



## COVERSHEET

<b>Minister</b>	Hon Michael Wood	<b>Portfolio</b>	Immigration
<b>Title of Cabinet paper</b>	New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022 and Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No.2) 2022	<b>Date to be published</b>	16 August 2022

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
March 2022	New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022 and Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No.2) 2022	Office of the Minister of Immigration
31 March 2022	LEG-22-MIN-0040 Minute	Cabinet Office

### Information redacted

**NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

## In Confidence

Office of the Minister for Small Business  
Office of the Minister of Immigration  
Cabinet Legislation Committee

### ***New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022 and Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No.2) 2022***

## Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of two sets of regulations needed to support the implementation of the Accredited Employer Work Visa (AEWV):
  - 1.1 the *New Zealand Business Number (Authority to Require NZBN) Amendment Regulations* (the NZBN Regulations), which will authorise the Ministry of Business, Innovation and Employment (MBIE) to require employers to provide a New Zealand Business Number (NZBN) to Immigration New Zealand (INZ) (which is part of MBIE) in order to apply for accreditation
  - 1.2 the *Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No.2) 2022* (the Immigration Regulations), which will set the fee levels for applications under the AEWV system.

## Executive summary

- 2 In August 2019, Cabinet agreed to introduce the AEWV system to replace six existing temporary work visa categories. The new visa will be employer-led and will require employers to be accredited with INZ in order to support a migrant worker's AEWV application [DEV-19-MIN-0228]. The AEWV will be introduced from 4 July 2022, and employer accreditation applications will open on 23 May 2022.
- 3 Two sets of changes to regulations are needed before employer accreditation applications can open.

### ***New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022***

- 4 The NZBN Regulations authorise MBIE to require employers to provide an NZBN to INZ as part of their application for accreditation. The NZBN will be used as the primary employer identifier in the ICT system that will be used to manage employer accreditation applications.
- 5 Using the NZBN as the employer identifier for accreditation applications has a number of benefits for both employers and MBIE. It will support better quality data and more efficient records matching, which will result in cost savings

## IN CONFIDENCE

being passed on to employers via the fee charged for accreditation. It will also reduce the amount of information employers need to provide to INZ and is consistent with the whole-of-government approach to the use of NZBN.

- 6 The vast majority of employers who will be applying for accreditation already have an NZBN, but a small number may need to get an NZBN before they can apply for accreditation. The Regulations enable MBIE to require employers applying for accreditation to register for an NZBN if they do not already have one. Any delays for this group will be minimal, as many NZBN applications can be approved instantly, and those that require a manual review have a turnaround time of three working days.
- 7 There are some statutory requirements that the Minister for Small Business must meet before an agency can be authorised to require businesses to provide an NZBN in order to access services. These include consultation with the Privacy Commissioner, considering the advantages and disadvantages for eligible entities, and considering the costs on the relevant agencies. These requirements have all been met, and further detail is provided from paragraph 22 below.

### *Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No.2) 2022*

- 8 The Immigration Regulations set the fee levels for applications (e.g. accreditation, job check and visa applications) under the AEWV system. The fee levels were agreed by the Cabinet Economic Development Committee on 16 February 2022 [DEV-22-MIN-0009].

### **Changes are needed to two sets of regulations to support the implementation of the Accredited Employer Work Visa**

- 9 In August 2019, Cabinet agreed to introduce the AEWV system to replace six existing temporary work visa categories. The new visa will be employer-led and will require employers to be accredited with INZ in order to support a migrant worker's AEWV application [DEV-19-MIN-0228]. The AEWV will be introduced from 4 July 2022, and employer accreditation applications will open on 23 May 2022.

### *New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022*

- 10 INZ has developed an ICT system to manage employer accreditation under the new AEWV system, as existing systems are insufficient for managing the complexity and number of accreditation applications expected. This platform is based on a unique employer identifier, which is used to link information related to an employer's application across the system. It is intended that the NZBN will be used as the employer identifier, and that employers will be required to provide their NZBN to INZ as part of their application for accreditation.

