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# Consultation on immigration settings for international students

**Seeking your views on settings for post-study work rights for  
international students and eligibility of students' partners and  
dependent children to work and study in New Zealand**

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## The consultation process

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The Ministry of Business Innovation and Employment (MBIE) is consulting on:

- **post-study work rights for international students**
- **eligibility of students' partners and dependent children to work and study in New Zealand**

You are invited to make a submission on the proposals raised in this discussion document. Submissions are due by **5.00 pm on Friday 29 June 2018**.

Please complete the form at this link to make a submission <https://www.research.net/r/post-study-work-rights>. Alternatively you can email your submission to [internationaleducation\\_consultation@mbie.govt.nz](mailto:internationaleducation_consultation@mbie.govt.nz) using the submission template.

Your submission may respond to any or all of the proposals in this document. In addition, you are welcome to provide other information that you think might be relevant to this consultation. If possible, any views in your submission should be supported by evidence or examples of how the proposals would affect you.

### Use of information

MBIE will use the information provided in submissions to inform our analysis and the advice to Ministers. MBIE may contact submitters directly if MBIE requires clarification of any matters in the submission.

### Confidential Information

If your submission contains any confidential information, please indicate this on the front of the submission. In addition, the confidential information should be clearly marked within the text, for example, by including the confidential information in square brackets or as a separate appendix. Please clearly indicate in your submission any confidential information that you do not want published on MBIE's website or included in any summary of submissions that MBIE may publish.

The material identified as confidential will not be published, however if MBIE receives a request under the Official Information Act 1982 for a copy of submissions, MBIE will need to make its own assessment of whether the information should be released, including whether it is in the public interest to release the information received. In this event, MBIE will endeavour to consult with submitters that have provided confidential information prior to making its decision on the request.

### Personal Information

The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE.

Please clearly indicate in your submission if you do not wish your name or contact details to be posted on MBIE's website or included in any summary of submissions that MBIE may publish.

## Executive Summary

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International education is currently New Zealand's fifth largest export earner. The sector provides significant benefits to New Zealand by:

- bolstering the domestic education sector
- building stronger international connections
- strengthening research links
- encouraging innovation
- increasing global competitive advantage
- encouraging tourism and regional economic growth

Immigration policy settings help genuine international students to study in New Zealand, and support international students to contribute the skills and qualifications New Zealand needs to support economic growth.

However, it is important that the settings reflect New Zealand's policy objectives for immigration, and current settings do not fully achieve this. In particular, we think that the settings for post-study work rights need to be revised. In considering possible changes to post-study work rights, the Government focused on the following objectives:

- ensuring that the pathways for international students after they finish their studies are fit-for-purpose and help to contribute to the skills New Zealand needs;
- reducing the likelihood of students being exploited by unscrupulous employers, education providers and agents; and
- minimising the risk that genuine students would be deterred from choosing to study in New Zealand.

This consultation document seeks feedback on proposals that align with the objectives outlined above. The proposals are to:

- remove employer assisted post-study work visas at all levels;
- retain a one year post-study open work visa for non-degree Level 7 or below qualifications;
- provide a three year post-study open work visa for degree Level 7 or above qualifications; and
- require students completing non-degree Level 7 or below qualifications to undertake at least two years of study to be entitled to post-study work rights.

Alongside these proposals, the settings for partners and dependent children of international students have also been identified as an area where current policies could better align with the Government's goals to alleviate skill shortages and enable businesses to get skilled workers to fill skill gaps.

This consultation document seeks feedback on a proposal to require international students studying Level 8 or 9 qualifications to be studying an area specified on the Long Term Skill Shortage list in order for their partner to be eligible for an open work visa, and in turn the partner's dependent children to be eligible for fee-free compulsory schooling.

The Ministry of Business, Innovation and Employment will provide advice to the Minister of Immigration on the outcome of this consultation. Final decisions are expected to be made and announced in August 2018.

## Post-study work rights for international students

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### Current settings

The current 'Study to Work' pathway for international students who have completed their qualification in New Zealand was designed to allow students with qualifications to progress from being a new graduate to be able to have the opportunity to gain practical experience in their chosen field.

Currently, once international students complete their study they may be eligible for:

- an initial one-year open work visa: this entitles the international student to work in any role for any employer; and then
- a two-year employer assisted work visa: this entitles the student to work in a role in the same area as their qualification.

