



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



Review of Temporary work visa settings

CABINET PAPER (March 2017)

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BRIEFING

Review of temporary work rights settings - proposals

Date:	14 December 2016	Priority:	Low
Security classification:	In confidence	Tracking number:	1320 16-17

Action sought		
	Action sought	Deadline
Hon Michael Woodhouse Minister of Immigration	Agree to provide feedback to officials by in early 2017. Forward this briefing paper to the Ministers of Finance, Tertiary Education, Skills and Employment and Social Development.	February 2017
Hon Craig Foss Associate Minister of Immigration	Copy attached for your information	N/A

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Andy Jackson	Manager, Immigration Policy	04 901 3855	s 9(2)(a)	✓
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The following departments/agencies have been consulted					
<input type="checkbox"/> Treasury	<input type="checkbox"/> MoJ	<input type="checkbox"/> NZTE	<input checked="" type="checkbox"/> MSD	<input checked="" type="checkbox"/> TEC	<input checked="" type="checkbox"/> MoE
<input type="checkbox"/> MFAT	<input checked="" type="checkbox"/> MPI	<input type="checkbox"/> MfE	<input type="checkbox"/> DIA	<input type="checkbox"/> TPK	<input checked="" type="checkbox"/> MoH
<input type="checkbox"/> Other:			N/A		

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments:



BRIEFING

Review of temporary work rights settings - proposals

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Purpose

To seek your agreement to the scope of the review of temporary work settings, with a particular focus on the Essential Skills visa policy. If you agree to the phase one proposals, they could be agreed in principle by Cabinet in early 2017. Officials recommend public consultation is undertaken before final decisions on the review are made. We would like to discuss the phase two proposals with you.

Executive summary

Background

Temporary migrants can help to address genuine skill and labour shortages and are important to the economy. However the numbers of temporary migrants in some industries with lower-skilled jobs, lower-wages and lower productivity are increasing and this could over time reduce the incentives on firms to think long-term about workforce development or consider changes to higher productivity business models.

Work is already underway to address the increasing numbers of long-term temporary migrants. In July 2015, Ministers with power to act agreed to the development of a pathway to residence for long-term temporary migrants (pathway policy) currently employed in the South Island. The recently released Skilled and Safe Workplaces chapter of the Business Growth Agenda set out that, over the next year, the Government will review temporary work rights settings to improve the long-term labour market contribution of temporary labour migration.

Phase one

We have separated the review into two phases. Phase one recommends immediate changes that can be made to Essential Skills visa policy to ensure that cohorts of lower-skilled temporary migrants cannot stay here indefinitely.

Officials recommend that a Cabinet paper be drafted to seek agreement in principle to phase one of the review, subject to consultation, which could include any of the following:

- a. Introduce a maximum duration of three years for holders of lower-skilled Essential Skills visa to remain in New Zealand, after which they will be required to remain outside New Zealand for one year before being able to apply for a further similar visa.
- b. Restrict the ability for lower-skilled Essential Skills visa holders to bring their children to live in New Zealand, by removing the eligibility of children of lower-skilled Essential Skills visa holders for a Dependent Child Student visa and a Dependent of a Worker Visitor Visa
- c. Restrict the ability for lower-skilled Essential Skills visa holders to bring their partners to live in New Zealand, by removing the eligibility of partners of lower-skilled Essential Skills visa holders for a Partner of a Worker Work Visa and a Partner of a Worker Visitor Visa

- d. Introduce remuneration bands (that align with the thresholds agreed to for the Skilled Migrant Category) to help determine the skill level of Essential Skills visa holders, and associated visa conditions
- e. Reinforce that Essential Skills visas may only be granted for the period for which the employment is offered, and clarify how this applies to seasonal work.

Phase two

Phase two focuses on changes to incentivise employer behaviour that will contribute to New Zealand achieving the government's strategic objectives for the labour market. While the changes are not intended to prevent firms from accessing temporary migrants where there is a genuine skill or persistent labour shortage, they are intended to shift employer behaviour at the individual firm, industry or regional level.

The phase two proposals are more complex and earlier in the development phase. Officials have begun work on the following proposals and seek your feedback on them:

- a. Adjusting the avenues available to access Essential Skills visas to incentivise more employers to become accredited, while also ensuring that the assessment of Accredited Employers is appropriately robust.
- b. Exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages.
- c. Expanding the existing Accredited Employer (Labour Hire) programme so that all labour hire firms nationwide are required to become accredited before they are able to employ Essential Skills migrants.
- d. Strengthening the existing Essential Skills requirements to train and recruit local workers.
- e. Reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists, as well as the non-immigration responses for an occupation on the lists.
- f. Exploring whether further changes should be made to requirements of seasonal Essential Skills visa holders and their employers.

Next steps

Officials recommend that you seek Cabinet agreement to the direction of the review and to consultation on the proposals above in early 2017. The proposals could seek agreement in principle to the proposals in a standalone Cabinet paper or, due to their interconnectedness, incorporated into the South Island pathway Cabinet paper.

Officials recommend that you forward this briefing paper to the Ministers of Finance, Tertiary Education, Skills and Employment and Social Development.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a. **Note** that the Cabinet paper *New Zealand Residence Programme 2016-17 – 2017-18* stated that officials have been directed to investigate a range of changes to the Essential Skills work visa category and that Cabinet would be asked to endorse further changes to the Essential Skills visa policy [CAB-16-MIN-0500 refers]
- Noted*
- b. **Note** that the recently released Skilled and Safe Workplaces chapter of the Business Growth Agenda set out that over the next year the Government will review temporary work rights settings to improve the long-term labour market contribution of temporary labour migration
- Noted*
- c. **Note** that you are due to report back to the Cabinet Economic Growth and Infrastructure Committee (EGI) with the detailed design of a policy to provide a pathway to residence for long-term temporary migrants currently employed in the South Island [CAB-15-MIN-0088 refers]
- Noted*
- d. **Agree** that a Cabinet paper be drafted to seek agreement in principle, subject to consultation, to the following proposals that make up phase one of the review and ensure that cohorts of lower-skilled temporary migrants cannot stay here indefinitely:
- i. Introducing a maximum duration of three years for lower-skilled Essential Skills visa holders, after which there will be a one year stand down period before they can apply for another lower-skilled Essential Skills visa.
 - ii. Restricting the ability for lower-skilled Essential Skills visa holders to bring their children, by removing their children's eligibility for a student or long-term visitor visa based on the parent's Essential Skills visa.
 - iii. Restricting the ability for lower-skilled Essential Skills visa holders to bring their partners, by removing their partners' eligibility for a Partner of a Worker Work Visa or a Partner of a Worker Visitor Visa.
 - iv. Introducing remuneration bands to determine the skill level of an Essential Skills visa holder (and their associated visa conditions), based on salary or income information.
 - v. Reinforcing that Essential Skills visas may only be granted for the period for which the employment is offered, including making explicit how this applies to seasonal work.
- Agree/Disagree*
- e. **Agree** that any of the proposals in phase one that you agree to be incorporated into a standalone Cabinet paper
- Agree/Disagree*
- f. **Note** that if Cabinet agrees to the proposals in recommendation d above, a Cabinet paper reporting back on the result of the consultation process and seeking agreement for the implementation of the changes will be required by April 2017 at the latest, in order to achieve July 2017 implementation
- Noted*
- g. **Agree** to discuss with officials the proposals that make up phase two of the review
- Agree/Disagree*

- h. **Forward** this briefing to the Ministers of Finance, Tertiary Education, Skills and Employment and Social Development.

Agree/Disagree

Andy Jackson
Manager, Immigration Policy
Labour, Science and Enterprise Group, MBIE

Hon Michael Woodhouse
Minister of Immigration

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Background

Previous decisions leading to review

1. In May 2016 the Ministers of Finance, Tertiary Education, Skills and Employment, and Immigration and the Associate Minister of Immigration received a briefing on *Improving the long-term contribution of temporary migration to the labour market* [briefing 3128 15-16 refers] which sought agreement to explore changes to temporary migration settings, starting with the Essential Skills policy, to ensure better alignment between immigration, welfare and education settings.
2. In August 2016 the Cabinet Strategy Committee considered a submission on *Auckland Infrastructure: Immigration and Housing: Recent Trends* [STR-16-MIN-0004 refers]. The Committee noted the potential policy options that could be explored, and that further papers would be submitted to the Cabinet Economic Growth and Infrastructure Committee on issues, including possible changes to:
 - a. Essential Skills temporary work visa policy to ensure better alignment between immigration, welfare and education settings, and to increase incentives on employers to employ and train New Zealand workers
 - b. The circumstances under which temporary work visa holders can bring partners and family to New Zealand.
3. In the Cabinet Strategy Committee reference was made to other temporary visa categories, including Working Holiday Visas. At this stage no work is underway on other temporary work rights visa categories, other than the Essential Skills visa policy.
4. The Cabinet paper *New Zealand Residence Programme 2016-17 – 2017-18*, considered by EGI on 26 September 2016, stated that you had directed officials to investigate a range of changes to the Essential Skills work visa category for workers and that Cabinet would be asked to endorse further exploration of changes to the Essential Skills work visa category [CAB-16-MIN-0500 refers].
5. In October 2016 officials provided you with the briefing paper *Essential Skills Review – options and timing*, which proposed a package of changes to the Essential Skills visa category. Those proposals will form part of the review.
6. The *Building Skilled and Safe Workplaces*' chapter of the Business Growth Agenda, launched on 9 November 2016, included reference to the Government's commitment to review temporary work right settings to improve the long term contribution of temporary labour migration. The chapter included two projects, which are being incorporated into the one review:
 - a. The government will explore changes to temporary visa settings to ensure that employers are incentivised to attract, hire and upskill local workers, as part of our objectives of improving the long-term labour market contribution of temporary and permanent labour migration, and
 - b. The government will examine how skills shortages may be better defined and how that information can be more effectively employed across the economy and skills system, with the aim of incentivising the employment of New Zealanders and informing their skills development, while still ensuring that sectors and regions facing genuine shortages can easily get the workers they need.
7. The review will contribute to Better Public Services Result 1 (Reducing long-term welfare dependence), as one of the objectives is to strengthen requirements to employ and train local workers, including beneficiaries.

South Island pathway policy

8. In July 2015 Ministers with power to act agreed, subject to further policy design, to the development of a pathway to residence for long-term temporary migrants currently employed in the South Island (pathway policy). The policy is aimed at a small pool of long-term temporary migrants who are meeting genuine regional labour market needs but have no pathway to residence.
9. A Cabinet paper proposing the detail of the pathway policy has been drafted and circulated to the Ministers of Finance, Tertiary Education, Skills and Employment, and Social Development for their feedback. The paper has now been finalised and is awaiting an opportunity to be considered by the Economic Growth and Infrastructure Committee to get wider Cabinet agreement [CAB-15-MIN-0088 refers].

Opportunities to improve temporary work settings

10. In recent years, we have seen an increase in the number of people granted visas that allow work. Overall the number of temporary migrants has increased almost 50 percent in the last 10 years and at the same time there was an increase of 11 per cent in Essential Skills visa approvals between 2014/15 and 2015/16.
11. Temporary migrants can help to address genuine skill shortages and are important to the economy. However the numbers of temporary migrants in industries with lower-skilled jobs, lower-wages and lower productivity are increasing and this could over time have negative impacts on the Government's long-term labour market objectives.
12. The long-standing supply of temporary migrants to such sectors are difficult to quantify. However, based on the evidence available, we consider there is a risk of:
 - a. a reduction in the attractiveness to employers of New Zealanders, including beneficiaries and school leavers
 - b. a reduction to the incentives on employers to offer better wages and/or terms and conditions, including training, and
 - c. the embedding of low-cost labour models and disincentives to shift to potentially more productive ways of organising businesses.
13. While we do not have clear evidence of the displacement of New Zealand workers at a national level, they are more visible at a local and specific industry or occupation level. For example, as part of the analysis undertaken to inform the Sector Workforce Engagement Programme (SWEP), we have observed that certain industries (e.g. dairy) have changed their hiring patterns over time to an increased preference for temporary migrants over New Zealanders. This may have particular impacts on opportunities for beneficiaries.
14. The increasing number of migrants meeting the labour needs in some sectors or occupations may contribute to firms continuing to rely on labour-intensive operating models. This may reduce incentives for capital investment and innovation, and reduce opportunities for productivity growth.
15. The Government's objective for migrant labour is to enable it where there is genuine need, but to ensure that New Zealanders are first in line for employment opportunities. Increasing numbers of temporary migrants in lower-skilled jobs with lower wages where there is no strong evidence of genuine skill shortage may impact over time on employers' incentives to employ and train domestic workers, including beneficiaries and school-leavers.
16. The immigration system is set up to strike a balance between enabling labour migration where there is genuine need and ensuring that the requirements built into the system restrict access to migrant labour where there is no genuine labour or skill shortage. The system largely gets this balance right, but the increasing numbers of lower-skilled and lower-paid temporary migrants indicate that the existing tools and requirements to achieve that balance

are not working as well as they could in parts of the labour market. The review will propose changes to correct this.

Objectives and scope of the review

17. In the May 2016 briefing paper *Improving the long-term contribution of temporary migration to the labour market* the following objectives were set for this work [briefing 3128 15-16 refers]:
 - a. ensure that temporary migrants (and their families) in lower-skilled jobs, who are not able to qualify for residence, do not become well-settled here, and
 - b. identify how salary might be used to support temporary migration processes
 - c. strengthen the requirements on firms and industries to employ and train domestic workers before using temporary migrants in lower-skilled and lower-waged jobs
 - d. make it easier for firms to recruit higher-skilled and higher-paid migrant workers and easier for those migrants to stay here, and
 - e. reinforce that Essential Skills may only be granted for the period for which the employment is offered, and how this applies to seasonal work.
18. The changes recommended are not intended to prevent employers from using lower-skilled migrant labour. Where employers can prove a genuine labour or skills shortage they will be able to continue to access migrant labour.
19. We have separated the package of the review into two phases:
 - a. Phase one recommends immediate changes that can be made to Essential Skills visa policy to ensure that cohorts of lower-skilled temporary migrants cannot stay here indefinitely.
 - b. Phase two presents proposals that are in early stages of policy development, and are not clear-cut adjustments to existing immigration settings, but which would be likely to result in more substantial shifts in employer behaviour and help achieve the Government's labour market objectives in the long-term.

Phase one of the review

20. Phase one focuses on incremental adjustments to the Essential Skills visa policy to help prevent the creation of a future pool of long-term temporary migrants in lower-skilled and lower-paid jobs, with no pathway to residence. The proposals for phase one are well developed and there is a clear relationship between the change proposed, the negative outcomes we want to address, and the impacts on migrants and employers. Public consultation will still be valuable to ensure that any unintended consequences are identified and mitigated.
21. These proposals are directly related to addressing the visa settings that led to the need for a South Island pathway policy. As that work has been ongoing for some time, those proposals are more developed. They are also relatively straight-forward to implement and, once implemented, will ensure that current and future cohorts of migrants will not be able to stay long-term and become well-settled here.
22. Officials recommend that a Cabinet paper be drafted to seek agreement in principle, subject to consultation, to the following proposals that make up phase one of the review:
 - a. Introducing a maximum duration of three years that lower-skilled Essential Skills visa holders can remain in New Zealand, after which they will have a one year stand down period.
 - b. Restricting the ability for lower-skilled Essential Skills visa holders to bring their children, by removing the eligibility of children of lower-skilled Essential Skills visa holders to a Dependent Child Student visa and a Dependent of a Worker Visitor Visa

- c. Restricting the ability for lower-skilled Essential Skills visa holders to bring their partners, by removing the eligibility of partners of lower-skilled Essential Skills visa holders to a Partner of a Worker Work Visa and a Partner of a Worker Visitor Visa
- d. Introducing remuneration bands that align with the thresholds agreed to for the Skilled Migrant Category, to help determine the skill level of Essential Skills visa holders, and their associated visa conditions
- e. Reinforcing that Essential Skills visas may only be granted for the period for which the employment is offered, and setting out how this applies to seasonal work.

