



## COVERSHEET

<b>Minister</b>	Hon Ian Lees Galloway	<b>Portfolio</b>	Immigration
<b>Title of Cabinet paper</b>	A New Approach To Employer-Assisted Work Visas And Regional Workforce Planning: Paper One - Employer Gateway System And Related Changes  And  A New Approach To Employer-Assisted Work Visas And Regional Workforce Planning: Paper Two - The Job Gateway	<b>Date to be published</b>	9 October 2019

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
3/09/2019	A New Approach To Employer-Assisted Work Visas And Regional Workforce Planning: Paper One - Employer Gateway System And Related Changes	Office of the Minister of Immigration
3/09/2019	DEV-19-MIN-0228	Cabinet Office
3/09/2019	A New Approach To Employer-Assisted Work Visas And Regional Workforce Planning: Paper One - Employer Gateway System And Related Changes	Office of the Minister of Immigration
3/09/2019	DEV-19-MIN-0229	Cabinet Office

### Information redacted: YES

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Reasons for withholding information are:

- To enable MBIE to carry out, without prejudice or disadvantage, commercial activities or negotiations;
- To maintain constitutional conventions which protect the confidentiality of advice tendered by Ministers of the Crown and officials



# Cabinet Economic Development Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### A New Approach to Employer-Assisted Work Visas and Regional Workforce Planning: Employer Gateway System and Related Changes (Paper One)

Portfolio                      Immigration

On 28 August 2019, the Cabinet Economic Development Committee:

#### Background

- 1        **noted** that on 10 December 2018, Cabinet agreed to the release of a consultation document on a package of proposed changes to employer-assisted temporary work visas and regional workforce planning [CAB-18-MIN-0608.01];
- 2        **noted** that the proposals in the paper under DEV-19-SUB-0228 support the priorities set out in the government's *This is Our Plan* and the Coalition Agreement between the New Zealand Labour Party and New Zealand First;
- 3        **noted** that proposals will also support the government's wider labour market objectives by ensuring that:
  - 3.1      employers are placing more New Zealanders into jobs, which help their businesses to grow and thrive, and result in better jobs for New Zealanders;
  - 3.2      foreign workers, when they are employed, are not exploited and have wages and conditions that are consistent with New Zealand norms;
- 4        **noted** that this is the first of two papers:
  - 4.1      Paper One, under DEV-19-SUB-0228, covers the overall gateway system, the employer gateway and related changes;
  - 4.2      Paper Two, under DEV-19-SUB-0229, provides the design of the job gateway, including regional differentiation of the labour market test, sector agreements and the worker gateway;
- 5        **noted** that on 24 July 2019, the Cabinet Social Wellbeing Committee agreed to establish Regional Skills Leadership Groups as regional labour market planning bodies, and to their proposed role and functions, composition, appointment process and resourcing [SWC-19-MIN-0087];

- 6 **noted** that most submitters supported the proposed gateway framework, but that some employers expressed concerns about the impact of increased compliance costs;
- 7 **noted** that the Minister of Immigration is not proposing to implement a premium accreditation, which was included in the consultation referred to above;

### Gateway framework

8 **agreed** that:

- 8.1 all employers and employer-assisted foreign workers would need to come through the new employer-assisted gateway framework. consisting of:
- 8.1.1 the employer gateway – where employers would be accredited to enable them to hire a foreign worker;
  - 8.1.2 the job gateway – where the job is checked to ensure that no New Zealander is able to fill the job being recruited for, subject to skill, sectoral and regional differentiation;
  - 8.1.3 the worker gateway – where checks will be made to make sure the foreign worker is of good character and health;
- 8.2 the gateway framework would replace the existing Essential Skills, Approval in Principle, Talent (Accredited Employer), Long Term Skills Shortage List Occupations, Silver Fern Job Search, and Silver Fern Practical Experience visa categories;

### Employer gateway

9 **agreed** that:

- 9.1 all direct employers would need to be accredited before they could recruit employer-assisted foreign workers;
- 9.2 there would be three accreditation types: standard, high volume, and labour-hire company;
- 9.3 accreditation would be valid for the following periods:
- 9.3.1 standard accreditation would last for 12 months the first time, followed by renewal every two years;
  - 9.3.2 high volume accreditation would last for 12 months the first time, followed by renewal every two years;
  - 9.3.3 labour-hire accreditation would last for 12 months, followed by renewal every 12 months;

10 **agreed** that standard accreditation would be for employers recruiting between one to five employer-assisted workers in a 12 month period, and would require employers to meet the following standards:

- 10.1 the employer is a genuinely operating business or other legitimate organisation;
- 10.2 the employer and any key office holders have no recent history of regulatory non-compliance;

- 10.3 the employer is taking steps to minimise exploitation by providing information on foreign worker employment rights and paying the costs of any recruitment;
- 11 **agreed** that high volume accreditation would be for employers recruiting more than five foreign workers in a 12 month period, and would require employers to meet the same standards as standard accreditation, as well as the following:
- 11.1 the employer must demonstrate a commitment to training and upskilling resident workers;
- 11.2 the employer must demonstrate a commitment to improving pay and conditions over time;
- 12 **agreed** that labour-hire accreditation would require employers to meet the same standards as high volume and standard accreditation, as well as the following:
- 12.1 the employer must have a history of contracts for the supply of labour and of placing/employing New Zealand workers (i.e. the employer cannot have been set up for the purpose of recruiting foreign workers);
- 12.2 the employer will only contract foreign worker labour to compliant businesses;
- 12.3 the employer has good systems in place to monitor employment and safety conditions on site;
- 13 **agreed in principle** that industry accreditation or other third party standards could be used as evidence that employers are meeting the standards, **subject to** these being assessed as robust and equivalent to the proposed standards;
- 14 **noted** that further consultation will be undertaken with industry and unions prior to implementation of the system to ensure that these commitments are appropriate, and to identify any additional options;
- 15 **noted** that risk management in the new system would be underpinned by an assurance model that would target pre-decision verification and post-decision assurance, including site visits;

### Supplementary and transitional arrangements

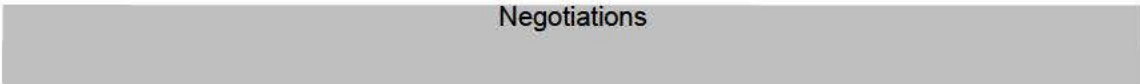
- 16 **agreed** that foreign workers who work for an accredited employer for two years and earn more than 200 percent of the national median income would be able to apply for residence and bypass the normal Skilled Migrant Category requirements;
- 17 **agreed** that a simple remuneration threshold set at the national median income (currently \$25 per hour) be used to determine the labour market test through the job check and visa conditions for foreign workers;
- 18 **agreed** to provide all lower-skilled employer-assisted workers with the ability to support partners and dependent children for the length of their visa, with partners granted a visitor visa and subject to a labour market test should they seek paid employment;
- 19 **agreed** to increase the remuneration threshold for the Talent (Accredited Employers) Work Visa, so that it is aligned with the remuneration threshold for the Skilled Migrant Category, which is indexed to at least 150 percent of the national median income (\$37.50 per hour or \$78,000 per annum);

- 20 **agreed** that Immigration New Zealand stop granting five-year accreditation periods to employers under the Talent (Accredited Employers) policy and remove fast tracked access to a permanent resident visa under this policy;