In order to be eligible for a 'Study to Work' visa, international students must have completed a qualification that is either:

- a Level 7 or higher qualification that involved a single course of 30 weeks or more in New Zealand;
- a Level 4-6 qualification that involved a single course in New Zealand of 60 weeks or more;
- two or more Level 4-6 qualifications that each involved 30 weeks or more of study in New Zealand, where the level of the last qualification is higher than the first; or
- a National Certificate (Level 4) or New Zealand Certificate (Level 4) relevant to an occupation on Part B or C of the 'List of Skilled Occupations'<sup>1</sup> that involved a single course in New Zealand of 60 weeks or more.

Appendix One provides more detail about qualifications types and levels on the New Zealand Qualifications Framework.

### Reason for change

Overall, New Zealand's residence programme values higher levels of study more than lower, because research consistently shows that those who complete study at higher levels have better outcomes.

The main problems that have been identified with the current settings for post-study work rights are that:

- the current pathways to residency are not right; and
- settings can exacerbate migrant exploitation.

### *Post-study pathways for international students*

We know from data that an increasing number of international students studying at sub-degree levels or doing short graduate or post graduate diplomas or certificates (including in particular those studying generic subjects such as Business Studies) have been gaining residence, when they might otherwise not have been considered suitable for the residence programme had they not studied in New Zealand.

Of this group:

- students who studied sub-degree and post-degree level certificates and diplomas were more likely to stay in New Zealand than students who studied at other levels;

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<sup>1</sup> The List of Skilled Occupations can be found here:

<https://www.immigration.govt.nz/opsmanual/index.htm?toc.htm?35165.htm>

- the most popular field of study for international students, management and commerce, was associated with above average post-study employment rates, but below average incomes;
- students who studied information technology or food hospitality and personal services, were also more likely to stay in New Zealand than students who studied other fields (although this represents a much smaller group than those that studied management and commerce).

These trends have been identified as factor in the gradual decline in the average skill level of new residents over the last five years.

#### *Exploitation of international students*

International students are particularly vulnerable to exploitation by unscrupulous employers, providers and agents. We know that international students typically work in industries that are more likely to have relatively high rates of non-compliance with labour laws, including retail, hospitality and horticulture. We do not have data about the scale of student exploitation (as a lot of exploitative behaviour is deliberately hidden), but we know that international students can be particularly vulnerable to exploitation because they may:

- experience severe financial pressures (for example, from higher than expected living costs or loan repayment obligations);
- live far away from support systems;
- lack awareness about their employment rights;
- be reluctant to report exploitation, especially if there may be immigration consequences; and
- need to work to gain residence (which can lead, for example, to buying job offers or working for less than minimum wage).

We have been made aware of situations where some students are sold a 'pathway to residence'. In this situation, agents sign up students who then get into debt to pay for their education, and subsequently become reliant on paid work (often undertaking long hours) to pay back their loans. We have also been advised that some students 'buy' jobs that meet the requirements of their visa, or are prepared to stay with employers that are exploiting them just so that they can get the relevant experience and points that support residence applications.

Immigration New Zealand has received feedback that current 'employer-assisted' post-study work rights settings exacerbate this. This is because visa holders must be working in jobs that meet certain requirements (such as wage thresholds and being aligned with qualifications completed), and employers can use these requirements to exploit migrants.

#### **Proposed changes to post-study work rights for international students**

There are four proposed changes to the settings for post-study work rights to better align with the Government's objectives. These are as follows:

- **Proposal One:** to remove employer assisted post-study work visas at all levels
- **Proposal Two:** to provide a one year open work visa post-study for non-degree level 7 or below
- **Proposal Three:** to provide a three year open work visa post-study for degree level 7 or above
- **Proposal Four:** to require students studying at non-degree level 7 (such as graduate diplomas) to study in New Zealand for at least two years to be entitled to post-study work visas (this aligns with current sub-degree requirements)

These proposals meet the Government's objectives, as they:

- send a strong signal that New Zealand values migrants with high level qualifications for residency;
- remove the employer assisted post-study work visa, which we know has been contributing to the exploitation of some international students; and
- still provide an opportunity for international students who have completed their qualifications to gain New Zealand work experience.

## Impacts

The proposals will likely see a reduction in the number of international students, particularly students that are studying non-degree level 7 and below. It is anticipated that this will have the biggest impact on Private Training Establishments (PTEs) and Institutes of Technology and Polytechnics (ITPs).