23. These proposals extend the initial proposals in the previous South Island pathway policy Cabinet paper which was consulted with key Ministers. The previous version sought agreement that changes would be made to Essential Skills visa policy to prevent lower-skilled migrants and their families staying indefinitely, but did not outline how those changes would be designed.

Phase two of the review

- 24. The immigration system provides valuable opportunities to both improve labour market participation for New Zealanders and also improve the overall skill level of the New Zealand workforce. The system has to be both enabling but targeted to ensure that migrant labour is granted with minimal regulatory overhead when need is genuine, and that we have the right tools to restrict access to migrant labour when this would conflict with the Government's objectives to raise productivity and incentivise the employment and training of New Zealanders.
- 25. Phase two focuses on leveraging the opportunity that the immigration system provides to incentivise and reward employer behaviour that will contribute to New Zealand achieving the government's strategic objectives for the labour market. Our intention is to shift the emphasis of the visa application process from the migrant to the employer, and rewarding employers who go through the Accredited Employer process by making it easier to recruit migrants through that pathway. By comparison the other pathways to Essential Skills visas will become less attractive, and all pathways will have a greater emphasis on the assessment and accountability of the employer.
- 26. The phase two changes do not set out detailed amendments to settings and therefore do not attempt to quantify impacts at this stage. Officials consider that, if agreed, they are likely to result in more substantial shifts in employer behaviour at the individual firm, industry or regional level. As they are both more complex and earlier in their development than phase one, we recommend that Ministers agree to further work to be undertaken on:
 - a. Adjusting the avenues available to access Essential Skills visas to incentivise more employers to become accredited, while also ensuring that the assessment and monitoring of Accredited Employers is appropriately robust.
 - b. Exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages.
 - c. Expanding the existing Accredited Employer (Labour Hire) programme so that all labour hire firms nationwide are required to become accredited before they are able to employ Essential Skills migrants.
 - d. Strengthening the existing requirements under the Essential Skills policy to train and recruit local workers.
 - e. Reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists, as well as establishing which non-immigration response(s) an occupation being on the lists will initiate.
 - f. Exploring whether further changes should be made to requirements for seasonal Essential Skills visa holders and their employers.

Phase one: ensure that lower-skilled temporary migrants cannot stay here indefinitely

Introduce a maximum duration for holders of Essential Skills visas granted for lower- skilled jobs

Status quo

27. Lower-skilled Essential Skills workers, currently defined as ANZSCO level 4 and 5 workers, are only issued with visas of up to one year's duration. There is however currently no limit on the number of times a migrant can be issued with an Essential Skills visa, as long as they continue to meet the Labour Market Test.
28. The current settings of the Essential Skills visa policy mean that there are some long-term temporary migrants who are meeting genuine regional labour market needs but have no pathway to residence as their jobs are classified as lower-skilled. These migrants and their families have become well-settled, but have to deal with the uncertainty of having to reapply for visas regularly.

Proposal

29. The introduction of a maximum duration that Essential Skills visa holders can spend on a lower-skilled visa would remove the ability for migrants to become well-settled if they do not have a pathway to residence. It would reinforce the temporary nature of the visa and manage the settlement expectations of lower-skilled Essential Skills migrants.
30. This proposal would still require lower-skilled Essential Skills visa holders to meet the Labour Market Test each time they applied for a subsequent visa.
31. Officials recommend a three year maximum duration, with a one year stand down period. Once a lower-skilled Essential Skills visa holder has reached the maximum number of years in New Zealand, they must either transition to a more highly-skilled Essential Skills visa, or spend a year outside New Zealand before they are able to apply for another lower-skilled Essential Skills visa.
32. The objective of this change is ensure that Essential Skills visa holders who are unlikely to have a pathway to residence do not stay long-term in New Zealand. Consideration will need to be given to how to ensure that temporary workers do not simply move onto a different visa category, rather than leaving the country. For example, this could involve restricting the ability of lower-skilled Essential Skills visa holders transitioning directly onto student visas for low-level qualifications in order to remain in the country.
33. Ministers have directed a review of partnership policy, to be reported back by mid-2017, and this will consider how such work rights should be allocated, including whether they should be available to partnerships of recent duration.
34. The skills level of Essential Skills visa holders will be determined by the new approach to Essential Skills visa skill levels set out in more detail in the section below.

Impact

35. Officials considered two options for introducing a maximum duration for lower-skilled Essential Skills visa holders, a maximum of two years, or three years. The impacts of the options considered are set out in table one below, and show the number of Essential Skills visa holders in 2015/16 that would be affected by each option, and how this compares with all Essential Skills visa holders.

Table one: Indicative impacts of the two maximum duration options on lower-skilled Essential Skills visa holders¹

Option	Lower-skilled ES visa holders in 2015/16	Top 5 sectors (# of lower-skilled ES visa holders)	Top 5 regions (# of lower-skilled ES visa holders)
Two year maximum duration	<p>2881 held visas for two years or more</p> <p>That is 22.5% of all workers that held an ES visa for two years or more</p>	<p>Retail Supervisor (276)</p> <p>Dairy Cattle Farm Worker (109)</p> <p>Aged or Disabled Carer (420)</p> <p>Truck Driver (General) (283)</p> <p>Personal Care Assistant (97)</p>	<p>Canterbury (948)</p> <p>Auckland (638)</p> <p>Otago (615)</p> <p>Marlborough (121)</p> <p>Wellington (112)</p>
Three year maximum duration (recommended)	<p>1708 held visas for three years or more</p> <p>That is 24% of all workers that held an ES visa for three years or more</p>	<p>Aged or Disabled Carer (277)</p> <p>Retail Supervisor (143)</p> <p>Truck Driver (General) (210)</p> <p>Personal Care Assistant (61)</p> <p>Forestry worker (61)</p>	<p>Canterbury (503)</p> <p>Auckland (423)</p> <p>Otago (357)</p> <p>Marlborough (94)</p> <p>Wellington (62)</p>

36. A maximum duration of three years provides a balance between giving visa holders the opportunity to transition to a more highly-skilled work visa or obtain residence, while also ensuring that migrants with no pathway to residence do not become well-settled in New Zealand. It also provides employers with sufficient time to recruit new staff or upskill existing staff to fill the role.
37. It is estimated that around 1,600 long-term temporary workers in the South Island have been on an Essential Skills visa for five years or more and may be eligible for residence under the proposed South Island pathway. This will diminish the immediate impact of introducing a maximum duration.
38. For firms that continue to hire lower-skilled migrants, this may reduce their productivity, as they will lose the skills of their experienced migrant workers and the new workers would likely be less productive. It may also increase their costs of recruitment, as they will be recruiting more regularly.
39. The increased cost of continuing to hire lower-skilled Essential Skills workers may incentivise some employers to invest more in training New Zealanders. This will also come with a cost to the firm. We would need to consult to better quantify these impacts or costs.

Restrict the ability for lower-skilled Essential Skills visa holders to bring their children and partners

Status quo

40. Currently, partners of Essential Skills Visa-holders may be eligible for either a Partner of a Worker Work Visa (with open work rights) or a Partner of a Worker Visitor Visa. Both visas allow the partner to stay in New Zealand for the same duration as their partner's Essential Skills Work Visa. There is no salary threshold required for this. Where the principal applicant is working in a lower-level occupation, the partner is likely to be in low-wage, lower-skilled work.
41. Essential Skills visa holders earning \$36,850.44 per annum or above are able to bring their children with them for the length of their Essential Skills visa. Children of Essential Skills workers are treated as domestic students (only charged domestic contributions) through

¹ We cannot model lower-skilled Essential Skill holders according to the new skills determination, so these impacts are modelled using ANZSCO 4 and 5 Essential Skills holders as a proxy.

primary and secondary school, but are required to transition to a visa in their own right when they no longer qualify as dependants.

42. This situation is undesirable because migrants and family members without a pathway to residence can become well-settled in New Zealand and lose ties with their home country, without the rights of New Zealand residents. Lower-skilled Essential Skills visa holders can be required to leave at short notice. It is also undesirable as the tax paid by the family may be less than the education and health benefits they receive.

Proposal

43. Restricting the ability of lower-skilled Essential Skills visa holders to bring their partners and children will reinforce the temporary nature of the visa, and reduce expectations of settlement.
44. Officials recommend that partners of lower-skilled Essential Skills visa holders no longer be eligible for either a Partner of a Worker Work Visa or a Partner of a Worker Visitor Visa. Partners of lower-skilled Essential Skills visa holders would still be able to come to New Zealand if they met the requirements for a visa in their own right, including as a short-term visitor.
45. Officials also recommend that children of lower-skilled Essential Skills visa holders no longer be eligible for a Dependent Child Student visa or a Dependent Child of a Worker Visitor Visa based on their parent's Essential Skills visa. Children of lower-skilled Essential Skills visa holders would still be able to come if they met the requirements for a visa in their own right, including as short-term visitors.

Impact

46. The impacts of these changes are set out in table two below.

Table two: Options and indicative impacts for restricting the ability of lower-skilled Essential Skills visa holders to bring their family²

Option	Secondary visa holders linked to ES visa holders in 2015/16 ³	Top 5 sectors (# of partners/children)	Top 5 regions (# of partners/children)
Restrict the ability for lower-skilled Essential Skills visa holders to bring their partners with them	Approx. 1,150 of Partner of a Worker <u>Work</u> Visas were linked to an ANZSCO 4 & 5 ES visa holder That is 24.7% of all Partner of a Worker <u>Work</u> Visas linked to all Essential Skills visa holders	Aged or Disabled Carer (151) Truck Driver (General) (126) Retail Supervisor (108) Dairy Cattle Farm Worker (54) Personal Care Assistant (45)	Auckland (346) Canterbury (376) Otago (173) Wellington (52) Marlborough (41)
Restrict the ability for lower-skilled Essential Skills visa holders to bring their children with them	Approx. 500 of dependent student visas were linked to an ANZSCO 4 & 5 ES visa holder ⁴ That is 26.4% of all dependent student visas linked to all ES visa holder ⁵	Truck Driver (General) (76) Aged or Disabled Carer (67) Dairy Cattle Farm Worker (21) Retail Supervisor (17) Bus Driver (14)	Canterbury (163) Auckland (101) Otago (42) Wellington (28) Marlborough (15)

² Note that there are limitations to this data, and a number of assumptions were used to produce indicative impacts. There are a significant number of both dependent visas that are not linked to any principal visa holder.

³ We cannot model lower-skilled Essential Skill holders according to the new remuneration bands for determining skill levels, so these impacts are modelled using ANZSCO 4 and 5 Essential Skills holders as a proxy.

⁴ Reduces costs on NZ's education system (approx. \$6,000 a year per child)

⁵ In 2015/16 there were 4653 dependent student visas linked to an Essential Skills visa, and there were dependent student visas 8762 linked to all visa types.

47. These changes would reduce the numbers of secondary applicants associated with Essential Skills visa holders in New Zealand. It is likely to discourage some lower-skilled Essential Skills visa holders from coming to New Zealand, or remaining here long-term, but not significantly reduce the numbers of principal Essential Skills applicants. It may impact some rural schools and it is likely to reduce the demand for English as a Second Language teaching.
48. Research from 2013 showed that family category migrant employment is associated with statistically significant negative impacts on hiring of youth and beneficiaries⁶. Removing eligibility for visas for partners of lower-skilled Essential Skills visa holders would potentially provide more opportunities for local workers to take on those roles, where they are available.

Reinforce that Essential Skills may only be granted for the period for which the employment is offered and the application of this limitation to seasonal work

Status quo

49. Essential Skills visas are granted for the period for which the employment is offered, up to a maximum length determined by their skill level. Visas are often granted for less time than the maximum length due to the offer of employment being shorter.
50. For seasonal workers on Essential Skills visas, the period for which the visa is granted should be for the period of employment i.e. the season. However, this has been inconsistently applied.

Proposal

51. Strengthen the existing requirement that Essential Skills visas only cover the period for which the employment is offered. Changes would be made to Immigration Instructions to make it explicit that for seasonal workers the period of employment must be restricted to the length of the season.
52. This will mean that at the end of the season workers would be required to leave New Zealand, but could return the following year, provided there continued to be a shortage of New Zealand workers.
53. Until the change in Instructions come into force, Immigration New Zealand (INZ) will reiterate to front line staff that when issuing Essential Skills visas to seasonal workers, that visa is only meant to cover the length of the season. INZ will also use its stakeholder relationships to signal this expectation to relevant sectors.

Impact

54. The sectors and occupations that are likely to be affected include:
- Rural contractors (e.g. tractor drivers, combine harvester drivers, silage/haylage workers)
 - Meat workers (i.e. Halal slaughterers)
 - Adventure tourism staff (e.g. jet-boat guides, skydive instructors)
 - Shearers and shed hands
 - Ski season staff (includes instructors and other staff who work on the fields)
 - Winery staff (vintage workers and cellar hands), and
 - Fishing.
55. In addition to specific sectors, specific locations are seasonal. For example, the Fox and Franz Josef glaciers are only open for a short season. Summer is generally the peak season for tourist areas such as Rotorua, while Queenstown has two peaks, in summer and winter.

⁶ Keith McLeod and David Mare (2013) *The rise of temporary migration in New Zealand and its impact on the labour market*. MBIE:Wellington.

Introduce remuneration bands to determine the skill level of an Essential Skills visa holder

Status quo

56. Currently the skill level of an Essential Skills visa holder is determined by the Australian and New Zealand Standard Classification of Occupations (ANZSCO). ANZSCO provides an objective and consistent classification of occupations. However, it is not an accurate description of the actual level of skill required for a particular job or the skills of a person employed in a particular role. It cannot be easily used to differentiate between senior and junior roles (particularly in managerial positions). Nor is it an exhaustive list of all occupations, especially in new or developing fields.
57. The ANZSCO level of an Essential Skills visa holder's occupation, as described in the employment agreement, determines how the Labour Market Test is required to be met (for example whether a Skills Match Report from Work and Income is required). ANZSCO is also used to determine the maximum length of the Essential Skills visa the applicant is eligible for.

Table three: Current determination of visa length based on ANZSCO level

Skill level	Characteristics ⁷	Length of visa
Higher-skilled	ANZSCO skill level 1 and earns NZ\$55,000 or more p/a AND Migrant has not received a five year Essential Skills Work Visa before	Up to five years
	ANZSCO skill level 1 but earns less than NZ\$55, p/a OR ANZSCO skill level 1 but has received a five year Essential Skills Work Visa before	Up to three years
Mid-Skilled	ANZSCO skill level 2 or 3	Up to three years
Lower-Skilled	ANZSCO skill level 4 or 5	Up to one year

58. The current settings can incentivise applicants and employers to inflate job titles so that the worker is issued with a longer Essential Skills visa. For example, in 2012/13, 23.6 per cent of Essential Skills workers earned less than \$35,000 a year, of these approximately 3.1 per cent (80 workers) were Retail Managers, an ANZSCO level 2 occupation. Based on feedback from INZ staff it is likely that the majority of these low-paid Managers are in fact Retail Supervisors, an ANZSCO level 4 job, which means they should be eligible for a significantly shorter visa length.

Proposal

59. Remuneration bands would be introduced to determine the skill level of Essential Skills visa holders and their associated visa conditions. The level the bands are set at would align the definition of a lower-skilled Essential Skills visa holder with the proposed new definition of skilled employment under the SMC. These bands would be indexed and updated annually.
60. Aligning the bands with the SMC would create greater transparency about the transition between Essential Skills and the SMC, and ensure visa settings that restrict long term stays in New Zealand of temporary migrants (and their families) target the cohort that is unlikely to qualify for residence.

⁷ Visa lengths are also differentiated by whether the migrant works in Canterbury or for Labour Hire firms.

