

Mobility: immigration alert

September 2019

New Zealand

Significant changes set to transform the New Zealand Immigration landscape

Executive summary

The government has announced significant changes to temporary work visas which will be rolled out in stages. These are expected to be fully implemented by 2021.

The changes come after a consultation process conducted by the government from December 2018 to March 2019. The changes as enacted are consistent with many of the proposals but there are also some surprises in the announcements.

The changes include:

- ▶ An immediate and substantial increase to the salary threshold of the Work to Residence - Talent (Accredited Employer) category visa
- ▶ The removal of six work visa categories replaced by a single new visa called the Temporary Work Visa
- ▶ A three-stage visa application process involving: an employer check, a job check and a migrant check
- ▶ The removal of ANZSCO (Australian and New Zealand Standard Classification of Occupations) and sole focus on remuneration as a determinant of skill level
- ▶ The removal of current skills shortage lists
- ▶ A strengthened yet more clear-cut labour market test
- ▶ Reinstatement of a lower paid worker's ability to support their dependent family with dependent visas
- ▶ The introduction of sector agreements for certain industries.

A detailed overview of the changes are as follows.

From 7 October 2019, the following changes to the Talent (Accredited Employer) Work visa Category will come into effect:

- ▶ An annual salary threshold increase from NZ\$55,000 to NZ\$79,560 based on a 40-hour week;
- ▶ Removal of the benefit to apply for a Permanent Resident Visa (PRV) where salary is NZ\$90,000 or higher;
- ▶ Employers limited to being accredited for 24 months only.

The new salary threshold is 150% of the current median salary in New Zealand and will be updated each year in line with the median income.

Implementation of New Accreditation Framework

From 2021 employers who wish to employ migrant workers must apply for accreditation. This includes those with an existing previous accreditation.

There will be three types of accreditation:

- ▶ Standard Accreditation
- ▶ High Volume Employer Accreditation
- ▶ Labour Hire Accreditation

Standard	High volume	Labour hire
For employers who employ less than 5 employer- assisted foreign workers in a 12-month period.	For employers who employ 6 or more employer-assisted workers in a 12- month period.	All labour hire companies

For all types of accreditation, employers must show that they are genuinely operating a business, have no recent history of non-compliance and take steps to minimise exploitation. Employers applying for High Volume accreditation must additionally demonstrate a commitment to upskilling and training New Zealanders, improving pay and conditions over time and show how they propose to meet these commitments.

Accreditation will be granted initially for 12 months and 2 years for subsequent renewals. Requirements for Labour Hire companies are the same as High Volume Accreditation and they need to meet other specific requirements. Labour Hire Accreditation is granted for only 12 months.

The job check

Under the proposed changes, once the employer has accreditation, they will then have to undertake a job check which can be made via the highly-paid pathway, the sector agreement pathway or the regionalised labour market test pathway which can include mandatory engagement with the Ministry of Social Development (MSD).

- ▶ The highly paid pathway - where the job pays NZ\$50 per hour or NZ\$104,000 per annum (40-hour week). No labour market test required regardless of occupation or location of job. Applicants have a pathway to residence at the end of 24 months.
- ▶ The sector agreement pathway - Certain industries wishing to hire migrants will need to fulfil requirements set out in sector agreements negotiated by the government and industry leaders.
- ▶ The regionalised labour market pathway - Dependent on level of pay and the region where a job is located. Please see table below for examples.

	Employment in Cities	Lower supply regions	Higher Supply regions
Level of Pay: Low (less than NZ\$25/hour)	Max 12month visa duration (limit 3 years in total). Labour market testing required including MSD check	3-year visa up front (then stand-down period) Labour market testing required including MSD check	Max 12month visa duration (limit 3 years in total). Labour market testing required including MSD check
Level of Pay: High (at or above NZ\$25/hour)	3-year visa No labour market test if the role is on the skill shortage list If the role is not on the skill shortage list a labour market test will apply but no MSD check will be required	3-year visa and no labour market test	3-year visa and no labour market test

Cities: Auckland, Hamilton, Wellington, Christchurch, Dunedin
 Lower Supply Regions: Waikato, Canterbury, Otago and Southland
 Higher Supply Regions: Northland, Manawatu-Wanganui, Bay of Plenty, Gisborne/Hawke's Bay Taranaki, Tasman/Nelson/Marlborough/West coast and regional Wellington

The worker checks

Migrants will be able to apply for a visa only once the employer has completed the employer and job checks. They will have their identity, health and character assessed. They will also need to meet the skills and experience requirements set out by the employer.

What this means for your business

- ▶ Individuals in New Zealand on valid work visas can continue to work until their visas expire.
- ▶ If an individual currently holds a Talent (Accredited) work visa or they have applied for one before 7 October 2019, they will not be affected by the changes and the existing salary threshold will still apply to them. Additionally, if their salary is NZ\$90,000 they may still be eligible for a PRV.
- ▶ Those employers who have a current application for accreditation pending and who no longer wish to continue, can withdraw their application and apply for a refund.
- ▶ If an employer does not renew their accreditation, existing Talent visa holders may continue to work for them, or they can apply for a Variation of Conditions of their visa to work for another employer.
- ▶ If the employer loses or does not renew their accreditation an individual can keep working for them without applying for a variation of the conditions of their visa.
- ▶ There will be mandatory Accreditation for all employers from 2021. This will be phased in so that not all employers have to apply at once.
- ▶ Moving forward all employers will need to re-assess their current work force requirements, what areas of industry they encompass, what rates of pay are involved and where their work force is located and plan for these changes.

We will keep you updated as Immigration New Zealand continues to provide further refinements to proposed changes.

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EYG no. 004243-19Gbl

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