IN CONFIDENCE

- 11 NZBNs are created under the *New Zealand Business Number Act 2016*. They are unique identifiers that are available to all New Zealand businesses (companies, trusts, government agencies etc.) and link businesses back to an MBIE-maintained register of primary business data (PBD), which includes trading names, registered company names, directors and physical business addresses.
- 12 The vast majority of the employers who are expected to apply for accreditation already have an NZBN. Incorporated entities, such as companies and limited partnerships, are automatically allocated an NZBN, and many non-incorporated entities (e.g. sole traders) have already applied for and been granted NZBNs. The regulations enable MBIE to require employers applying for accreditation to register for an NZBN if they do not already have one.
- 13 Requiring that employers use their NZBN as their unique identifier in the new AEWV system will:
  - 13.1 support better quality data and more efficient matching of records (e.g. records held by the Companies Office and Labour Inspectorate, which are relevant to the employer's accreditation application). This, in turn, lowers processing costs, with cost savings passed on to employers via the fee charged for accreditation.
  - 13.2 minimise the amount of information that employers need to provide to INZ and improve data quality, as relevant information will be taken from the PBD where possible.
  - 13.3 contribute to the whole-of-government approach to the use of NZBN, which aims to enhance the ease of doing business in New Zealand by reducing the number of unique identifiers businesses need to remember to interact with government.
- 14 If a government agency intends to mandate that eligible entities provide their NZBN in order to access a service the agency provides, the agency must be authorised to do so by regulations made under section 29 of the *New Zealand Business Number Act 2016*. The attached NZBN Regulations will authorise MBIE to require all employers who apply for accreditation under the new AEWV system to provide their NZBN when they apply for accreditation.

*Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No. 2) 2022*

- 15 The attached Immigration Regulations set the fees for applications from employers and migrants under the new AEWV system. The fees are needed to recover the costs of processing applications.

**IN CONFIDENCE**

- 16 The Cabinet Economic Development Committee agreed to the fee levels on 16 February 2022 [DEV-22-MIN-0009]. The fees are set out in the table below.

	<b>Pathway</b>	<b>Fee – NZ\$</b>
<b>Employers to be accredited through one of four pathways:</b>	Standard ( $\leq 5$ migrants at any one time)	740
	Upgrade fee (standard to high-volume)	480
	High-volume ( $\geq 6$ migrants at any one time)	1,220
	Triangular employment (includes labour hire companies)	3,870
	Franchisees	1,980
<b>Reconsideration of declined employer accreditation application</b>		240
<b>Job check fee</b>		610
<b>Reconsideration of declined job check</b>		240
<b>Issuing of AEWV to worker</b>		540

- 17 Cabinet also agreed to an exemption to the accreditation fee for employers who hold accreditation under a previous accreditation policy – the Work to Residence – Talent (Accredited Employer) scheme – if they have more than six months’ duration remaining on their accreditation on 9 May (when accreditation applications were previously scheduled to open).
- 18 Some clarifications of these decisions have been made in the Immigration Regulations:
- 18.1 the fees are payable on application, and are payable regardless of the outcome of the application
  - 18.2 reconsiderations of job checks may also be requested where the job check was not declined but was instead approved for fewer positions than the employer requested
  - 18.3 the fee waiver for employers accredited under the Work to Residence – Talent (Accredited Employer) scheme will apply to employers who have six months’ duration remaining on their accreditation on 23 May, as this is now the opening date for accreditation applications.

**Timing and 28-day rule**

- 19 INZ will open employer accreditation applications on 23 May 2022, ahead of the AEWV system becoming compulsory for new applicants on 4 July 2022.
- 20 Both sets of Regulations will come into effect on 23 May 2022. To comply with the 28-day rule, they will need to be gazetted on or before Monday 25 April 2022. No waiver of the 28-day rule is sought.

**IN CONFIDENCE**

## Compliance

- 21 Both sets of Regulations comply with:
- 21.1 the principles of the Treaty of Waitangi;
  - 21.2 the rights and freedoms contained in the *New Zealand Bill of Rights Act 1990* and the *Human Rights Act 1993*;
  - 21.3 the principles and guidelines set out in the *Privacy Act 2020* (the Office of the Privacy Commissioner was consulted on the NZBN Regulations – see paragraph 23 below);
  - 21.4 the Legislation Guidelines (2018 edition).
- 22 Section 29 of the *New Zealand Business Number Act 2016* requires that, before making a recommendation to authorise an agency to require eligible entities to provide their NZBN, the Minister for Small Business:
- 22.1 consult the Privacy Commissioner and take into account the potential privacy effects of the authorisation – see paragraph 23 below;
  - 22.2 have regard to the advantages and disadvantages for eligible entities of the authorisation – see paragraphs 24-29 below;
  - 22.3 have regard to the potential effects of the authorisation on the agency's costs – see paragraph 30 below.