- Released under the Official Information Act 1982
61. Introducing income to determine the skill level of Essential Skills workers would also enable immigration officers to distinguish between high- and lower-skilled applicants within the same occupation, mitigate job-title inflation, and more accurately reflect the skill level of some high-skilled, high-paid workers in occupations currently classified as lower-skilled by ANZSCO.
 62. Income or salary information would replace the use of ANZSCO as the first indicator of skill. However, ANZSCO would still have a role in the assessment of whether that income is appropriate. The existing requirement to pay market rates would be retained.
 63. Lower-skilled Essential Skills visa holders would be defined as:
 - a. any Essential Skills worker at ANZSCO skill level 1-3 earning less than the NZ median income
 - b. any Essential Skills worker at ANZSCO skill level 4 or five and earning less than 1.7 times the median income.
 64. The entry point to the band for mid-skilled Essential Skills visa holders would be aligned with the minimum salary threshold chosen for the SMC (if agreed to by Cabinet). Mid-skilled Essential Skills visa holders would be defined as any Essential Skills worker at ANZSCO skill level 1-3 earning above the New Zealand median income.
 65. The entry point to the band for higher-skilled Essential Skills visa holders would be aligned with the salary thresholds chosen for highly skilled employment for the SMC. The SMC threshold for highly skilled employment would be indexed to 1.7 times the median income for all workers (if agreed to by Cabinet), as will the beginning of the higher-skilled Essential Skills remuneration band.
 66. Aligning the definition of mid- and higher-skilled Essential Skills migrants with the SMC would mean that the temporary migrants given the opportunity to become well settled (through longer visa lengths and no maximum duration) would be those more likely to be eligible to transition to residence through the SMC.

Table four: Proposed remuneration thresholds for Essential Skills visas and associated visa conditions

Skill level	Remuneration bands ⁸		Occupation Class (ANZSCO)		Relevant qualification (NZQF)		Relevant work experience	Visa length	Children & partners
Higher-skilled	\$39.93+ per hour \$83,054+ per annum	And	1&2	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements	Up to 5 years	Yes
		And	3/4/5	And	7-10	Or	5 years		
Mid-skilled	\$23.46 - \$39.93 per hour \$48,859 - \$83,054 per annum	And	1/2/3	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements	Up to 3 years	Yes
Lower-skilled	\$15.25 - \$23.46 per hour \$31,720 - \$48,859 per annum	And	1/2/3	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements	Up to 1 year	No
	\$15.25 - \$39.93 per hour \$31,720 - \$83,054 per annum	And	4&5	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements		

Where the expected remuneration falls into the higher-skilled remuneration band but ANZSCO would define it as a level three, four or five occupation then the applicant must justify this higher salary by providing evidence of having qualifications and/or work experience beyond the ANZSCO requirements for that skill level. This would reduce the risk of the salary or income information in the employment agreement being falsified in order to create eligibility for more generous visa conditions.

ANZSCO level four and five SMC applicants would only be eligible when they earned over the remuneration threshold for highly skilled employment. For this reason, ANZSCO level four and five Essential Skills visa holders would only be eligible for a lower-skilled visa (which ensures that they do not settle long-term), unless they earned over the threshold for highly skilled employment.

⁸ Assuming a 40 hour week for per annum remuneration.

Impact⁹

67. Using remuneration to determine skill would increase the numbers of Essential Skills visa holders classified as lower-skilled, but would not prevent employers from using lower-skilled migrant labour where they are faced with a labour shortage. Where the labour market test is met, employers will still be able to access migrant labour.
68. The introduction of a remuneration threshold for the SMC would increase the number of potential Essential Skills workers without a pathway to residence. The largest occupation groups in the SMC in the year to June 2016 were chefs, retail managers and café and restaurant managers, which are also the lowest-paid of the high volume SMC occupations.
69. Around half of Essential Skills visa holders would be in the proposed remuneration band for lower-skilled workers. The top occupations that would fall into this band include Chefs, Dairy Cattle Farm Workers, Café or Restaurant Managers, and Retail Managers.
70. Around a third of Essential Skills visa holders would be in the proposed remuneration band for mid-skilled workers. The top occupations that would fall into this band include Carpenters, Registered Aged Care Nurses and Painting Trades workers.
71. Around 10 per cent of Essential Skills visa holders would be in the proposed remuneration band for higher-skilled workers. The top occupations that would fall into this band include Resident Medical Officers, General Practitioners, and Developer Programmers.

Compliance and verification

72. To ensure that the changes achieve the objectives, consideration needs to be given to verification and compliance.
73. The introduction of remuneration bands places more importance on income or salary information. We do not want to replace the issue of job title inflation with another problem of falsified salary offers. Immigration officers are already required to be satisfied that the job offer is for genuine, sustainable and full-time employment. This requirement could also be used to verify the remuneration rate in the employment agreement when an Essential Skills visa is first issued.
74. When a subsequent visa is applied for, the immigration officer can already request evidence that the salary set out in the application for the previous Essential Skills visa was paid to the migrant. INZ would also ensure that, where an employer is found to have falsified the salary offer in a previous Essential Skills visa application they are not able to access migrant labour.
75. Work is underway to improve the process by which information shared between the Labour Inspectorate and Immigration New Zealand prevents employers who are non-compliant with employment standards from recruiting migrant labour. Additions to immigration instructions that will give effect to this change are expected to be implemented in April 2017.

Transition to new settings

76. Officials recommend that the proposal introducing a maximum duration is applied to all new lower-skilled Essential Skills applicants and all existing Essential Skills visa holders when they apply for a further Essential Skills visa. For existing Essential Skills visa holders, the change would not be applied retrospectively, but would impose a three year maximum duration from the date of their next lower-skilled Essential Skills visa.
77. Officials recommend that the new settings restricting the access of children and partners are only applied to new Essential Skills applications, and not to children or partners of Essential Skills visa holders who already hold temporary visas. In time, those partners and children of Essential Skills visa holders will leave the country if they do not have a pathway to residence, as the maximum duration will apply to the principal Essential Skills visa holder.

⁹ These estimates are based on previous years' approvals and income data from migrants approved in 2012/13 (the most recent data available).

78. The transitional arrangements are a design question and do not require Cabinet agreement. Officials will provide you with their recommended transitional arrangement and ask for your agreement. You may wish to consult with other relevant Ministers.

Phase two: further improvements to temporary visa settings

Additional changes to temporary visa settings to improve the contribution of immigration to the labour market

79. Phase two focuses on long-term proposals to improve temporary visa settings to ensure they reflect the Government's wider objectives to lift skill levels and incomes. These additional changes require more work to design and implement, and to determine the likely impact.
80. Phase two focuses on leveraging the opportunity that the immigration system provides to incentivise desired behaviour from employers at the individual firm, industry or regional level. It proposes to do this by shifting the emphasis of the visa process to the assessment and accountability of the employer. It also proposes adjusting the pathways to access Essential Skills visas to incentivise the Accredited Employers process, and reducing the relative attractiveness of other pathways to Essential Skills visas.
81. Officials have begun work on the following proposals and would like to discuss these with you as early as possible in 2017:
- Adjusting the avenues available to access Essential Skills visas to incentivise more employers to become accredited.
 - Exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages.
 - Expanding the existing Accredited Employer (Labour Hire) programme nationwide.
 - Strengthening the existing Essential Skills requirements to train and recruit local workers.
 - Reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists.
 - Exploring whether further changes should be made to requirements for seasonal Essential Skills visa holders and their employers.
82. Proposal *a.* will target employer behaviour at the firm level, by enabling more employers to become Accredited Employers while also ensuring that the assessment of Accredited Employers and audit and monitoring processes are appropriately robust. This will reward Accredited Employers by making it easier to recruit higher-skilled and higher-paid migrant workers and easier for those migrants to stay here when they come through the Accredited Employer pathway. By comparison the other pathways to Essential Skills visas will seem less attractive, and all pathways will have a greater emphasis on the assessment and accountability of the employer.
83. Proposal *b.* will identify options for targeting immigration settings at the regional level to address persistent shortages of either skills or labour. This could involve including a regional dimension in defining the criteria for and application of Essential Skills visas, or introducing exemptions to certain temporary visa requirements where there are persistent localised labour shortages that cannot be filled because of sheer lack of people. Difficult in attracting reliable lower-skilled labour is identified as an obstacle in areas such as the dairy industry in Southland, and in the hospitality and retail industry in Queenstown.
84. Proposal *c.* also targets employer behaviour at the firm level by requiring all labour hire firms nationwide to become accredited under the Accredited Employer (Labour Hire) policy before they are able to employ Essential Skills migrants.
85. Proposal *d.* is solely targeted at strengthening existing requirements to employ and train domestic workers before using temporary migrants in lower-skilled and lower-waged jobs.

This will consider how the existing requirements can be strengthened at the individual firm level, and at the industry level, including whether to introduce a requirement for workforce development, and whether audit processes are required.

86. Proposal *e.* will target employers at the industry level and will involve reviewing the process for occupations being added to and remaining on the Essential Skills in Demand (ESID) lists, as well as considering whether other non-immigration responses are needed in response to an occupation being added to the ESID lists. This will include considering government's role, including through the SWEP and in improving the responsiveness of education and training.
87. The ESID lists identify occupation shortages and facilitate temporary migration in those occupations, by not requiring the completion of a labour market test. The lists are intended to help New Zealand meet its skill needs by facilitating the entry of appropriately skilled migrants to fill occupation shortages while ensuring this does not negatively affect employment opportunities for New Zealanders.
88. A review of the ESID process would address our concerns that:
 - a. the development of the Lists is susceptible to industry pressure
 - b. the Lists may not be effectively incentivising industry to increase workforce development and training
 - c. placement on one of the Lists does not automatically trigger a response from industry or other supply levers such as welfare, education, or training, and does not identify other ways to address shortages
 - d. the operational use of the Lists is complex and adds to the difficulty employers and applicants have in understanding the system, and for immigration officers to operate.
89. Proposal *f.* will explore whether further changes should be made to requirements of seasonal Essential Skills visa holders and their employers, for example incorporating more seasonal workers into programmes modelled on the Recognised Seasonal Employer (RSE) Scheme. The RSE scheme enables horticulture or viticulture firms who cannot find New Zealand workers, and who meet specified standards, to access migrant labour.
90. Officials will monitor the outcomes of phase one and the associated impacts of the changes to the SMC, before making final recommendations about the implementation of the proposals above. It is likely that not all the proposals above will be recommended for implementation once further policy work is carried out on the likely impacts.

Consultation

91. Officials have tested the phase one changes with the Ministry of Social Development (MSD), the Ministry of Education (MoE), Education New Zealand, the Ministry of Primary Industries (MPI), and the Ministry of Health.
92. Targeted consultation with stakeholders was carried out on the SMC proposals, including the proposed salary thresholds. Stakeholders expressed concerns that any changes to the Essential Skills visa which restricted their access to migrant labour needed to be well consulted on and were likely to be more significant than the changes to the SMC. Almost all stakeholders also expressed concerns about the short period of time (two weeks) for consultation on the SMC proposals.
93. We recommend that targeted consultation is undertaken in early 2017 on the changes to Essential Skills before they are implemented. This could be done on a targeted basis with a similar range of stakeholders to the recent SMC consultation, including Business New Zealand, the Council of Trade Unions (CTU), regional economic development agencies and councils, and industry groups.
94. Not consulting could create a perception that the changes were made with little understanding of the impact on firms, sectors and migrants. Consulting on the phase one

proposals would aim to ensure that there are no unintended consequences, and would help to better quantify the likely impacts of the changes, including across sectors and regions.

95. Consultation on any proposals coming out of the further work in phase two is also desirable to ensure that the impacts, and interactions with changes to the SMC and phase one changes is well understood. For the proposals relating to the use of the Accredited Employer programmes, the volumes of employers will have an impact on what operational capacity is needed. Consultation will be important as a way to gauge likely uptake of the programmes by employers, and therefore the operational capacity needed.
96. If Cabinet agrees to consultation on the proposals, officials will provide you with the consultation plan and will seek agreement to the detail of targeted public consultation.

Next steps

Following your feedback officials can provide you with a draft Cabinet paper

97. Based on your decisions on the recommendations in this briefing, a draft Cabinet paper can be provided quickly. The paper would recommend Cabinet agree to the scope of the review, agree in principle to any of the phase one proposals that you agree to and agree to targeted consultation. These recommendations could be presented as a standalone Cabinet paper or, due to their common objectives, incorporated into the South Island pathway Cabinet paper.
98. Officials recommend that you circulate this briefing paper to the Ministers of Finance, Tertiary Education, Skills and Employment and Social Development, so their feedback on the proposals can be incorporated into the draft Cabinet paper.
99. If Cabinet agrees to the proposals and the recommendation to consult on them before making final decisions about implementation, officials will provide you with a briefing seeking your agreement to the details of the consultation plan for consultation in early 2017.
100. Once consultation has been completed and the feedback analysed, a Cabinet paper reporting back on the result of the consultation process and seeking agreement for the implementation of the changes would be required by April 2017 in order to implement in July 2017.
101. Officials are available to discuss the contents of this briefing at the regular officials meetings.

Implementation of phase one

102. The changes proposed for phase one can be implemented by July 2017, so long as final Cabinet decisions, following consultation, are made by April 2017. This would also require INZ to begin development of the policies before final decisions are confirmed.
103. Officials will provide final advice on the timing of implementation of phase one, following the consultation period in early 2017.
104. All of the proposals require changes to Immigration Instructions. Guidance and training will also need to be provided to front-line staff to ensure that the changes are applied consistently.
105. Consideration is needed as to when the changes are announced and when they come into force. If there is a gap between the announcement and the implementation date there is a risk that there will be an increase in applications as migrants and their employers want their visas to be issued according to the existing settings.

Implementation of phase two

106. Further work will be carried out on the detail, the operational feasibility and the likely impact of the options for phase two. Officials will investigate what operational resource and

capability is needed, and whether there are any additional costs associated with these proposals.

Annex

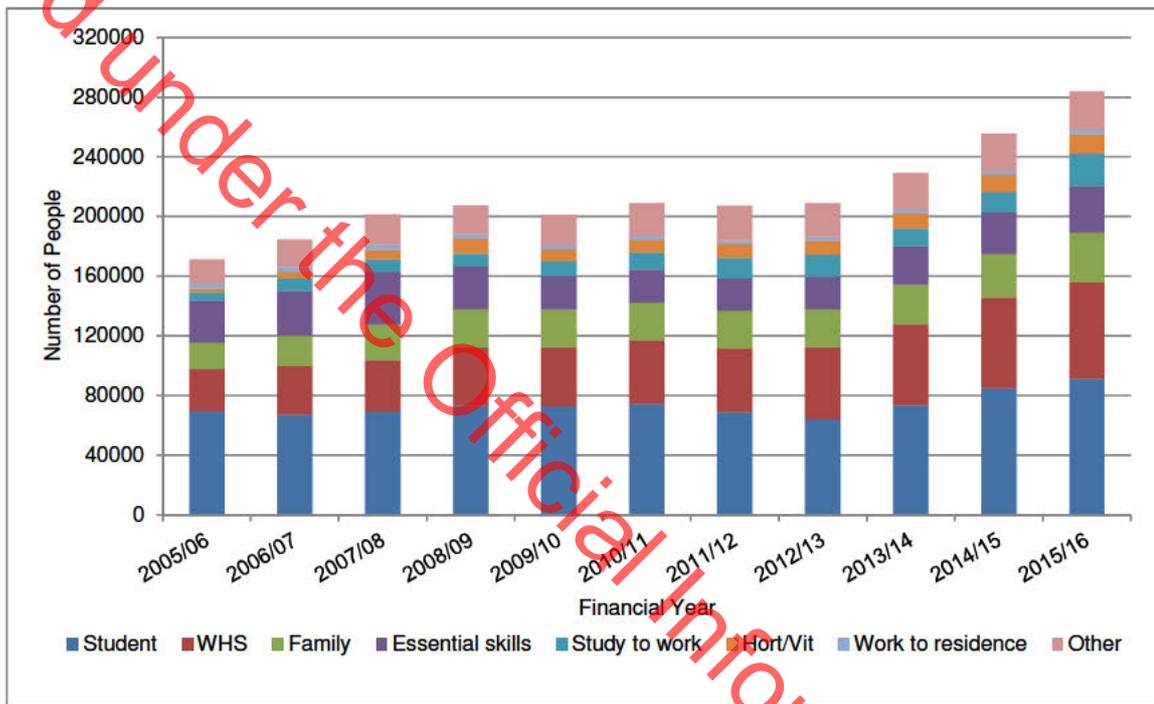
Annex: Additional data on Essential Skills migrants

Released under the Official Information Act 1982

Annex: Additional data on Essential Skills migrants

1. In recent years, we have seen an increase in the number of people granted visas that allow work (Figure One). Overall the number of temporary migrants has increased almost 50 percent in the last 10 years.
2. We have seen particularly sharp recent increases in international students (many of whom can work, but generally only for up to 20 hours per week during term time), working holiday makers and Essential Skills visa holders. For example, a total of 31,331 people were approved to work in New Zealand under the Essential Skills policy in 2015/16, an increase of 11 per cent from 2014/15. On a per capita basis our temporary migrant inflows are the highest in the OECD¹⁰.