### Implementation

- 21 **noted** that:
- 21.1 the changes to the Talent (Accredited Employers) Work Visa (paragraphs 19 and 20 above) would be implemented in late 2019, subject to decisions on announcements of the wider changes;
  - 21.2 other changes that are not dependent on the new IT system could be implemented in mid-2020;
  - 21.3 the gateway system itself is likely to be implemented in early 2021, once IT system changes are in place;
- 22 **noted** that the Silver Fern Job Search visa will be disestablished in November 2019;
- 23 **agreed** that the changes will be evaluated by officials, and the outcomes of the evaluation reported back to the Minister of Immigration;
- 24 **invited** the Minister of Immigration to certify any Immigration Instructions required to implement the proposed changes in due course;
- 25 **noted** that officials will report back to the Minister of Immigration on the detailed implementation of the new gateway system, including:
- 25.1 the detailed design of the accreditation standards, including whether any third party standards may be used as proxies;
  - 25.2 clarifying the immigration rules for self-employed contractors;
  - 25.3 a process for suspending and rescinding accreditation, and a corresponding complaints and reconsideration process for employers;
  - 25.4 any transitional arrangements;
- 26 **noted** that the Minister of Immigration will make announcements on the changes in due course in consultation with the Prime Minister and the Ministers of Education, Social Development and Employment;

### Financial implications

- 27 **noted** that on 15 April 2019, Cabinet noted that the Minister of Immigration intended to seek out-of-cycle funding to enable work to begin on implementing the employer-assisted temporary visa changes in 2019 [CAB-19-MIN-0174.23];
- 28 **noted** that implementation of the new gateway system will require a new online portal to process employer applications to be built, with associated development and project costs;
- 29  Negotiations
- 30 **noted** that some or all of this funding could be recovered from application fees paid for by employers and migrants, and could therefore be fiscally neutral for the Crown;

- 31 **invited** the Minister of Immigration to report back to Cabinet **Constitutional conventions** subject to a business case agreed by the Ministers of Finance and Immigration, seeking agreement to:
- 31.1 the funding for the online portal system changes and associated costs;
  - 31.2 whether any costs of the IT system would be recovered from fees;
  - 31.3 the associated appropriation changes;
- 32 **invited** the Minister for Social Development and the Minister of Immigration to report back to Cabinet in **Constitutional conventions** subject to a business case agreed by the Ministers of Finance, Immigration and Social Development, seeking agreement to any additional funding required for the Ministry of Social Development to implement the strengthened labour market test as part of the job gateway;
- 33 **noted** that the report referred to in paragraph 32 above will be incorporated into the Minister of Immigration's report under paragraph 31 above, unless this is not possible due to the timing of business case completion;
- 34 **noted** that:
- 34.1 the ongoing operating costs of the employer-assisted temporary visa changes can be recovered from employers and visa applicants;
  - 34.2 the current estimate of the final cost-recovery fees are \$540 for standard accreditation, \$700 for high volume accreditation, \$940 for labour hire employer accreditation, \$540 to process a job check, and \$390 to process a foreign worker's visa application;
- 35 **invited** the Minister of Immigration to report back to Cabinet **Constitutional conventions** to seek agreement to a replacement fee schedule for the employer-assisted visa system, which would need to be established in order to recover costs from foreign workers and employers, and the corresponding appropriation changes;
- 36 **noted** that the Minister of Immigration **Constitutional conventions** for investigation, compliance and intelligence resources to support the employer-assisted changes, alongside any proposals resulting from the review of migrant exploitation;
- 37 **noted** that the associated paper titled *A New Approach to Employer-Assisted Work Visas and Regional Workforce Planning: The Job Gateway (Paper Two)*, under DEV-19-SUB-0229, seeks agreement to Crown funding of \$1.425 million in the first year and \$1.725 million in outyears to negotiate and monitor sector agreements as part of the wider package of employer-assisted changes.

Janine Harvey  
Committee Secretary

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Hard-copy distribution: (see over)

**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods  
Hon Chris Hipkins  
Hon Carmel Sepuloni  
Hon David Parker  
Hon Iain Lees-Galloway  
Hon Jenny Salesa  
Hon Damien O'Connor  
Hon Willie Jackson  
Hon James Shaw  
Hon Julie Anne Genter  
Hon Eugenie Sage

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV  
Department of the Prime Minister and Cabinet  
Ministry of Business, Innovation and Employment  
Ministry of Social Development

**Hard-copy distribution:**

Minister of Immigration

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