### *Consultation with the Privacy Commissioner*

- 23 The Privacy Commissioner was consulted and agrees that requiring NZBNs for the new AEWV system does not negatively impact upon the privacy protections for individuals provided for under the *New Zealand Business Number Act 2016*.

### *Advantages and disadvantages for eligible entities*

- 24 Only businesses that do not already have an NZBN are considered eligible entities under section 29 of the *New Zealand Business Number Act 2016*. In 2019, officials estimated that between 4,500 and 7,000 employers might need to apply for an NZBN in order to access the AEWV system. Many of those employers are likely to have applied for one since then, as an NZBN was required in order to access the COVID-19 wage subsidy.
- 25 The main advantage for employers of mandating NZBN as the employer identifier in the AEWV system is that it will reduce the costs of interacting with government and result in a streamlined process, which has been reflected in the setting of the accreditation fee.
- 26 Specific cost savings compared with a process which is not based on the NZBN (for example, which is based on INZ's existing employer client IDs) result from the matching of records being made more efficient. This will both

## IN CONFIDENCE

reduce the need to clarify inconsistencies in information provided by employers, and support better targeting of risk and assurance activities through better quality data.

- 27 In addition, having an NZBN will provide employers with access to a number of other government services which are reliant on having an NZBN (such as Business Connect) and allow them to interact more easily with government in future by using their NZBN instead of manually providing their PBD, if they wish to.
- 28 There are three main disadvantages for eligible entities:
- 28.1 Employers who do not already hold an NZBN will need to undergo the additional administrative process of applying for one. We do not consider this to be a significant burden, as the application process for a NZBN is both simple and currently Crown-funded. The new online platform will assist businesses by providing a link to the NZBN site where they can apply for an NZBN as part of the application process. In addition, using a different employer identifier would not necessarily reduce the administrative burden for eligible entities, as the information required in an NZBN application would need to be provided as part of an application for accreditation regardless.
- 28.2 Potential delay in commencing the accreditation process because an employer is waiting for a NZBN. However any delay is expected to be minimal, as many NZBN applications can be approved instantly, and those that require a manual review have a turnaround time of three working days.
- 28.3 Loss of direct control over their information and how it is collected and held by government agencies. This is especially the case given PBD on the NZBN is publicly available. However, the NZBN Register restricts the PBD that is made public for unincorporated entities under the NZBN Act. Currently for an unincorporated entity, only its NZBN, trading area, kind of entity and status are automatically publicly available. These entities then have the choice to make any other PBD such as their trading name or website public. Information that is not publicly available can be inputted manually as part of their accreditation application.
- 29 On balance, we believe that the potential advantages outweigh the disadvantages, which are sufficiently mitigated, as described above.

### *Potential effects on MBIE's costs*

- 30 The decision on whether or not to use NZBN as the employer identifier in the AEWV system does not, in itself, have direct cost impacts for the Crown or INZ. The additional NZBN applications which are likely to be made can be covered within existing appropriations.

IN CONFIDENCE

- 31 The design and implementation of the ICT system, and the costs associated with developing the associated information sharing agreements, are independent of the employer identifier used. However, using NZBN as the employer identifier will reduce processing costs for accreditation applications on an ongoing basis (see paragraphs 25-26 above). As the AEWV system works on a cost recovery basis, these cost savings are being passed on to employers via the fee charged for accreditation.

### **Regulations Review Committee**

- 32 There are no anticipated grounds for the Regulations Review Committee to draw the regulations to the attention of the House under Standing Order 327.

### **Certification by Parliamentary Counsel**

- 33 The Parliamentary Counsel Office has certified that the *New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022* and the *Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No. 2) 2022* are in order for submission to the Executive Council.

### **Impact Analysis**

- 34 Treasury's Regulatory Impact Analysis team has determined that the proposal to require employers to hold a New Zealand Business Number in order to be accredited under the new AEWV system is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals and not-for-profit entities.
- 35 A Cost Recovery Impact Statement (CRIS) was prepared for the proposed fee levels for applications under the AEWV system [DEV-22-MIN-0009]. MBIE's Regulatory Impact Analysis Review Panel considered that the information and analysis in the CRIS met the criteria for Ministers to make informed decisions on the fee proposals.