Figure One: People granted temporary visas by policy, 2005/06-2015/16 (MBIE)¹¹

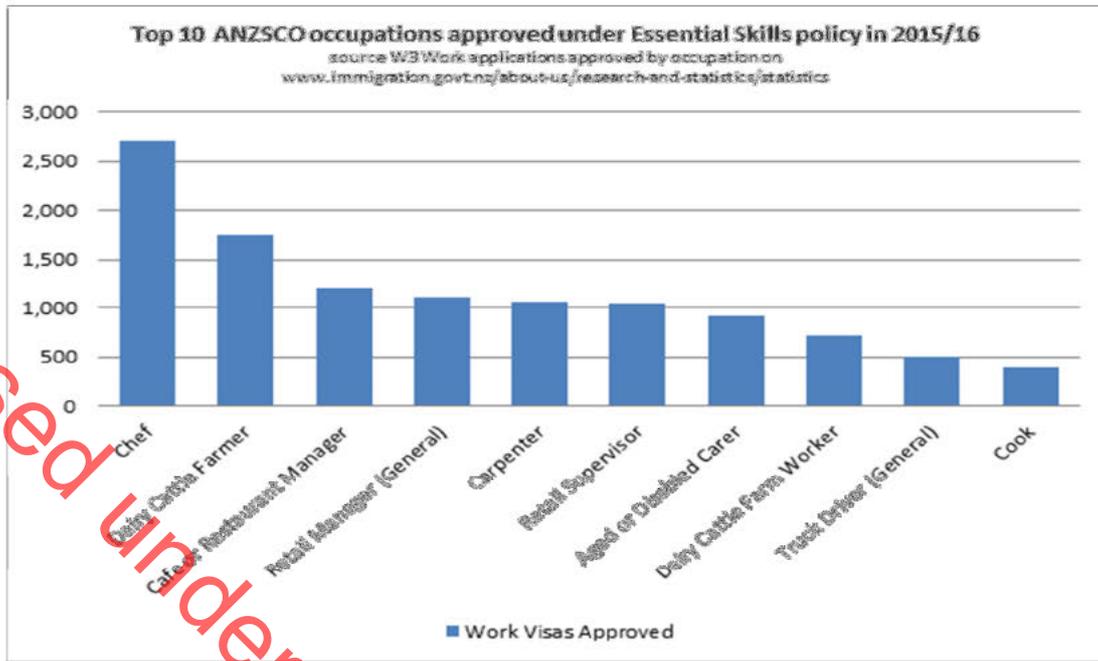


3. Figure two below shows that, of the top 10 of all ANZSCO occupations approved under Essential Skills, two of the occupations are also on the Lists (Chef and Dairy Cattle Farmer). Of the 33,546 visas approved under Essential Skills policy in 2015/16, the top 10 occupations accounted for 11,377 (34 per cent) of those visas.

¹⁰ Recruiting Immigrant Workers: New Zealand, OECD 2014.

¹¹ It should be noted that not all student visas allow work rights. For those visas that allow work, in some categories (students, family, and working holiday schemes, in particular) migrants may be working only part time or not working at all.

Figure Two: Top 10 ANZSCO occupations approved under Essential Skills policy in 2015/16



4. Figure three below shows that across all skill levels (according to the definition used in the NZIS) recent migrants earned below their New Zealand born equivalents. This data came from the 2016 New Zealand Income survey. (This extraction excludes respondents who did not state their country of birth.)

Figure three: Regular hourly earnings of NZ born workers and recent migrant workers from their main job (source NZIS 2016)

Regular hourly earnings from main job				
	Skill level	Median		Median
NZ born	Highly-skilled	31.2	Recent Migrant	29.1
	Skilled	26.0		24.0
	Semi-skilled	24.0		20.0
	Lower-skilled	21.3		18.5
	Unskilled	17.8		15.8

5. Figure four below shows the distribution of Essential Skills visa holders who had their visa issued in 2012/13, across different income levels. This data comes from the Integrated Data Infrastructure (IDI) managed by Statistics New Zealand. The data shows that the majority of Essential Skills workers (65.5 per cent) earned below \$55,000 per annum and the largest earnings cohort was also the lowest, and reflects the trend of the four previous years. The percentage of Essential Skills visa holders earning below \$55,000 per annum in 2008/09 was 74.3 per cent, in 2009/10 it was 68.2 per cent, in 2010/11 it was 66.5 per cent, and in 2011/12 it was 66.0 per cent.

Figure four: IDI data on earnings distribution of Essential Skills workers in the 12 months immediately following being granted a visa (for visas granted in the 2012/13 year)

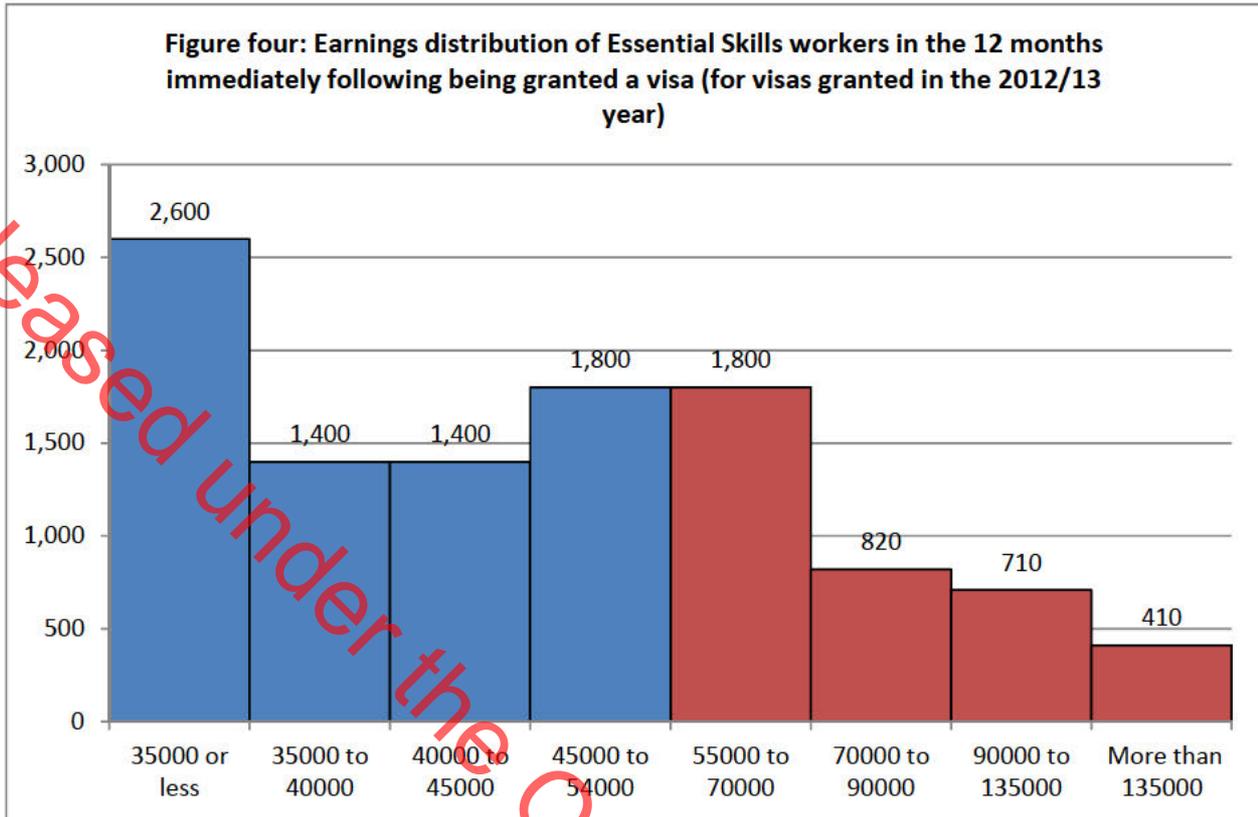
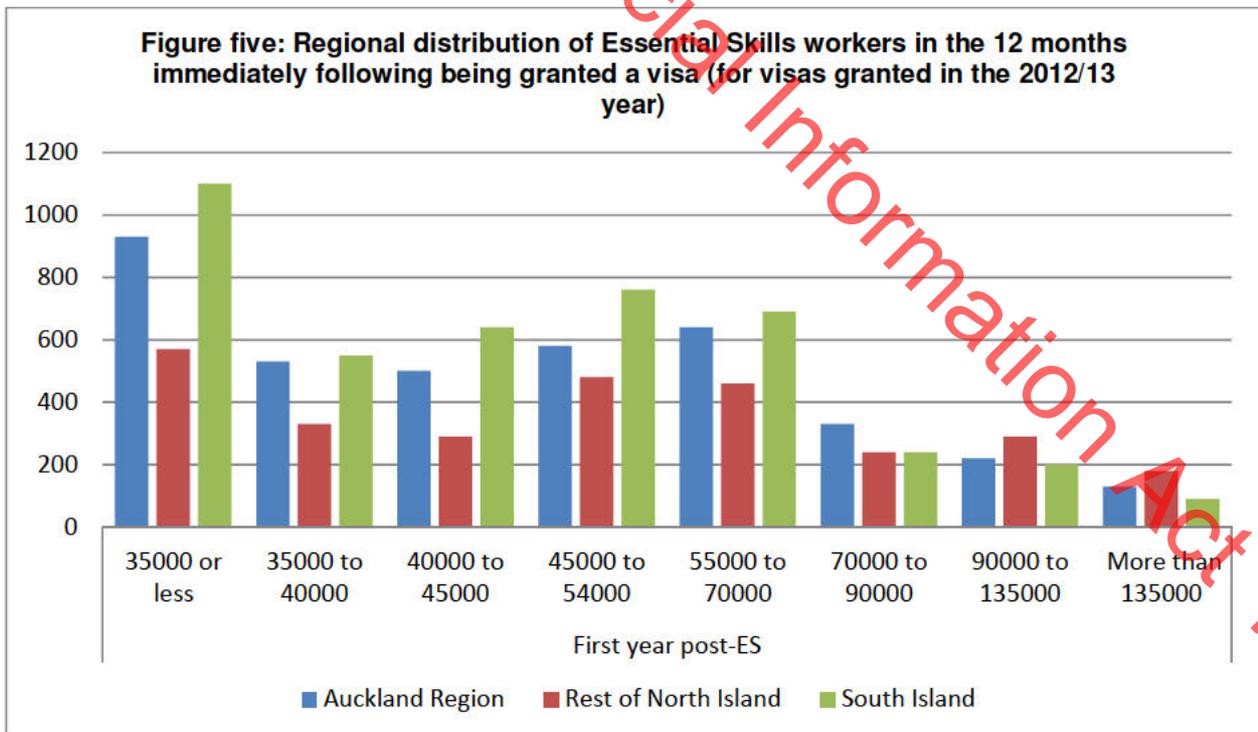


Figure five: IDI data on regional distribution of Essential Skills workers in the 12 months immediately following being granted a visa (for visas granted in the 2012/13 year)



Office of the Minister of Immigration

Chair, Cabinet Economic Growth and Infrastructure Committee

Review of Immigration Temporary Work Visa Settings

Proposal

1. This paper seeks agreement in principle to changes to, and agreement to consult on, immigration temporary work visa settings to manage the settlement expectations of lower-skilled migrants with no pathway to residence. Note that the Minister of Immigration will report back on a wider review of temporary work visa settings.

Executive Summary

2. This paper is one part of a package that is focused on the future direction of the immigration system and improving the contribution of migration to the labour market. The other papers that make up this package and are to be considered at the same time are:
 - a. *Future direction of the immigration system: work programme overview*
 - b. *Report back on remuneration thresholds for migrants under the Skilled Migrant Category, and*
 - c. *A pathway to residence for long-term temporary migrant workers in the South Island.*
3. This paper proposes a review of temporary work visas arising out of the increase in recent years of the number of people granted Essential Skills visas that have been in New Zealand for an extended period.
4. Overall the number of temporary migrants has increased almost 50 per cent in the last 10 years. While most of that increase has been in Working Holiday and Study/Post Study visas, there are also increasing numbers of labour market tested Essential Skills visa holders who have successive visas over an extended period. An adjustment to settings now will ensure the Government's long term labour market strategy continues to function well, including by:
 - a. increasing the attractiveness to employers of New Zealanders, including beneficiaries and school leavers
 - b. incentivising employers to invest more in training and/or offering better wages and/or terms and conditions, and
 - c. Increasing incentives to shift to potentially more productive business models, and avoid the embedding of business models reliant on lower-skilled temporary workers.
5. As signalled in the recently released Building Skilled and Safe Workplaces chapter of the Business Growth Agenda, over the next year the Government will review temporary work visa settings to improve the long-term labour market contribution of temporary labour migration.
6. The review of temporary work visa settings, which focusses on the Essential Skills visa policy, is split into two phases.

7. **Phase one** focuses on managing the settlement expectations of lower-skilled migrants with no pathway to residence. The phase one proposals will stop the reoccurrence of pools of long-term temporary migrants with no pathway to residence, and therefore reduce the need for another pathway to residence for long-term temporary migrant workers in the future. I am seeking agreement in principle to the following proposals:
- a. introducing remuneration bands to determine the skill level of an Essential Skills visa holder (and their associated visa conditions), based on salary or income information (the bands would align with the proposed Skilled Migrant Category bands, to ensure skill is defined in the same way across temporary and residence policies)
 - b. introducing a maximum duration of three years for lower-skilled Essential Skills visa holders, after which there will be a minimum one year stand down period before they can apply for another lower-skilled Essential Skills visa
 - c. restricting the ability of lower-skilled Essential Skills visa holders to bring their children and partners except on visitor visas, and
 - d. reinforcing that Essential Skills visas may only be granted for the period for which the employment is offered, including making explicit how this applies to seasonal work.
8. Following Cabinet agreement, officials will carry out consultation on the phase one proposals. I will report back to EGI for final decisions on the phase one proposals in May 2017.
9. **Phase two** focuses on using the immigration system to incentivise and reward good employer behaviour. The behaviours targeted are those that will contribute to achieving the Government's strategic objectives for the labour market, including building the skill level of the workforce and filling skill shortages, while ensuring that New Zealanders are the first in line for job opportunities.
10. If agreed, the phase two proposals are expected to result in more substantial shifts in employer behaviour at the individual firm, industry and regional level. At this stage I am only seeking agreement to further work being undertaken on the phase two proposals, as they are more complex and earlier in their development than the phase one proposals.

