job opportunities in regional areas. There is very little detail in the proposal about how the regional lists will be managed or created, but they are expected to be introduced in April 2019 ahead of the rollout of the new framework.

MBIE will also look to execute **sector agreements** for those sectors that are heavily reliant on migrant labour. The first sector agreements will be undertaken with aged care, dairy, tourism, and transportation. The intention is to create specific standards for each sector around wages and labour market tests as well as agreement on training and development programmes in order to encourage and support the training of more New Zealand citizens. It is proposed that employers within these sectors will only be able to employ migrants for specific roles if they are part of the sector agreement through their relevant industry association. It is anticipated that 49% of the 47,000 temporary employer-assisted work visa holders would fall under the sector agreements.

Finally, MBIE hopes to **improve alignment of the immigration, welfare, and education systems** to deliver better labour outcomes for New Zealand. This will take some time to develop and depends on consultations and approaches being taken by other parts of the Government at the moment.

Gateway framework



Gate 1 – the employer check

If you currently employ or intend to employ at least one migrant on an employer-assisted visa, you will need to become accredited. The type of accredited status you apply for will depend on:

- the number of migrants you intend to employ in the upcoming 12-month period;
- whether you wish to retain the benefits of being an Accredited Employer under the current scheme (i.e. Talent Visas – Pathway to Residence); and
- whether you are a labour hire company.

If you only employ open work visa holders you will not need to become accredited. However, the likelihood of an employer only hiring open work visa holders is low. Most employers (50+ employees) employ migrants on a range of visa types.

The accredited employer process will require employers to provide evidence to MBIE in four key areas as outlined below.

Summary of proposed accredited status

	Standard accreditation	Premium accreditation	Labour hire company	No accredited status
Number of migrants (12 month period)	Less than 5 migrant workers offered employment on employer-assisted visas	6 or more workers offered employment (employer-assisted) <ul style="list-style-type: none"> Voluntary for low volume employers who want to access benefits 	Compulsory for labour hire companies regardless of numbers	Cannot hire migrants on employer-assisted visas
Standards	Base standards	Enhanced standards		Current compliance with immigration and employment regulations
Duration	12 months	First approval 12 months, then 24 months	12 months	N/A
Incentives	Access to temporary migrant workers under Essential Skills policy	*Access to temporary workers under: <ul style="list-style-type: none"> Essential Skills Talent Visa scheme AIP 3 year visas for lower skilled migrants with tight labour markets 	Access to temporary migrant workers under Essential Skills policy	No access to Essential Skills or Talent Visa holders, AIP but can hire open work visa holders

Comparing Accredited Employer standards

Current	Proposed "Standard"	Proposed "Premium"
<p>Reason for exclusion</p> <ul style="list-style-type: none"> Not on MBIE stand down list No employer convictions for immigration offences Meet remuneration thresholds under Essential Skills <p>And in general...</p> <ul style="list-style-type: none"> HR processes and procedure of a high standard Commitment to training and employing New Zealanders Information on employee population Need for recruitment offshore No objections from unions Evidence of financial stability or sustainability 	<p>Reason for exclusion</p> <ul style="list-style-type: none"> Not on MBIE stand down list Key people are reputable, no offences or insolvency Meet remuneration thresholds <p>Minimise risk of exploitation</p> <ul style="list-style-type: none"> Settlement support and information Demonstrate entitlements have been paid to migrants <p>Trains and upskills New Zealanders</p> <ul style="list-style-type: none"> Demonstrate training and upskilling of New Zealanders (approach and budget) Demonstrate working with new entrants within the last two years, retained for 90 days <p>Lift wages and conditions</p> <ul style="list-style-type: none"> Migrants' salary rate must increase with media wage Provide information on health and safety approach <p>Maintain integrity of the immigration system</p> <ul style="list-style-type: none"> No redundancies for areas of recruitment Disclosure of conflicts of interest 	<p>Reason for exclusion</p> <ul style="list-style-type: none"> Not on MBIE stand down list Key people are reputable, no offences or insolvency Meet remuneration thresholds <p>Minimise risk of exploitation</p> <p>And...</p> <ul style="list-style-type: none"> Broader pastoral care policy for families of employee (provide copy) <p>Trains and upskills New Zealanders</p> <ul style="list-style-type: none"> Workforce development strategy in place or be part of a sector workforce strategy Have a graduate programme or part of industry body that does, or working with MSD or can demonstrate a history of employing job seekers for longer than 90 days <p>Lift wages and conditions</p> <p>And...</p> <ul style="list-style-type: none"> Demonstrate that they are increasing wages and conditions No objections from WorkSafe or unions <p>Maintain integrity of the immigration system</p> <p>And...</p> <ul style="list-style-type: none"> Operation for at least 2 years or can prove sufficient revenue for next 18 months

The key new areas of evidence include:

- pastoral support for migrants
- demonstrating that entitlements have been correctly paid to migrants
- workforce training and development plans
- working with new entrants to the labour market
- migrant health and safety is addressed, and
- evidence of increasing wages for migrants

Gate 2 – the job check

Once accredited, employers will then need to navigate the job check gate. There are four ways to move through the job check gateway. The first two do not require a labour market test. The higher paid threshold will allow employers to bypass the labour market test if certain salary thresholds are met - **200% of the median income (currently \$101,000) if you are a standard accredited employer and 150% of the median income (\$78,000) if you are a premium employer.** The other alternative to avoiding the labour market test is if the position is on a Regional Skills Shortage list (for skilled positions, ANZSCO level 1 -3).