### Consultation Questions: Post-study work rights for international students

*Proposal One: to remove employer assisted post-study work visas*

1. Do you support the proposal to remove employer assisted post-study work visas?
  - 1.1. Yes. If so, why?
  - 1.2. No. If so, why not?
2. What impacts do you think this proposed change will have on you or your organisation?

*Proposal Two: to provide a one year open post-study work visa for non-degree level 7 or below*

3. Do you support the proposal to provide a one year open work visa post-study for non-degree level 7 or below?
  - 3.1. Yes. If so, why?
  - 3.2. No. If so, why not?
4. What impacts do you think this proposal will have on you or your organisation?

*Proposal Three: to provide a three year open work visa post-study for degree level 7 or above*

5. Do you support the proposal to provide a three year open work visa post-study for degree level 7 or above?
  - 5.1. Yes. If so, why?
  - 5.2. No. If so, why not?
6. What impacts do you think this proposal will have on you or your organisation?

*Proposal Four: to require students studying at non-degree level 7 (such as graduate diplomas) to study in New Zealand for at least two years to be entitled to post-study work visas (this aligns with current sub-*

*degree requirements)*

7. Do you support the proposal to change requirements so that those studying at non-degree level 7 will be required to study in New Zealand for at least two years to be entitled to post-study work visas?

7.1. Yes. If so, why?

7.2. No, if so, why not?

8. What impacts do you think this proposal will have on you or your organisation?

*Implementation*

9. If changes are made to settings, do you think that students with current visas should still be exempt from changes (i.e. still be entitled to post-study rights that were anticipated when they got their first visa?)

9.1. Yes. If so, why?

9.2. No. If so, why not?

10. If these proposals are agreed, how long is needed to accommodate these changes?

10.1. Immediately

10.2. Three months

10.3. Six months

10.4. One year

10.5. Longer

*Other comments*

11. Do you have any other comments on these proposals?

11.1. Yes

11.2. No

## Rights for partners and dependent children of international students

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### Current settings

The partners and dependent children of international students studying at Level 6 or below are not eligible for visas on the basis of their relationship with the international student.

Partners of international students are eligible for a 'Partner of a Student' work visa, if the international student is studying towards:

- a qualification at Level 7 in an area specified on the Long Term Skill Shortage List (LTSSL); or
- a qualification at Level 8 or higher.

The LTSSL identifies occupations where there is a sustained and on-going shortage of highly skilled workers both globally and throughout New Zealand. The current LTSSL can be found here:

<http://skillshortages.immigration.govt.nz/long-term-skill-shortage-list.pdf>

The 'Partner of a Student' work visa is valid for the same duration as the international student's student visa. It entitles the student's partner to work in any job (i.e. they are not subject to a Labour Market Test to determine that there are no New Zealanders available to carry out the role). The partner is also entitled to study for up to three months.

Dependent children of the holders of a 'Partner of a Student' work visa are eligible for a student visa to attend compulsory schooling (i.e. primary and secondary school) in New Zealand and are regarded as domestic students, so they are not required to pay international student fees.

However, dependent children of international students *without* a parent on a 'Partner of a Student' work visa, will only be treated as domestic students for compulsory schooling if the international student:

- is enrolled in a Doctor of Philosophy (Level 10) programme at a New Zealand University; or
- is studying under a New Zealand Government Approved exchange programme; or
- holds a New Zealand Aid Programme Scholarship.

Partners and dependent children are still able to apply for work, student or visitor visas in their own right.

### Reason for change

The Government wants to align work and study rights for the partners and children of international students with the types of qualifications that are of most value to New Zealand to alleviate skills shortages and enable businesses to get skilled workers to fill skill gaps.

### Proposal for settings for partners of international students, and their dependent children

It is proposed that international students studying at Level 8 or Level 9 must be studying in an area specified on the LTSSL for their partner to be eligible for 'Partner of a Student' work visa. No change is proposed to the settings for Level 7 and below, or for Level 10 qualifications.

This will align the requirements at Level 8 and 9 for international students to sponsor a partner, with the current settings for international students studying at Level 7.

This proposal is intended to encourage more international students to complete qualifications in areas of identified skill shortages. It will also signal to international students and the wider education sector which



types of qualifications are most valuable to New Zealand and therefore merit work and study rights for partners and dependent children.

The proposal will make the settings for international students with a partner on a 'Partner of a Student' work visa more consistent with the obligations placed on other groups of visa holders who wish to bring a dependent child to study in New Zealand.