Background

Relationship between temporary migration and the New Zealand Residence Programme

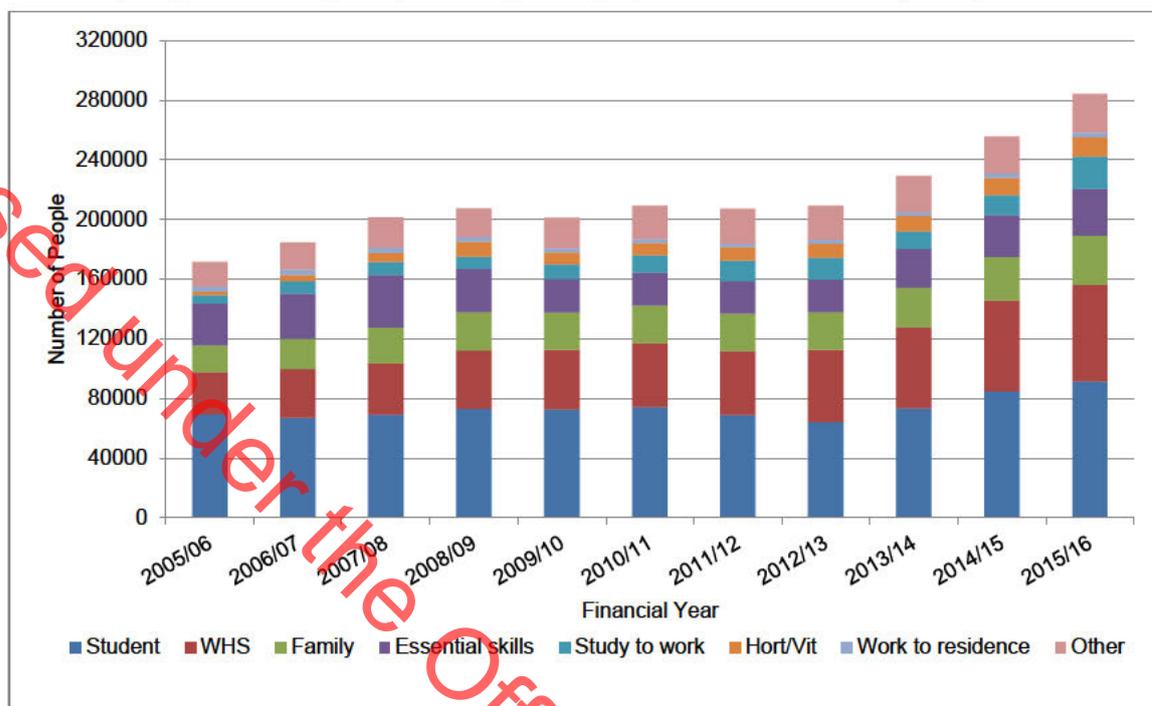
11. New Zealand has one of the highest per capita inflows of migrants in the OECD. In general, our current immigration system supports these flows well. It is important that our settings are correct and that we continue to attract a high standard of temporary migrant labour
12. The New Zealand Residence Programme (NZRP) regulates the number of residence visas that can be granted across its three streams (skilled/business, family and international/humanitarian). Cabinet agreed that the NZRP planning range is 85,000 to 95,000 people from 1 July 2016 to 30 June 2018 [STR-16-MIN-0004 refers].
13. More than 70 per cent of people granted residence in New Zealand transition from a temporary visa and are granted residence while in New Zealand. Over time, around 40 per cent of temporary workers transition to residence within three years after their first work visa (excluding working holiday makers and seasonal workers).
14. The quality and composition of temporary migration has an impact on the quality and composition of the NZRP. The recent growth in temporary visas has also led to pressure on the skilled and family streams in the NZRP.

In recent years the number of people granted visas that allow work have increased

15. In previous years, the number of people granted visas that allow work have increased. Overall, the number of temporary migrants has increased almost 50 per cent in the last 10 years. While still remaining considerably lower than the rate of approvals ten years ago, between 2014/15 and 2015/16 there was an increase of 11 per cent in Essential Skills visa

approvals (refer to Annex One for additional data on Essential Skills migrants, including stock, occupations and remuneration levels). We have also seen increases in international students (many of whom can work, but generally only for up to 20 hours per week during term time) and working holiday makers and Essential Skills visa holders. On a per capita basis our temporary migrant inflows are the highest in the OECD¹.

Figure one: People granted temporary visas by category, 2005/06-2015/16 (MBIE)²



- The Essential Skills visa policy is designed to fill specific labour market shortages which is why this review will target that visa category. Employers must demonstrate that there is a shortage by undergoing a labour market test and providing evidence that there are no domestic workers available, either with the necessary skills or that can be trained, to fill the role. Essential Skills workers work full-time (defined as 30 hours plus per week) and many are granted longer-term visas (refer to table two for Essential Skills visa lengths).

Impacts of an increasing long-standing supply of temporary migrants

- Essential Skills visa holders are an important short-term source of labour and skills where those skills are not immediately available in the local labour market. However the numbers of temporary migrants are increasing in industries with lower-skilled jobs, lower-wages and lower productivity. In light of this trend, it is important to maintain the Government's long-term labour market objectives.
- While temporary migrants make up a relatively low proportion (six per cent) of the whole labour market and may not be having a significant impact on jobs and wages for New Zealanders, there are some sectors where the share is higher and growing at a faster rate. In particular, strong increases have been seen in temporary migrants' employment in the primary, accommodation and food, retail trade, support services and construction sectors (refer to Annex One for additional data on Essential Skills migrants, including stock, occupations and remuneration levels).
- The Government's objective for migrant labour is to enable it where there is genuine need, but to ensure that New Zealanders are first in line for employment opportunities. An

¹ Recruiting Immigrant Workers: New Zealand, OECD 2014.

² It should be noted that not all student visas allow work rights. For those visas that allow work, in some categories (students, family, and working holiday schemes, in particular) migrants may be working only part time or not working at all.

adjustment to settings now will ensure the Government's long term labour market strategy continues to function well, including by:

- a. increasing the attractiveness to employers of New Zealanders, including beneficiaries and school leavers
- b. incentivising employers to invest more in training and/or offering better wages and/or terms and conditions, and
- c. increasing incentives to shift to potentially more productive business models, and avoid the embedding of business models reliant on lower-skilled temporary workers.

Previous decisions leading to review

20. Cabinet has considered two previous papers that noted that policy options would be explored on changes to the Essential Skills temporary work visa policy to ensure better alignment between immigration, welfare and education settings, and to increase incentives on employers to employ and train New Zealand workers. [STR-16-MIN-0004 and CAB-16-MIN-0500 refers].
21. The Building Skilled and Safe Workplaces chapter of the Business Growth Agenda, launched on 9 November 2016, included reference to the Government's commitment to review temporary work visa settings to improve the long term contribution of temporary labour migration. The chapter included two projects which are being incorporated into the review presented in this paper:
 - a. the Government will explore changes to temporary visa settings to ensure that employers are incentivised to attract, hire and upskill local workers, as part of the Government's objectives of improving the long-term labour market contribution of temporary and permanent labour migration, and
 - b. the Government will examine how skills shortages may be better defined and how that information can be more effectively employed across the economy and skills system, with the aim of incentivising the employment of New Zealanders and informing their skills development, while still ensuring that sectors and regions facing genuine shortages can easily get the workers they need.

Related Cabinet paper on the South Island pathway policy

22. In July 2015, Ministers with power to act agreed, subject to further policy design, to the development of a pathway to residence for long-term temporary migrants currently employed in the South Island (pathway policy). The pathway policy is aimed at a pool of long-term temporary migrants who are meeting genuine regional labour market needs but are in lower-skilled jobs and therefore have no pathway to residence.
23. A Cabinet paper proposing the detail of the pathway policy is submitted for the Committee to consider alongside this paper, as part of a package focussed on the future direction of the immigration system and improving the contribution of migration to the labour market.
24. The phase one proposals presented in this paper will stem the trend of pools of long-term temporary migrants with no pathway to residence, and therefore reduce the need for another pathway policy in the future.

Objectives and scope of the review

25. One of the objectives of the immigration system is to strike a balance between enabling labour migration where there is genuine need and ensuring that the requirements built into the system restrict access to migrant labour where there is no genuine labour or skill shortage. The system largely gets this balance right, but the increasing numbers of lower-skilled and lower-paid temporary migrants who stay for an extended period of time with no pathway to residence indicate that the existing tools and requirements to achieve that balance are in need of adjustment.

26. The system has to be both enabling and targeted to ensure that visas for migrant labour are granted with minimal regulatory overhead when the need is genuine, and that we have the right tools to restrict access to migrant labour when this needed. For example, restricting access to migrant labour where it would conflict with the Government's objectives to raise productivity and incentivise the employment and training of New Zealanders.
27. The objectives of the review are to:
- contribute to better alignment between immigration, welfare and education settings
 - incentivise employers to employ and train domestic workers before recruiting migrant labour
 - allow employers to use lower-skilled migrants where there is a genuine need
 - maintain the integrity of temporary migration by ensuring the settings do not encourage lower-skilled and lower-paid temporary migrants to become well settled, and
 - make it easier for firms to recruit higher-skilled and higher-paid migrant workers and for those migrants to remain as long as is necessary or appropriate.
28. The objective of the review is not to prevent employers from using lower-skilled migrant labour. Where employers can prove a genuine labour or skills shortage they will be able to continue to access migrant labour.
29. Annex two provides more detail on how each proposal contributes to achieving the objectives of the review.

Given the size of the review, it will be approached in two phases

30. **Phase one** is directly related to addressing the visa settings that led to the need for a South Island pathway policy. The proposals are relatively straight-forward to implement and, once implemented, will ensure that temporary migrants with no pathway to residence cannot stay here indefinitely. I am seeking agreement in principle, subject to consultation, to the proposals set out in phase one.
31. Phase one aims to achieve the following outcomes to remove any future need for another pathway policy:
- Ensure that temporary migrants (and their families) in lower-skilled jobs, who are not able to qualify for residence, do not become so well-settled here that a return to their home country becomes problematic
 - Use salary to target the visa settings that allow migrants to become well-settled to those that are more likely to be eligible to transition to residence, and
 - Reinforce that essential skills may only be granted for the period for which the employment is offered, and how this applies to seasonal work.
32. **Phase two** will investigate ways to leverage the opportunity that the immigration system provides to incentivise and reward employer behaviour in order to help achieve the Government's strategic objectives for the labour market. The phase two proposals are expected to result in shifts in employer behaviour at the individual firm, industry and regional level. At this stage I am only seeking agreement to further work being undertaken on the phase two proposals, as they are more complex and earlier in their development than the phase one proposals.

Phase one: ensure that lower-skilled temporary migrants without a residence pathway cannot stay here indefinitely

Proposal one: introduce remuneration bands to determine the skill level of an Essential Skills visa holder

Status quo: skill level based on job description and ANZSCO

33. Currently the skill level of an Essential Skills visa holder's occupation is determined based on their job description, with reference to the Australian and New Zealand Standard Classification of Occupations (ANZSCO). The ANZSCO level of an Essential Skills visa holder's occupation determines how the labour market test is required to be met (for example whether a Skills Match Report from Work and Income is required).
34. The ANZSCO level is also used to determine the maximum length of the Essential Skills visa the applicant is eligible for (see Table two below). The more highly-skilled the ANZSCO level of the occupation, the longer the visa.
35. ANZSCO provides an objective and consistent classification of occupations. However, it is often not an accurate description of the actual level of skill required for a particular job or the skills of a person employed in a particular role. It cannot be easily used to differentiate between senior and junior roles (particularly in managerial positions). Nor is it an exhaustive list of all occupations, especially in new or developing fields.
36. It is important that the settings are adjusted to prevent applicants and employers from inflating job titles in order to get the benefits associated with a more highly skilled occupation (i.e, longer visa duration and not having to get a Skills Match Report from Work and Income). For example, in 2012/13, 23.6 per cent of Essential Skills workers earned less than \$35,000 a year, but approximately 3.1 per cent of these (80 workers) were retail managers, an ANZSCO level 2 occupation. Based on feedback from frontline staff it is likely that the majority of these low-paid managers are in fact retail supervisors, an ANZSCO level 4 job, which means they should be eligible for a shorter visa duration.

Proposal: skill level based on job description and remuneration

37. I recommend introducing remuneration bands to determine the skill levels of Essential Skills visa holders and their associated visa conditions. The bands would align the definition of a lower-skilled Essential Skills visa holder with the proposed new definition of skilled employment under the Skilled Migrant Category (SMC) (refer to Cabinet paper being considered alongside this one, *Report back on remuneration thresholds for migrants under the Skilled Migrant Category*). These bands would be indexed and updated annually.
38. Introducing income to determine the skill level of Essential Skills workers would also enable immigration officers to distinguish between higher- and lower-skilled applicants within the same occupation, mitigate job-title inflation, and more accurately reflect the skill level of some higher-skilled, higher-paid workers in occupations currently classified as lower-skilled by ANZSCO.
39. Income or salary information would replace the use of ANZSCO as the first indicator of skill. However, ANZSCO would still have a role in the assessment of whether that income is appropriate. The existing requirement to pay market rates would be retained.

Table two: Current and proposed skill level determination and visa duration

Skill level	Duration of visa	Current determination ³	Proposed determination ⁴
Higher-skilled	Up to five years	ANZSCO skill level 1 and earns NZ\$55,000 or more p/a AND Migrant has not received a five year Essential Skills Work Visa before	Any ANZSCO level AND Earns above 1.5 time the New Zealand median full-time equivalent earnings (Currently \$35.24 per hour or \$73,299 per annum).
Mid-Skilled	Up to three years	ANZSCO skill level 1 but earns less than NZ\$55,000 p/a	ANZSCO skill level 1-3

³ Visa durations are also differentiated by whether the migrant works in Canterbury or for Labour Hire firms.

⁴ Assuming a 40 hour work week for per annum remuneration.

		OR ANZSCO skill level 1 and earns NZ\$55,000 or more p/a, but has received a five year Essential Skills Work Visa before	AND Earns above the New Zealand median full-time equivalent earnings (Currently \$23.49 per hour or \$48,859 per annum)
		ANZSCO skill level 2 or 3	
Lower-Skilled	Up to one year	ANZSCO skill level 4 or 5	ANZSCO skill level 1-3 AND Earns less than the NZ median full-time equivalent earnings (Currently \$23.49 per hour or \$48,859 per annum)
			ANZSCO skill level 4 or 5 AND Earns less than 1.5 times the median full-time equivalent earnings (Currently \$35.24 per hour or \$73,299 per annum).

40. The entry point to the band for **mid-skilled** Essential Skills visa holders is the same as the minimum salary threshold being proposed for the SMC (refer to the Cabinet paper being considered alongside this one, *Report back on remuneration thresholds for migrants under the Skilled Migrant Category*).
41. The entry point to the band for **higher-skilled** Essential Skills visa holders is the same as the salary thresholds being proposed for highly skilled employment for the SMC. For Essential Skills visa holders earning above 1.5 times the median full-time equivalent earnings and working in ANZSCO level 3-5 occupations, they would be required to have qualification and work experience requirements equivalent to a skill level one occupation (either a qualification above level 7 or above on the New Zealand Qualification Framework or at least five years of relevant work experience).
42. Aligning the definition of mid- and higher-skilled Essential Skills migrants with the SMC would mean that the temporary migrants given the opportunity to become well settled (through longer visa durations) would be those more likely to be eligible to transition to residence through the SMC.
43. Further detail about the proposed remuneration thresholds is set out in Annex Three: Proposed remuneration thresholds for Essential Skills visas and associated visa conditions.