If you are part of a sector agreement then that agreement will include the specific labour market test that you will need to meet in order to hire migrants.

If you do not fall into one of the above categories, you will need to meet a regional labour market test. Presumably, this will be similar to the current labour market test but with a more regional focus. The details of changes to this test have not been released yet.

Proposed pathways through the job check gateway will be led by employer status

		Employer status		
		Standard accreditation	Premium accreditation	Not accredited
Job gateways	Highly paid	Yes if 200% of median	Yes if 150% of median	No
	Position on Regional Skills Shortage List	Yes	Yes	No
	Regional Labour Market Test	Yes	Yes	No
	Open work visa	Yes	Yes	Yes

Gate 3 – the migrant check

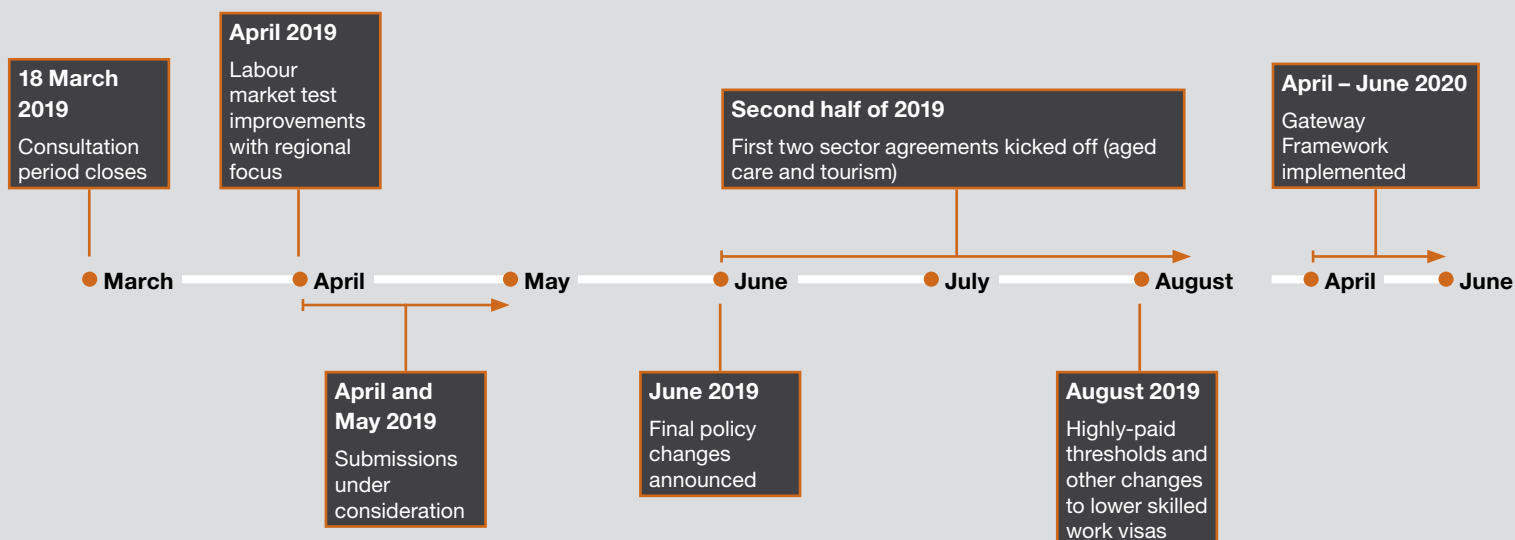
Finally, there is a migrant check that remains unchanged from the current check of all visa applicants with regard to their identity, health, character, and capability.

What the changes mean for you

It's time to assess your workforce and how many visa holders you employ. This will enable you to understand how the proposed changes affect you, what level of accredited status you will need to apply for, and the evidence you will need to support your application. At a minimum, you need to consider the following:



Key Dates



How we can help you

We can:

- assist with a submission to MBIE on how these proposals will affect you, so you can influence the final design of the new framework.
- review your workforce to understand your employee makeup and how the changes may impact your business.
- help you prepare the relevant accredited employer application including the review of evidence and assistance with adopting the relevant policies and frameworks.

Get in touch

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