### Impacts

The impact of this proposal is unlikely to be significant as it affects a relatively small number of international students: those studying a Level 8 or 9 qualification not linked to the LTSSL, who bring their partner and/or a dependent child with them. The proposal may result in fewer domestic students in the compulsory school sector.

### Consultation Questions: Eligibility of students' partners and dependent children to work and study in New Zealand

*Proposal Five: change the requirements for a 'Partner of a Student' work visa (which allows the partners' dependent children to qualify for fee-free compulsory schooling) to require the international student partner studying at Level 8 or 9 to be studying in an area specified on the Long Term Skill Shortage List.*

12. Do you support the proposal to change the requirements for a 'Partner of a Student' work visa?

12.1. Yes. If so, why?

12.2. No, if so, why not?

13. What impacts do you think this proposal will have on you or your organisation?

#### *Other comments*

14. Do you have any other comments on these proposals?

14.1. Yes.

14.2. No

## Consolidated Consultation Questions

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### Submitter information

Please tell us if you are submitting as a:

1. Student
  - 1.1. Current
  - 1.2. Prospective
2. Education provider
  - 2.1. University
  - 2.2. Private Training Establishment
  - 2.3. Institute of Technology and Polytechnic
  - 2.4. English language provider
  - 2.5. Other. Please describe:
3. Immigration Agent
  - 3.1. Onshore
  - 3.2. Offshore
4. Student Association
5. Employer of international students
6. Other. Please describe:

### Post-study work rights for international students

*Proposal One: to remove employer assisted post-study work visas*

7. Do you support the proposal to remove employer assisted post-study work visas?
  - 7.1. Yes. If so, why?
  - 7.2. No. If so, why not?
8. What impacts do you think this proposed change will have on you or your organisation?

*Proposal Two: to provide a one year open post-study work visa for non-degree level 7 or below*

9. Do you support the proposal to provide a one year open work visa post-study for non-degree level 7 or below?
  - 9.1. Yes. If so, why?
  - 9.2. No. If so, why not?
10. What impacts do you think this proposed change will have on you or your organisation?

*Proposal Three: to provide a three year open work visa post-study for degree level 7 or above*

11. Do you support the proposal to provide a three year open work visa post-study for degree level 7 or above?

11.1. Yes. If so, why?

11.2. No. If so, why not?

12. What impacts do you think this proposed change will have on you or your organisation?

*Proposal Four: to require students studying at non-degree level 7 (such as graduate diplomas) to study in New Zealand for at least two years to be entitled to post-study work visas (this aligns with current sub-degree requirements)*

13. Do you support the proposal to change requirements so that those studying at non-degree level 7 will be required to study in New Zealand for at least two years to be entitled to post-study work visas?

13.1. Yes. If so, why?

13.2. No, if so, why not?

14. What impacts do you think this proposed change will have on you or your organisation?

### **Implementation**

15. If changes are made to settings, do you think that students with current visas should still be exempt from changes? (i.e. still be entitled to post-study rights that were anticipated when they got their first visa?)

15.1. Yes. If so, why?

15.2. No. If so, why not?

16. If these proposals are agreed, how long is needed to accommodate these changes?

16.1. Immediately

16.2. Three months

16.3. Six months

16.4. One year

16.5. Longer

17. Do you have any other comments on these proposals?

17.1. Yes

17.2. No

## **Rights of partners and dependent children of international students**

*Proposal Five: change the requirements for a 'Partner of a Student' work visa (which allows the partners' dependent children to qualify for fee-free compulsory schooling) to require the international student partner studying at Level 8 or 9 to be studying in an area specified on the long term skill shortage list.*

18. Do you support the proposal to change the requirements for a 'Partner of a Student' work visa?

18.1. Yes. If so, why?

18.2. No. If so, why not?

19. Do you have any other comments on this proposal?

19.1. Yes

19.2. No

## Appendix One: The New Zealand Qualifications Framework

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The New Zealand Qualifications Framework (NZQF) is divided into 10 levels based on how complex the learning is, with a level 1 certificate the least complex.

Level	Certificate	Diploma	Degree
10			Doctoral Degree
9			Master's Degree
8	Postgraduate Certificate	Postgraduate Diploma	Bachelor Honours Degree
7	Graduate Certificate	Graduate Diploma Diploma	Bachelor's Degree
6	Certificate	Diploma	
5	Certificate	Diploma	
4	Certificate		
3	Certificate		
2	Certificate		
1	Certificate		