Impact⁵

44. Using remuneration to determine skill would increase the numbers of Essential Skills visa holders classified as lower-skilled, but would not prevent employers from using lower-skilled migrant labour where they are faced with a labour shortage. Where the labour market test is met, employers will still be able to access lower-skilled migrant labour, but with the understanding that the worker would not have a pathway to residence (see paragraphs 50-53).
45. The introduction of a remuneration threshold for the SMC would increase the number of potential Essential Skills workers without a pathway to residence. Around half of Essential Skills visa holders would be in the proposed remuneration band for lower-skilled workers. The top occupations that would fall into this band include chefs, dairy cattle farm workers,

⁵ These estimates are based on previous years' approvals and income data from migrants approved in 2012/13 (the most recent data available).

café or restaurant managers, and retail managers, which are also the lowest-paid of the high volume SMC occupations.

46. Around a third of Essential Skills visa holders would be in the proposed remuneration band for mid-skilled workers. The top occupations that would fall into this band include carpenters, registered aged care nurses and painting trade workers. These workers are likely to be eligible for residence through SMC.
47. Around 10 per cent of Essential Skills visa holders would be in the proposed remuneration band for higher-skilled workers. The top occupations that would fall into this band include resident medical officers, general practitioners, and developer programmers. These workers are likely to be eligible for residence through SMC.

Proposal two: introduce a maximum duration for holders of Essential Skills visas granted for lower-skilled jobs

Status quo: no limit of the number of times a migrant can be granted an Essential Skills visa

48. Lower-skilled Essential Skills workers, currently defined as ANZSCO level 4 and 5, can only be granted visas of up to one year's duration. There is however currently no limit on the number of times a migrant can be granted an Essential Skills visa, as long as they continue to meet the labour market test⁶.
49. Temporary migrants in ANZSCO level 4 and 5 occupations are not likely to meet the skill threshold for SMC and therefore do not have a pathway to residence. The lack of a limit on subsequent Essential Skills visas has led to a pool of long-term temporary migrants who are meeting genuine regional labour market needs but have to reapply for visas regularly. These migrants and their families have become well-settled but have to deal with uncertainty about their ability to remain in New Zealand. This scenario has led to the need for a South Island pathway policy (refer to the Cabinet paper being considered alongside this one, *A pathway to residence for long-term temporary migrant workers in the South Island*).

Proposal: a three year maximum duration for lower-skilled Essential Skills visa holders

50. The introduction of a maximum duration that Essential Skills visa holders can spend on a lower-skilled visa would remove the ability for migrants to stay indefinitely in New Zealand if they do not have a pathway to residence.
51. I recommend a three year maximum duration, with a one year stand down period. Once a lower-skilled Essential Skills visa holder has reached the maximum number of years in New Zealand, they must either transition to a mid- or higher-skilled Essential Skills visa, or spend a year outside New Zealand before they are able to apply for another lower-skilled Essential Skills visa.
52. The objective of this change is to ensure that Essential Skills visa holders who are unlikely to have a pathway to residence do not become settled in New Zealand. It would reinforce the temporary nature of the visa and manage the settlement expectations of lower-skilled Essential Skills migrants.
53. If a maximum duration is agreed to it will apply to lower-skilled Essential Skills visa holders, as defined in the previous section (see paragraphs 37 to 43). For existing Essential Skills visa holders, the change would not be applied retrospectively, but would impose a three year maximum duration from the date their next lower-skilled Essential Skills visa is granted.

Impact

54. Two options were considered for the maximum duration for lower-skilled Essential Skills visa holders: two years or three years.
55. A maximum duration of three years provides a balance between giving visa holders the opportunity to transition to a more highly-skilled Essential Skills visa or obtain residence,

⁶ The labour market test requires the employer to satisfy an immigration officer that they have made genuine attempts to recruit or train domestic workers, and when filling a lower-skilled role they are required to advertise with Work and Income and be issued a Skills Match Report before the employer can approach INZ to recruit a migrant worker.

while also ensuring that migrants with no pathway to residence do not become well-settled in New Zealand. It also provides employers with sufficient time to recruit new staff or upskill existing staff to fill the role.

56. The introduction of a maximum duration will stop the reoccurrence of pools of long-term temporary migrants with no pathway to residence, and therefore reduce the need for another pathway policy in the future.

Table three: Indicative impacts of introducing a maximum duration on lower-skilled Essential Skills visa holders in 2015/16⁷

	Affected ES visa holders in 2015/16	Top 5 sectors (# of lower-skilled ES visa holders)	Top 5 regions (# of lower-skilled ES visa holders)
Three year maximum duration	In 2015/16 1708 lower-skilled ES migrants held visas for three years or more ⁸	Aged or Disabled Carer (277) Retail Supervisor (143) Truck Driver (General) (210) Personal Care Assistant (61) Forestry worker (61)	Canterbury (503) Auckland (423) Otago (357) Marlborough (94) Wellington (62)

57. In 2015/16 there were 7093 workers that had held an Essential Skills visa for 3 years or more and of these 1,708 (24 per cent) would have been affected if a maximum duration applied and was set at 3 years. This uses ANZSCO 4 and 5 as a proxy for lower-skilled Essential Skills visa holders, to give an indication of those migrants that would be affected by the maximum duration. If the proposed remuneration thresholds are agreed to, this will increase the number of Essential Skills visa holders affected by the maximum duration.
58. For firms this may increase their costs of recruitment, as they will be recruiting more regularly. For firms that continue to hire lower-skilled migrants, this may reduce their productivity, as they will lose the skills of their experienced migrant workers and the new workers would likely be less productive. Alternatively feedback from some employers is that they do not invest in their temporary migrant staff, due to the uncertainty of the length of time the migrant will be with the firm, which could already reduce the productivity (through lack of development opportunities) of migrant workers.
59. The increased cost of continuing to hire lower-skilled Essential Skills workers may incentivise some employers to invest more in training New Zealanders and make employing New Zealanders more attractive.
60. The immediate impact of introducing a maximum duration will be lessened by the South Island pathway policy. It is estimated that around 3,200 to 4,000 people could be eligible for the South Island pathway policy. Of this number around 1,600 are long-term temporary workers in the South Island that have been on an Essential Skills visa for five years or more.
61. Additionally, for people already on Essential Skills visas, their three years would start from the next Essential Skills visa they are granted following implementation. As a result there would not be an immediate disruptive impact of introducing a maximum duration.

Proposal three: restrict the ability of lower-skilled Essential Skills visa holders to bring their partners and children

Status quo: all Essential Skills visa holders can support the visa applications of their family

62. Currently, partners of Essential Skills Visa holders may be eligible for either a Partner of a Worker work visa (with open work rights) or a Partner of a Worker visitor visa. Both visas allow the partner to stay in New Zealand for the same duration as their partner's Essential Skills work visa. There is no salary threshold required for this. Where the principal applicant

⁷ Table three above uses ANZSCO 4 and 5 as a proxy for lower-skilled Essential Skills visa holders, who are those migrants that would be affected by the maximum duration.

⁸ Note that if the proposed remuneration thresholds are agreed to, this will increase the number of Essential Skills visa holders the maximum duration will be applied to.

is working in a lower-skilled occupation, the accompanying partner with a Partner of a Worker work visa is also likely to be in lower-wage, lower-skilled work.

63. Essential Skills visa holders earning \$36,850.44 per annum or above are able to bring their children with them for the length of their Essential Skills visa. Children of Essential Skills workers are eligible for a Dependent Child Student visa and can study at a primary or secondary school in New Zealand and are treated as a domestic student, which means they do not have to pay international student fees. They are required to transition to a visa in their own right when they no longer qualify as dependants.
64. Family members without a pathway to residence can become well-settled in New Zealand and lose ties with their home country, without the rights of New Zealand residents. Lower-skilled Essential Skills visa holders can be required to leave at short notice. In most cases tax paid by the family will be less than the education and health benefits they receive.
65. The average cost of Government funding per student in 2015 (this is the most up to date information) was \$5,923.65 per year for primary education and \$7,606.97 per year for secondary education. A significant proportion of migrant students will speak English and may not have need for English for Speakers of Other Languages (ESOL). For those who do have ESOL needs, the costs are dependent on the student's migrant status, their year level in school and how long they have already received ESOL. The average ESOL cost for primary school children of migrants (including Essential Skills visa holders) is \$746 per year, the average ESOL cost for secondary school children is \$1,046 per year. These students are eligible for five years of ESOL.
66. For migrant students in Early Childhood Education (ECE), aged 0-5 the costs to the government will depend on how many hours they attend early learning, what type of provision they attend and how old they are. The average government expenditure in 2015 was \$9,473 per child based on a child attending 1,000 hours in a year (which is greater than primary or secondary education). The Ministry of Education does not differentiate between domestic and international fees for ECE, every child in this age group can enrol in ECE and the Crown subsidises the provider for that child. This applies to all children in New Zealand, regardless of their visa situation.

Proposal: lower-skilled Essential Skills visa holders cannot support the visa applications of their family

67. I recommend that partners of lower-skilled Essential Skills visa holders no longer be eligible for either a family-based work visa or visitor visa based on their relationship. Partners of lower-skilled Essential Skills visa holders would still be able to come to New Zealand if they met the requirements for a visa in their own right, i.e. a work visa with a labour market test, or as a short-term visitor.
68. I recommend that primary and secondary school age children of lower-skilled Essential Skills visa holders no longer be eligible for a student visa with conditions containing 'Domestic Student' based on their parents Essential Skills visa⁹. Children of lower-skilled Essential Skills visa holders would still be able to come if they met the requirements for a visa in their own right, including as a fee-paying international student, or as a short-term visitor.
69. Restricting the ability of lower-skilled Essential Skills visa holders to bring their partners and children will reinforce the temporary nature of the visa, and reduce expectations of settlement from temporary migrants with no pathway to residence.

⁹ This is the current eligibility criteria the Ministry of Education uses to assess whether the child of a migrant holding a work visa may be treated as a domestic student: <http://www.education.govt.nz/ministry-of-education/publications/education-circulars/2012-circulars/circular-201201-eligibility-to-enrol-in-new-zealand-schools/appendix-c-domestic-students-time-bound/#1>

Impact

Table four: Indicative impacts of restricting the ability of lower-skilled Essential Skills visa holders to bring their family in 2015/16¹⁰

Option	Affected secondary visa holders in 2015/16 ¹¹	Top 5 sectors (# of partners/children)	Top 5 regions (# of partners/children)
Restrict the ability for lower-skilled ES visa holders to bring their partners	<p>Approx. 1,150 Partner of a Worker work visas were linked to an ANZSCO 4 & 5 ES visa holder</p> <p>That is 24.7% of all Partner of a Worker <u>work</u> visas linked to all ES visa holders</p>	<p>Aged or Disabled Carer (151)</p> <p>Truck Driver (General) (126)</p> <p>Retail Supervisor (108)</p> <p>Dairy Cattle Farm Worker (54)</p> <p>Personal Care Assistant (45)</p>	<p>Auckland (346)</p> <p>Canterbury (376)</p> <p>Otago (173)</p> <p>Wellington (52)</p> <p>Marlborough (41)</p>
Restrict the ability for lower-skilled ES visa holders to bring their children	<p>Approx. 500 dependent student visas were linked to an ANZSCO 4 & 5 ES visa holder</p> <p>That is 26.4% of all dependent student visas linked to all ES visa holder¹²</p>	<p>Truck Driver (General) (76)</p> <p>Aged or Disabled Carer (67)</p> <p>Dairy Cattle Farm Worker (21)</p> <p>Retail Supervisor (17)</p> <p>Bus Driver (14)</p>	<p>Canterbury (163)</p> <p>Auckland (101)</p> <p>Otago (42)</p> <p>Wellington (28)</p> <p>Marlborough (15)</p>

70. We cannot model lower-skilled Essential Skill holders according to the new remuneration bands for determining skill levels, so these impacts are modelled using ANZSCO 4 and 5 Essential Skills holders as a proxy. If the proposed remuneration thresholds are agreed to, this will increase the number of partners and children of Essential Skills visa holders affected.
71. These changes would reduce the numbers of secondary applicants associated with Essential Skills visa holders in New Zealand. It is likely to discourage some lower-skilled Essential Skills visa holders from coming to New Zealand, or becoming well settled, but not significantly reduce the numbers of principal Essential Skills applicants. It may impact some rural school rolls and it is likely to reduce the demand for ESOL teaching.
72. The government's subsidy for ECE applies to all children in New Zealand, regardless of their visa situation, and the Ministry of Education does not differentiate between domestic and international fees for ECE. Dependent children aged 0-5 of Essential Skills visa holders will no longer be eligible for a long-term visitor visa as the dependent of a work visa holder if their parent is on a low-skilled Essential Skills visa. They will still be eligible for short-term visitor visas, and may access ECE for that period, however that would be limited by the length of their visitor visa. Visitors to New Zealand are limited to a maximum stay on a visitor visa of nine months, unless they met certain criteria, and most visitor visas are shorter than the maximum. Dependent children aged 0-5 will not be issued with a visitor visa (or have access to ECE) for the full period that their parent is in New Zealand on a lower-skilled Essential Skills visa.
73. Research from 2013 showed that family category migrant employment is associated with statistically significant negative impacts on hiring of youth and beneficiaries¹³. Removing eligibility for visas for partners of lower-skilled Essential Skills visa holders would potentially provide more opportunities for local workers to take on those roles, where they are available.

¹⁰ Note that there are limitations to this data, and a number of assumptions were used to produce indicative impacts. There are a significant number of dependent visas that are not linked to any principal visa holder.

¹¹ We cannot model lower-skilled Essential Skill holders according to the new remuneration bands for determining skill levels, so these impacts are modelled using ANZSCO 4 and 5 Essential Skills holders as a proxy.

¹² In 2015/16 there were 4653 dependent student visas linked to an Essential Skills visa.

¹³ Keith McLeod and David Mare (2013) *The rise of temporary migration in New Zealand and its impact on the labour market*. MBIE:Wellington.

74. It is proposed that limits on lower-skilled workers bringing families would only apply to first-time applicants. New lower-skilled Essential Skills workers would take up employment in New Zealand with a full understanding that they would not be able to bring their family.
75. The partners or children of lower-skilled Essential Skills work visa holders already in New Zealand would not be immediately affected, although their ability to stay in New Zealand would be limited to a maximum of three years applied to the principal Essential Skills visa holder. This would minimise immediate disruption to families and communities.

Proposal four: reinforce that Essential Skills visas may only be granted for the period for which the employment is offered, and how this applies to seasonal work

Status quo

76. Essential Skills visas are granted for the period for which the employment is offered, up to a maximum length determined by their skill level. Visas are often granted for less time than the maximum length due to the offer of employment being shorter.
77. For seasonal workers on Essential Skills visas, the period for which the visa is granted should be for the period of employment, i.e. the season. However, this has been inconsistently applied and some employers in seasonal industries have been offering periods of employment for a full year in order to avoid the need for workers to leave New Zealand or obtain a different visa in the off-season.

Proposal

78. I recommend strengthening the existing requirement that Essential Skills visas only cover the period for which the employment is offered. Changes would be made to Immigration Instructions to make it explicit that for seasonal workers the period of employment must be restricted to the length of the season, by listing seasonal occupations and the maximum duration of the associated season(s).
79. This will mean that, at the end of the season, workers would be required to leave New Zealand, or obtain a different type of visa, but could return the following year, provided there continued to be a shortage of New Zealand workers.
80. Until the change in Instructions comes into force, Immigration New Zealand (INZ) will reiterate to front line staff that when issuing Essential Skills visas to seasonal workers, the visa is only meant to cover the length of the season. INZ will also use its stakeholder relationships to signal this expectation to relevant sectors.

Impact

81. A significant number of temporary work visas are already issued on a seasonal basis, and as this is an existing implicit requirement the impact of this change is likely to be small.
82. The list of seasonal occupations, and the length of seasons, will be tested through the consultation process. The list of seasonal occupations could include:
- a. rural contractors (e.g. tractor drivers, combine harvester drivers, silage/haylage workers)
 - b. meat workers (i.e. Halal slaughterers)
 - c. adventure tourism staff
 - d. shearers and shed hands
 - e. ski season staff (includes instructors and other staff who work on the fields)
 - f. winery staff (vineyard workers and cellar hands), and
 - g. fishing.