### **Publicity**

- 36 The introduction of the new accreditation system and temporary work visa was announced publicly in 2019.
- 37 The requirement to hold an NZBN in order to be accredited under the new system has already been communicated to employers via material on the INZ website about the accreditation requirements, employer webinars and other stakeholder engagements.
- 38 The fee levels for the AEWV were published on the INZ website on 22 March 2022.
- 39 Notice of the regulations will be published in the Gazette.



## Proactive release

- 40 We propose to release this paper proactively. Any redactions made will be consistent with the *Official Information Act 1982*.

## Consultation

- 41 The Privacy Commissioner was consulted on the privacy impacts of the proposal to require employers to hold an NZBN, and provide it to INZ, in order to be accredited. The Department of Prime Minister and Cabinet was informed.
- 42 The following agencies were consulted in the development of the AEWV fee levels: the Ministry of Business, Innovation and Employment (Tourism Policy, Small Business Policy, and Building and Construction Policy), Ministry for Primary Industries, Ministry of Health, Ministry of Education, Ministry of Social Development, the New Zealand Customs Service and Treasury. The Department of the Prime Minister and Cabinet was informed.

## Recommendations

- 43 The Ministers for Small Business and of Immigration recommend that the Cabinet Legislation Committee:
- 1 **note** that, In August 2019, Cabinet agreed to introduce the Accredited Employer Work Visa (AEWV) system to replace six existing temporary work visa categories, and that the new system will require employers to be accredited with Immigration New Zealand (INZ) in order to support a migrant worker's AEWV application [DEV-19-MIN-0228];

### *New Zealand Business Number*

- 2 **note** that INZ has developed an ICT system to manage employer accreditation, and that the New Zealand Business Number (NZBN) will be used as the employer identifier in the system;
- 3 **note** that the *New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022* will authorise the Ministry of Business, Innovation and Employment to require all employers who apply for accreditation under the new AEWV system to provide their NZBN when they apply for accreditation;
- 4 **note** that section 29 of the *New Zealand Business Number Act 2016* requires me to do the following before making a recommendation to authorise an agency to require eligible entities to provide their NZBN:
- 4.1 consult the Privacy Commissioner and take into account the potential privacy effects of the authorisation;
- 4.2 have regard to the advantages and disadvantages for eligible entities of the authorisation;

**IN CONFIDENCE**

4.3 have regard to the potential effects of the authorisation on the agency's costs;

5 **note** that the requirements set out in recommendation 4 above have been met;

*Fees for applications under the AEWV system*

6 **note** that, on 16 February 2022, the Cabinet Economic Development Committee agreed to the following fees to be payable for applications under the AEWV system [DEV-22-MIN-0009]:

		<b>Fee – NZ\$</b>
<b>Employers to be accredited through one of four pathways:</b>	Standard (≤5 migrants at any one time)	740
	Upgrade fee (standard to high-volume)	480
	High-volume (≥6 migrants at any one time)	1,220
	Triangular employment (includes labour hire companies)	3,870
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<b>Reconsideration of declined job check</b>		240
<b>Issuing of AEWV to worker</b>		540

7 **note** that Cabinet also agreed to an exemption to the accreditation fee for employers who hold accreditation under the Work to Residence – Talent (Accredited Employer) scheme, with more than six months duration remaining at 9 May 2022 (which was the previously intended opening date for employer accreditation applications);

8 **note** that the *Immigration (Visa, Entry Permission and Related Matters) Amendment Regulations (No.2) 2022* will give effect to the decision referred to in recommendation 6 above, with the following clarifications:

8.1 the fees are payable on application, and are payable regardless of the outcome of the application;

8.2 reconsiderations of job checks may also be requested where the job check was not declined, but was approved for fewer positions than the employer requested;

8.3 the fee waiver referred to in recommendation 0 above will apply to employers who have six months' duration remaining on their

**IN CONFIDENCE**

accreditation on 23 May (rather than 9 May), as this is now the opening date for accreditation applications;

*Submission of amendment regulations*

- 9 **authorise** the submission to the Executive Council of the:
- 9.1 *New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2022*; and
  - 9.2 *Immigration (Visa, Entry Permission and Related Matters) Amendment Regulations (No.2) 2022*;
- 10 **note** that the amendment regulations will come into effect on 23 May 2022.

Authorised for lodgement

Hon Stuart Nash  
Minister for Small Business

Hon Kris Faafoi  
Minister of Immigration

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