

Mobility: Immigration alert

November 2022



New Zealand

Minimum wage threshold to increase while reform remains a work in progress

Executive summary

In place for the last four months, New Zealand's Immigration Rebalance continues to be a work in progress. While the process for grant of standard Accredited Employer Work Visas (AEWV) is now operating well, other important elements of the skilled migration program remain under consideration by Immigration New Zealand (INZ).

Employers and global talent consequently continue to experience some frustrations. EY is engaging with INZ to support this process.

In recent developments:

- the expected increase in the median wage threshold in February 2023 is now published
- employers will benefit from a larger talent pool of skilled workers after the independent Skilled Migrant Category (SMC) program resumes in November 2022

Processing times

Processing time for standard applications in some visa categories are reasonable and reliable:

- AEWV Job Check two weeks
- AEWV visa 20 working days
- Straight to residence Green List four weeks

However, INZ processing of applications for Specific Purpose Work visas for short term work and Business Visitors needs to be improved to align with the purpose of these visas.

AEWV update

The requirements for grant of an AEWV are established. However, INZ is working through policy and procedures for scenarios that commonly arise after visa grant including change of employer. In the absence of a policy for employer transfers for AEWV holders, applications for a new AEWV as well as the Job Check are required.

Increase in median wage and minimum wage thresholds

The AEWV and other skilled visa categories are underpinned by minimum wage thresholds indexed to the median wage. Minimum wage thresholds are calculated in each case on the basis of the median wage and the working hours in an individual's contract of employment.

From 27 February 2023 the median wage for immigration purposes will increase based on the June 2022 rate published by Stats NZ and remuneration requirements for the following visas will change:

- AEWV
- Work to Residence Highly Paid pathway
- Straight to Residence Green List pathway for occupations with a wage threshold including ICT, electronics and communications
- Skilled Migrant category points test assessments
- Parent visas as the New Zealand child sponsor must be paid at least the median wage

Concessions for various sectors

Arrangements are in place to support the following sectors through reduced wage thresholds under specific conditions:

- Care
- Hospitality
- Meat processing
- Construction and Infrastructure
- Seafood
- Seasonal Snow and Adventure Tourism

Implementation time frame of increased threshold

The increased threshold will apply to all AEWV visa applications pending on 27 February 2023 including where the Job Check has been approved under the previous threshold. INZ has not determined policy in relation to Job Check applications pending on 27 February 2023 at time of writing. EY recommends that the new threshold be met for all applications that may be undecided on that date.

There is no requirement to increase remuneration for existing AEWV visa holders. However, the remuneration for visa holders on the pathway to the Work to Residence Highly Paid category may need to be increased as these individuals must meet the 'highly paid' requirement for the duration of the two-year qualifying period.

Minimum Wage Threshold Increase - NZD		
	Current	From 27 February 2023
Median wage	27.76 p/h	29.66 p/h
AEWV minimum wage 38 h/w	54,853.76 p/a	58,608.16 p/a
Highly Paid Residence (at least 2 x median wage) 38 h/w	109,707.52 p/a	117,216.32 p/a

Challenges of current minimum wage threshold

Under the AEWV framework, employment contracts which include standard hours plus reasonable additional hours are not accepted. Contracts must now specify either:

- additional payment for additional hours under an overtime policy, or
- the maximum weekly hours that an AEWV holder will work

EY supports the intention of this policy which is to prevent exploitation of temporary visa holders in New Zealand. However, the policy fails to recognise the commercial reality in certain sectors such as professional services where reasonable additional hours are standard and compensated for in remuneration and benefits packages. EY will continue to make representations to INZ that this long-standing employment practice should be acceptable for visa holders.

While the maximum weekly hours policy remains in place:

- employers need to decide an appropriate number of maximum hours to be specified in contracts for proposed visa holders and take in to account any associated employment law considerations
- the hourly rate will be calculated on the basis of the maximum weekly hours and will therefore be reduced
- the minimum salary threshold might therefore not be met for an AEWV or the Highly Paid Residence Category

Minimum Wage Challenge Examples- NZD Based on current median wage 27.76 p/h				
Visa	Contract arrangement	Annual salary	Hourly rate	Reason visa requirement not satisfied
AEWV	38 h/w + reasonable additional hours	60,000	30.36	While minimum wage threshold met, arrangement not accepted
	Maximum 42 h/w	60,000	27.47	< Minimum wage threshold
Highly Paid Residence Category	38 h/w + reasonable additional hours	120,000	60.72	While minimum wage threshold met, arrangement not accepted
	Maximum 42 h/w	120,000	54.95	< Minimum wage threshold

Challenges presented by the Straight to Residence Green List category
The quick processing of applications under this category is a mixed blessing. While offshore candidates have been granted residence quickly on the basis of an offer of employment in New Zealand, the individuals are under no obligation to commence that employment after arrival. In addition, INZ's process has not included verification with the employer that the offer is genuine.

EY has made representations to INZ and will continue to make the case that employers should have some oversight of a visa grant process that relies on an offer of employment.

In the meantime, EY recommends that:

- contracts of employment include a clause that the employer agrees to support a temporary visa only, alternatively
- employers offer to cover the costs of a Straight to Residence application with a clawback provision if the individual leaves employment within two years

Skilled Migrant Category resumption of processing

Highly skilled SMC migrants have full work rights and can expect to be granted visas from early 2023:

- 9 Nov 2022 all individuals who submitted an expression of interest (EOI) and score at least 160 points will be invited to apply for a SMC visa
- 18 Jan 2023 all individuals with an EOI and at least 180 points will be invited to apply
- From 18 Jan 2023 third Wednesday of each month all individuals with an EOI and at least 180 points will be invited to apply

Next steps

While the reform of New Zealand's skilled migration program remains a work in progress, employers will continue to face challenges.

EY will continue to engage with INZ as unanticipated scenarios and unintended consequences arise. We will keep you informed as developments occur.

Contact your EY advisor to discuss any issues raised in this alert and to explore solutions to challenges experienced by your business.

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