Compliance and verification for phase one proposals

83. To ensure that the proposed changes achieve the objectives, consideration needs to be given to verification and compliance. The introduction of remuneration bands places more importance on income or salary information.
84. Officials will work on ways to ensure compliance is improved and lower the likelihood of falsified salary offers. Immigration officers are already required to be satisfied that the job offer is for genuine, sustainable and full-time employment. This requirement could also be used to verify the remuneration rate in the employment agreement when an Essential Skills visa is first issued.
85. INZ would also ensure that, where an employer is found to have falsified the salary offer in a previous Essential Skills visa application they are not able to access migrant labour. The Labour Inspectorate and INZ are working together on a new mechanism to ensure the information shared between the two regulators concerning employer compliance with employment standards can be transparently and consistently incorporated into immigration decisions.

Transition to new settings for phase one proposals

86. I intend for these changes to be implemented in July 2017 and will report back to Cabinet for final decisions on the phase one proposals in May 2017.
87. The proposal introducing a maximum duration will apply to all new lower-skilled Essential Skills applicants and all existing Essential Skills visa holders when they apply for a further Essential Skills visa.
88. The new settings restricting the access of children and partners will only be applied to new Essential Skills visa applications and not to children or partners of Essential Skills visa holders who already hold temporary visas. In time, those partners and children of Essential Skills visa holders will leave the country if they do not have a pathway to residence, as the maximum duration will apply to the principal Essential Skills visa holder.
89. For the proposals relating to the introduction of remuneration settings and seasonal work, this will be signalled to industries and stakeholders ahead of the implementation date and will apply to all new (and subsequent) Essential Skills visa applications.

Phase two: further improvements to temporary visa settings

Additional changes to temporary visa settings to improve the contribution of immigration to the labour market

90. Phase two focuses on long-term proposals to improve temporary visa settings to ensure they reflect the Government's wider objectives to lift skill levels and incomes. These additional changes require more work to design and implement, and to determine the likely impact.
91. Phase two focuses on leveraging the opportunity that the immigration system provides to incentivise desired behaviour from employers at the individual firm, industry and regional level. It proposes to do this by shifting the emphasis of the visa process to the assessment and accountability of the employer. It also proposes adjusting the pathways to access Essential Skills workers to incentivise the Accredited Employers¹⁴ process, and reducing the relative attractiveness of other pathways to Essential Skills visas.
92. I seek agreement that further work is undertaken on the following proposals, as part of phase two of the review:
 - a. adjusting the pathways available to access Essential Skills workers to incentivise more employers to become accredited

¹⁴ Accredited employers are able to employ skilled migrant workers without first having to check if any New Zealanders can do the work. Employers are assessed on their workplace practices, financial position and human resources. INZ may also consult with other government agencies when assessing the employer. They must take direct responsibility for the workers you employ, for their work and you must pay a minimum base salary of \$55,000.

- b. exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages
- c. expanding the existing Accredited Employer (Labour Hire) programme nationwide
- d. strengthening the existing Essential Skills requirements to train and recruit local workers
- e. reviewing the process for occupations being added to, and remaining on, the Essential Skills in Demand lists, and
- f. exploring whether further changes should be made to requirements for seasonal Essential Skills visa holders and their employers.
93. Proposal *a.* will target employer behaviour at the firm level, by enabling more employers to become Accredited Employers while also ensuring that the assessment of Accredited Employers and audit and monitoring processes are appropriately robust. This will reward Accredited Employers by making it easier to recruit higher-skilled and higher-paid migrant workers and easier for those migrants to stay here when they come through the Accredited Employer pathway. By comparison the other pathways to Essential Skills visas will seem less attractive, and all pathways will have a greater emphasis on the assessment and accountability of the employer.
94. Proposal *b.* will identify options for targeting immigration settings at the regional level to address persistent shortages of either skills or labour, where the region has taken reasonable steps to address the shortage. This could involve including a regional dimension in defining the criteria for, and application of, Essential Skills visas, or introducing exemptions to certain temporary visa requirements where there are persistent localised labour shortages that cannot be filled because of sheer lack of people. Difficulty in attracting reliable lower-skilled labour is identified as an obstacle in areas such as the dairy industry in Southland and in the hospitality and retail industries in Queenstown. Some regions have targets for population growth that are not supported by existing immigration settings.
95. Proposal *c.* also targets employer behaviour at the firm level by requiring all labour hire firms nationwide to become accredited under the Accredited Employer (Labour Hire) policy before they are able to employ Essential Skills migrants. Currently labour hire firms are only required to be an Accredited Employer if they operate in Canterbury.
96. Proposal *d.* is targeted at strengthening existing requirements to employ and train domestic workers before using temporary migrants in lower-skilled and lower-waged jobs. This will consider how the existing requirements can be strengthened at the individual firm level, and at the industry level. The proposal includes consideration of whether to introduce a requirement for workforce development, and whether audit processes are required to ensure existing requirements are being met.
97. Proposal *e.* will target employers at the industry level and will involve reviewing the process for occupations being added to, and remaining on, the Essential Skills in Demand (ESID) lists¹⁵. The development of this proposal will explore whether other non-immigration responses are required when an occupation is added to the ESID lists (i.e an education or welfare response). This will include considering Government's role in responding to skills shortages, including through the Sector Workforce Engagement Programme (SWEP) and in improving the responsiveness of education and training.
98. A review of the ESID process would address concerns that:
- the development of the lists is susceptible to industry pressure
 - the lists may not be effectively incentivising industry to increase workforce development and training

¹⁵ The ESID lists identify occupation shortages and facilitate temporary migration in those occupations, by not requiring the completion of a labour market test. The lists are intended to help New Zealand meet its skill needs by facilitating the entry of appropriately skilled migrants to fill occupation shortages while ensuring this does not negatively affect employment opportunities for New Zealanders.

- c. placement on one of the lists does not automatically trigger a response from industry or other supply levers such as welfare, education, or training, and does not identify other ways to address shortages, and
- d. the operational use of the lists is complex, making it difficult for immigration officers to operate and adding to the difficulty employers and applicants have in understanding the system.
99. Proposal *f.* will explore whether further changes should be made to the requirements of Essential Skills visas for seasonal workers and their employers, for example incorporating more seasonal workers into programmes modelled on the Recognised Seasonal Employer (RSE) Scheme. The RSE scheme enables horticulture or viticulture firms who cannot find New Zealand workers, and who meet specified standards, to access seasonal migrant labour.
100. I have directed officials to monitor the outcomes of phase one and the associated impacts of the changes to the SMC, and these will be taken into account before any final recommendations are made about phase two proposals.

Consultation

101. The following agencies have been consulted this paper and their views have been incorporated: the Department of Internal Affairs, the Ministry of Education, the Ministry of Foreign Affairs and Trade, the Ministry of Health, the Ministry for Primary Industries, the Ministry of Social Development, the Treasury, Education New Zealand, the Tertiary Education Commission, and the New Zealand Qualifications Authority. The Department of Prime Minister and Cabinet was informed.
102. No public consultation has been undertaken on the proposed changes to the Essential Skills visa policy yet. I recommend that targeted consultation is undertaken on all proposals of the review before they are implemented. Consulting will help to ensure that there are no unintended consequences and would help to better quantify the likely impacts of the changes, including across sectors and regions.
103. Consultation will be undertaken on a targeted basis with a similar range of stakeholders to the recent SMC consultation, including Business New Zealand, the Council of Trade Unions (CTU), regional economic development agencies and councils, and industry groups.
104. I am seeking agreement to the phase one proposals, subject to consultation, and agreement for officials to undertake public consultation. I will report back to Cabinet on the outcome of the consultation process and the final recommendations about the phase one proposals.
105. At this stage I am seeking agreement for further work to be undertaken on phase two, and I intend to take the same approach to consultation as for phase one. Consultation on the phase two proposals will help ensure that the impacts and interactions with changes to the SMC and phase one changes is well understood.

Financial Implications

106. There are no financial implications from these proposals. Any change in third party fees and levies would be offset by the corresponding change in work volumes. Changes to visa settings would have implementation costs, including systems changes. These can be met from existing baselines.

Human Rights, Legislative, and Regulatory Implications

107. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act of 1993. There are no legislative implications.

Implementation and Publicity

Implementation of phase one

108. The changes proposed for phase one can be implemented from July 2017, so long as final Cabinet decisions, following consultation, are made by May 2017 and are not significantly different from proposals.
109. I will provide further details about the implementation of phase one in the Cabinet report back following the consultation process.
110. All of the proposals require changes to Immigration Instructions. Guidance and training will be provided to front-line staff to ensure that the changes are applied consistently.
111. Consideration is needed as to when the changes are announced and when they come into force. If there is a gap between the announcement and the implementation date there is a risk that there will be an increase in applications as migrants and their employers want their visas to be issued prior to the rules changing. It is also important to give employers and migrants sufficient time to understand the new settings in order to ensure a smooth transition.

Implementation of phase two

112. Further work will be carried out on the detail, the operational feasibility and the likely impact of the options for phase two. Officials will investigate what operational resource and capability is needed, and whether there are any additional costs associated with these proposals.

Publicity

113. I intend to make a public announcement about the outcome of the review once final Cabinet decisions are made on phase one of the review, following the consultation period.

Recommendations

114. The Minister of Immigration recommends that the Cabinet Economic Growth and Infrastructure Committee:
 1. **Note** that this paper is one part of a package that is focussed on the future direction of the immigration system, and improving the contribution of migration to the labour market. The other papers that make up this package are:
 - a. *Future direction of the immigration system: work programme overview*
 - b. *Report back on remuneration thresholds for migrants under the Skilled Migrant Category, and*
 - c. *A pathway to residence for long-term temporary migrant workers in the South Island*
 2. **Note** that the proposed review will be split into the following two phases:
 - a. **Phase one** focuses on ensuring that cohorts of lower-skilled temporary migrants who do not have a pathway to residence cannot stay here indefinitely, and
 - b. **Phase two** focuses on using the opportunities the immigration system provides to incentivise and reward good employer behaviour
 3. **Agree in principle**, subject to the result of consultation, to the following proposals that make up phase one of the review:
 - a. introduce remuneration bands to determine the skill level of an Essential Skills visa holder (and their associated visa conditions), based on salary or income information

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- b. introduce a maximum duration of three years for lower-skilled Essential Skills visa holders, after which there will be a one year stand down period before they can apply for another lower-skilled Essential Skills visa
 - c. restrict the ability for lower-skilled Essential Skills visa holders to bring their children and partners, except on visitor visas, and
 - d. reinforce that Essential Skills visas may only be granted for the period for which the employment is offered, including making explicit what seasonal occupations this applies to
4. **Agree** that officials undertake public consultation in the proposals above in recommendation 3
 5. **Note** that following consultation I will report back to EGI in May 2017 with feedback from submitters and final recommendations
 6. **Note** that the phase two proposals are more complex and earlier in their development than phase one but, if agreed, they are expected to result in more substantial shifts in employer behaviour at the individual firm, industry and regional level
 7. **Agree** that further work is undertaken on the following proposals as part of phase two of the review.
 - a. adjusting the avenues available to access Essential Skills workers to incentivise more employers to become accredited
 - b. exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages
 - c. expanding the existing Accredited Employer (Labour Hire) programme nationwide
 - d. strengthening the existing Essential Skills requirements to train and recruit local workers
 - e. reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists, and
 - f. exploring whether further changes should be made to requirements for Essential Skills visas for seasonal workers and their employers.

Authorised for lodgement

Hon Michael Woodhouse
Minister of Immigration

Annex One: Additional data on Essential Skills migrants

1. The tables below show the visa categories that made up temporary visas granted with work rights in the last ten years.

Number of first time visas granted per year (Principal applicant only)

Work Policy	06/07	07/08	08/09	09/10	10/11	11/12	12/13	013/14	14/15	15/16
Essential Skills	14,612	16,118	10,707	5,165	5,594	6,103	6,235	7,948	7,701	8,329
WHS	32,224	34,080	38,082	38,462	41,839	41,560	47,168	53,134	59,725	63,233
Family	10,333	12,146	12,529	9,163	8,841	9,636	9,705	10,549	12,126	14,522
Study to work	6,263	5,842	5,821	6,966	7,354	9,295	9,131	6,260	9,610	16,097
RSE	3,500	4,761	6,197	3,211	2,657	2,546	2,282	2,085	2,126	2,318
Other Work	15,934	16,629	14,443	14,043	15,208	15,463	15,385	16,498	17,333	18,622
Totals	82,866	89,576	87,779	77,010	81,493	84,603	89,906	96,474	108,621	123,121

Source: Immigration Application Management System as at 10 August 2016

Number of total visas granted per year (Principal and Secondary applicants)

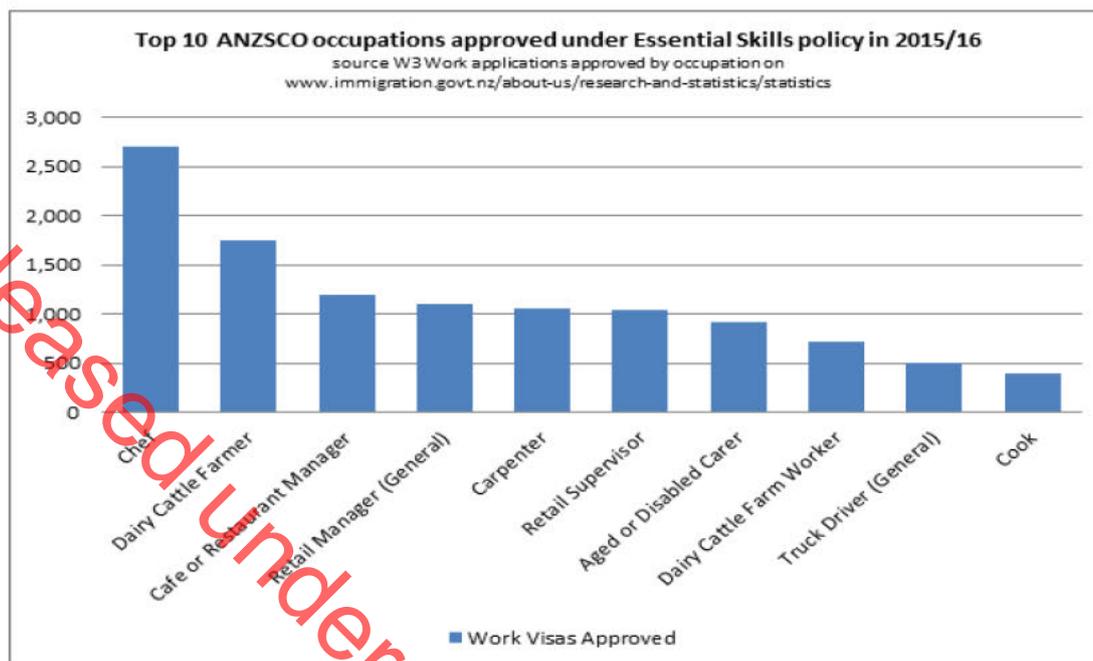
Work Policy	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	2014/15	2015/16
Essential Skills	45,213	53,313	43,414	33,619	27,368	23,570	23,950	28,057	30,213	33,545
WHS	33,051	35,644	40,345	41,216	44,813	45,058	50,827	57,622	64,524	69,051
Family	30,192	34,040	36,031	35,833	30,995	27,307	27,135	28,362	30,960	35,286
Study to work	8,742	10,772	10,325	12,169	10,009	14,166	15,468	12,222	14,190	22,899
RSE	5,575	6,593	10,431	7,771	7,710	7,930	8,255	8,529	9,314	9,904
Other Work	38,477	41,307	36,807	36,247	40,186	33,506	32,904	35,524	36,818	38,821
Totals	161,250	181,669	177,353	166,855	161,081	151,537	158,539	170,316	186,019	209,506

Source:immigration.govt.nz statistics up to 31 July 2016

Principal applicants are those who have been granted a work visa. Secondary applicants are the family members of Principal applicants. Note: Total visas includes multiple visas for some individuals

2. Figure two below shows that, of the top 10 of all ANZSCO occupations approved under the Essential Skills policy, two of the occupations are also on the ESID Lists (chef and dairy cattle farmer). Of the 33, 546 visas approved under Essential Skills policy in 2015/16, the top 10 occupations accounted for 11,377 (34 per cent) of those visas.

Figure two: Top 10 ANZSCO occupations approved under Essential Skills policy in 2015/16



3. Figure three below shows that across all skill levels (according to the definition used in the New Zealand Income Survey (NZIS)) recent migrants earned below their New Zealand born equivalents. This data came from the 2016 NZIS. This extraction excludes respondents who did not state their country of birth.

Figure three: Regular hourly earnings of NZ born workers and recent migrant workers from their main job (source: NZIS 2016)

Regular hourly earnings from main job				
	Skill Level	Median \$		Median \$
NZ Born	Highly skilled	31.2	Recent migrants	29.1
	Skilled	26.0		24.0
	Semi-skilled	24.0		20.0
	Lower-skilled	21.3		18.5
	Unskilled	17.8		15.8

4. Figure four below shows the distribution of Essential Skills visa holders who had their visa granted in 2012/13, across different income levels. This data comes from the Integrated Data Infrastructure (IDI) managed by Statistics New Zealand. The data shows that the majority of Essential Skills workers (65.5 per cent) earned below \$55,000 per annum and the largest earnings cohort was also the lowest, and reflects the trend of the four previous years. The percentage of Essential Skills visa holders earning below \$55,000 per annum in 2008/09 was 74.3 per cent, in 2009/10 it was 68.2 per cent, in 2010/11 it was 66.5 per cent, and in 2011/12 it was 66.0 per cent.

Figure four: IDI data on earnings distribution of Essential Skills workers in the 12 months immediately following being granted a visa (for visas granted in the 2012/13 year)

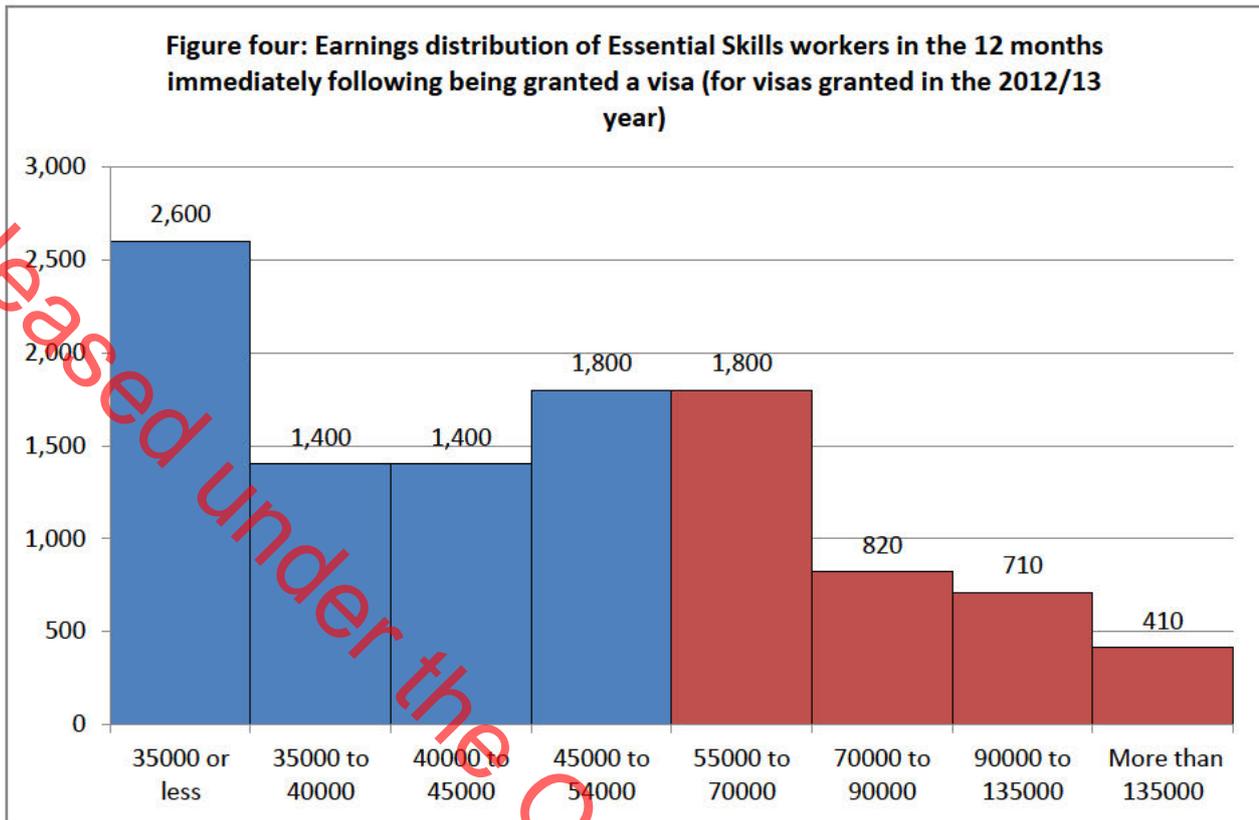
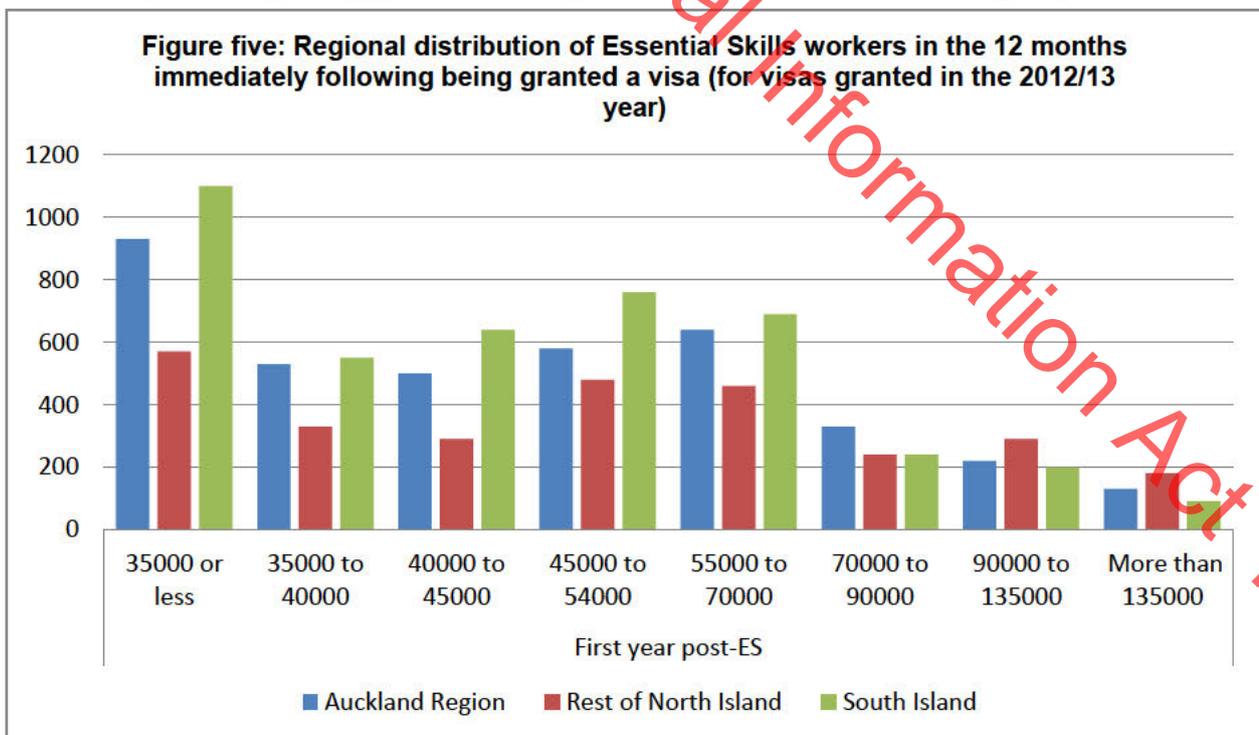


Figure five: IDI data on regional distribution of Essential Skills workers in the 12 months immediately following being granted a visa (for visas granted in the 2012/13 year)



Annex Two: How proposals meet the objectives of the review

Phase One	Contribute to better alignment between immigration, welfare and education settings	Incentivise employers to employ and train domestic workers before recruiting migrant labour	Allow employers to use lower-skilled migrants where there is a genuine need	Do not encourage lower-skilled and lower-paid temporary migrants to become well settled	Make it easier for firms to recruit higher-skilled and higher-paid migrant workers and for those migrants to stay here
<i>Introduce remuneration bands to determine the skill level of an Essential Skills visa holder</i>		✓	✓	✓	✓
<i>Introduce a maximum duration for holders of Essential Skills visas granted for lower-skilled jobs</i>		✓	✓	✓	
<i>Restrict the ability for lower-skilled Essential Skills visa holders to bring their children and partners</i>	✓	✓		✓	
<i>Reinforce that Essential Skills visas may only be granted for the period for which the employment is offered and the application of this limitation to seasonal work</i>	✓	✓	✓	✓	

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Phase Two	Contribute to better alignment between immigration, welfare and education settings	Incentivise employers to employ and train domestic workers before recruiting migrant labour	Allow employers to use lower-skilled migrants where there is a genuine need	Do not encourage lower-skilled and lower-paid temporary migrants to become well settled	Make it easier for firms to recruit higher-skilled and higher-paid migrant workers and for those migrants to stay here
<i>Adjust the avenues available to access Essential Skills workers to incentivise more employers to become accredited</i>		✓	✓	✓	✓
<i>Explore options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages</i>	✓	✓	✓	✓	
<i>Expand the existing Accredited Employer (Labour Hire) programme nationwide</i>	✓	✓	✓		
<i>Strengthen the existing Essential Skills requirements to train and recruit local workers</i>	✓	✓		✓	
<i>Review the process for occupations being added to, and remaining on, the Essential Skills in Demand lists</i>	✓	✓			✓
<i>Explore whether further changes should be made to requirements for seasonal Essential Skills visa holders and their employers</i>	✓	✓	✓	✓	

Annex Three: Proposed remuneration thresholds for Essential Skills visas and associated visa conditions

Skill level	Remuneration bands ¹⁶		Occupation Class (ANZSCO)		Relevant qualification (NZQF)		Relevant work experience	Visa length	Children & partners
Higher-skilled	\$35.24 ¹⁷ + per hour	And	1 & 2	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements	Up to 5 years	Yes
	\$73,299 + per annum	And	3/4/5	And	7-10	Or	5 years		
Mid-skilled	\$23.49 ¹⁸ - \$35.24 per hour \$48,859 - \$73,299 per annum	And	1/2/3	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements	Up to 3 years	Yes
Lower-skilled	\$15.75 ¹⁹ - \$23.49 per hour \$32,760 - \$48,859 per annum	And	1/2/3	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements	Up to 1 year	No
	\$15.75+ per hour \$32,760+ per annum	And	4 & 5	And	Existing ANZSCO requirements	And	Existing ANZSCO requirements		

Where the expected remuneration falls into the higher-skilled remuneration band but ANZSCO would define it as a level three, four or five occupation then the applicant must justify this higher salary by providing evidence of having qualifications and/or work experience beyond the ANZSCO requirements for that skill level. This would reduce the risk of the salary or income information in the employment agreement being falsified in order to create eligibility for more generous visa conditions.

ANZSCO level four and five workers would only be eligible for SMC when they earned over the remuneration threshold for highly skilled employment. For this reason, ANZSCO level four and five Essential Skills visa holders would only be eligible for a lower-skilled visa (which ensures that they do not settle long-term), unless they earned over the threshold for highly skilled employment.

¹⁶ Assuming a 40 hour week for per annum remuneration.

¹⁷ Indexed to 1.5 times the NZ median full-time equivalent earnings (if agreed to by Cabinet for the SMC remuneration thresholds).

¹⁸ Indexed to the NZ median full-time equivalent earnings (if agreed to by Cabinet for the SMC remuneration thresholds).

¹⁹ Indexed to minimum wage.



Cabinet Economic Growth and Infrastructure 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.

Review of Temporary Work Visa Settings

Portfolio Immigration

On 8 March 2017, the Cabinet Economic Growth and Infrastructure Committee **referred** the submission under EGI-17-SUB-0013 to Cabinet on 13 March 2017 for further consideration.

Janine Harvey
Committee Secretary

Present:

Hon Steven Joyce (Chair)
Hon Gerry Brownlee
Hon Simon Bridges
Hon Amy Adams
Hon Michael Woodhouse
Hon Nathan Guy
Hon Judith Collins
Hon Maggie Barry
Hon Paul Goldsmith
Hon Louise Upston
Hon Nicky Wagner
Hon Jacqui Dean

Officials present from:

Officials Committee for EGI
Treasury
Ministry of Business, Innovation and Employment
Ministry of Education

Hard-copy distribution:

Minister of Immigration



Cabinet

Minute of Decision

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Review of Temporary Work Visa Settings

Portfolio Immigration

On 13 March 2017, following reference from the Cabinet Economic Growth and Infrastructure Committee (EGI), Cabinet:

Background

- 1 **noted** that on 8 August 2016, the Cabinet Strategy Committee noted the potential policy options that could be explored to help reduce the pressure on the housing market while not compromising economic growth objectives, including possible changes to Essential Skills temporary work visa policy [STR-16-MIN-0004];
- 2 **noted** that the proposed review of immigration temporary work visa settings will be split into the following two phases:
 - 2.1 phase one: a focus on ensuring that cohorts of lower-skilled temporary migrants who do not have a pathway to residence cannot stay in New Zealand indefinitely;
 - 2.2 phase two: a focus on using the opportunities the immigration system provides to incentivise and reward good employer behaviour;

Phase one proposals

- 3 **agreed in principle**, subject to the result of consultation, to the following proposals that will make up phase one of the review:
 - 3.1 introduce remuneration bands to determine the skill level of an Essential Skills visa holder (and their associated visa conditions), based on salary or income information;
 - 3.2 introduce a maximum duration of three years for lower-skilled Essential Skills visa holders, after which there will be a one year stand down period before they can apply for another lower-skilled Essential Skills visa;
 - 3.3 restrict the ability of lower-skilled Essential Skills visa holders to bring their children and partners, except on visitor visas;
 - 3.4 reinforce that Essential Skills visas may only be granted for the period for which the employment is offered, including making explicit what seasonal occupations this applies to;

- 4 **agreed** that officials undertake public consultation on the above proposals;
- 5 **invited** the Minister of Immigration to report back to EGI in May 2017, following the consultation, with feedback from submitters and final policy proposals;

Phase two proposals

- 6 **noted** that:
- 6.1 the phase two proposals are more complex and earlier in their development than the above phase one proposals;
- 6.2 if agreed, the phase two proposals are expected to result in more substantial shifts in employer behaviour at the individual firm, industry and regional level;
- 7 **agreed** that further work be undertaken on the following proposals as part of phase two of the review:
- 7.1 adjusting the avenues available to access Essential Skills workers to incentivise more employers to become accredited;
- 7.2 exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages;
- 7.3 expanding the existing Accredited Employer (Labour Hire) programme nationwide;
- 7.4 strengthening the existing Essential Skills requirements to train and recruit local workers;
- 7.5 reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists;
- 7.6 exploring whether further changes should be made to the requirements for Essential Skills visas for seasonal workers and their employers.

Michael Webster
Secretary of the Cabinet

Hard-copy distribution:
Prime Minister
Minister of Immigration