



## BRIEFING

### Immigration Rebalance – implementing the changes for employer-assisted workers and partners

<b>Date:</b>	3 February 2022	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2122-2326

Action sought		
	Action sought	Deadline
Hon Kris Faafoi <b>Minister of Immigration</b>	<b>Agree</b> to detailed policy settings needed to implement the median wage threshold for temporary work visa holders and removal of open work rights for their partners	11 February 2022
Hon Phil Twyford <b>Associate Minister of Immigration</b>	For your information	NA

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Andrew Craig	Manager, Immigration Policy – Skills and Residence	Privacy of natural persons	✓
Bronwyn Chapman	Senior Policy Advisor	Privacy of natural persons	
Rachel Carruthers	Senior Policy Advisor	Privacy of natural persons	

The following departments/agencies have been consulted
Ministry of Social Development

**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 Withdrawn           |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**



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#### Purpose

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To seek your agreement to detailed policy settings needed to implement the foundational elements of the Immigration Rebalance – the median wage threshold for temporary work visa holders and removal of open work rights for their partners.

A subsequent briefing will provide further policy detail for other elements of the Rebalance – the Green List, sector agreements **Confidential advice to Government**

#### Executive summary

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On 20 December 2021, Cabinet agreed to progress the Immigration Rebalance options for workers and partners [CAB-21-MIN-0554 refers]. The package includes:

- a wage threshold set at the median wage for employer-assisted visas
- Green List
- **Confidential advice to Government**
- Sector agreements
- partners of most workers required to qualify for work rights in their own right, but allowing them to work less than 30 hours a week
- expanding accreditation to include employers of any migrant in 2023.

You informed Cabinet the median wage threshold, **Confidential advice to Government** and the Green List will be introduced at the same time as the launch of the new Accredited Employer Work Visa (AEWV). The AEWV will open for visa applications from migrants on 4 July 2022. Employer accreditation and job check applications were scheduled to open earlier on 9 May. However, the impacts of the Rebalance decisions and resource impacts of the 2021 Resident Visa may impact on the viability of this date. Immigration New Zealand (INZ) will provide you with further advice on this in mid-February.

With the implementation of the AEWV and Rebalance imminent, detailed implementation decisions are needed now to allow INZ to finalise guidance for employers and migrants and give them enough time to prepare before the AEWV launches.

#### Median wage threshold

We recommend that the median wage only apply to the AEWV at this stage. This will be the main pathway for most temporary migrant workers in the future (replacing Essential Skills and some Work to Residence Visas).

We are also considering whether it is appropriate to require the Fishing Crew Work Visa to meet the median wage threshold, as it entitles migrants to similar work rights as the AEWV. We are working on this with the Ministry for Primary Industries, taking into account the Government's

response to the Ministerial inquiry into New Zealand's seafood workforce and the potential for a seafood sector agreement. We will provide you with further advice at a later date.

With the median wage becoming the minimum pay rate for most jobs under the Rebalance, the way that INZ calculates pay rates will become more important. The current approach, which requires *each hour of work* to be paid at or above the median wage, is likely to be too inflexible for industries with variable rates and rates that cannot be allocated to a particular hour of work (e.g. piece rates, commission). We therefore recommend allowing INZ to average an employee's guaranteed pay over the number of hours worked in the pay-period to determine the job's pay rate. This could create incentives for employers to move to unreasonably long pay-periods. To counter this, we recommend also introducing a requirement that employees must be paid at least monthly, in order for a visa to be granted.

We are also aware that the current wage calculation formula for salaried employees can disadvantage industries where hours worked are variable across the year (e.g. in the dairy industry). We are considering whether changes are needed to provide more flexibility in these cases and will report back to you with further advice on this.

Prior to delaying the implementation of the AEWV from November 2021 to July 2022, you agreed that the 2021 median wage (\$27.76/hour) would come into effect in February 2022. We now recommend updating the median wage for visa applications from 4 July 2022 to align with the closure of Essential Skills and implementation of the AEWV. In order to give employers more certainty, we recommend that, from 2023, there will be a standard process where INZ adopts the updated median wage in February, following its publication by Statistics New Zealand in August.

### **Removing open work rights for partners**

We recommend that partners of temporary workers are only required to qualify for work rights in their own right if the primary-applicant:

- holds a visa type that is subject to the median wage threshold (i.e. the AEWV only at this stage), and
- is not working in an occupation that is paid at least 200 percent of median wage, or on the Green List and paid at least median wage.

This will ensure consistency with the wider Rebalance decisions and ensure New Zealand is an attractive option for highly-skilled primary applicants. Where a partner is unable to qualify for a work visa in their own right, they will still be able to come to New Zealand on a visitor visa.

We recommend no changes to other visa categories that provide open work rights for partners (i.e. partners of students and military personnel). These visas have much stricter eligibility limitations, meaning they are available to a limited number of partners, who are with primary applicants we want to attract and retain.

This change will require integration with the AEWV system, as partners without open work rights will need to work for an accredited employer with a valid job check. This cannot be completed by July 2022, so this change will be progressed on a slower timeline to the other Rebalance changes, with a view to implementation in October 2022 at the earliest. We recommend retaining open work rights for partners of temporary workers who are paid at or above the median wage in the interim. This is the most generous approach for migrants and will help to alleviate skills shortages in the short-term.

### **Consequential changes to Accredited Employer Work Visa settings**

We have reviewed the AEWV settings in light of the Rebalance package and consider that some changes are needed to simplify the system, provide more flexibility for employers, and ensure New Zealanders have the opportunity to apply for jobs ahead of migrant workers.

Previously, if an employer wanted to upgrade from standard to high-volume accreditation<sup>1</sup> part-way through their accreditation period, it was intended that employers would need to submit and pay for a full high-volume accreditation application, where they would commit to paying at least 10 percent above median wage or having a collective agreement in place for all job checks. However, this is no longer reasonable, as the median wage threshold means that there will be no difference in what an employer is required to do for standard and high-volume accreditation. We therefore recommend:

- allowing employers to upgrade from standard to high-volume accreditation part-way through their accreditation period by paying the fee difference to reflect additional risk assurance activity for high-volume employers during the accreditation period (instead of requiring them to submit a whole new high-volume accreditation application)
- automatically allocating high-volume status to franchisees and employers using triangular employment arrangements, as there is no fee difference between standard and high-volume accreditation fees for these employers.

Cabinet originally agreed that, for jobs paid at or above the median wage, there would be tighter labour market test settings in cities (jobs must be advertised unless on a skill short list), and looser settings in regions (no labour market testing). This recognised that the risk of displacing New Zealanders is lower in regions. However, we now recommend applying the city settings in all regions, to ensure that New Zealanders have visibility of job opportunities and any increases in pay rates resulting from the introduction of the median wage threshold.

We also recommend using the Green List to determine which jobs are exempt from the advertising requirement, instead of skill shortage lists. The lists are based on similar criteria and using a single list will remove unnecessary duplication.

### **Arrangements for onshore migrants who will not be able to renew their visas**

The implementation of the Rebalance package from July 2022 will mean that some migrants will no longer qualify for work visas and be required to either depart New Zealand or apply for a different visa type.

We do not recommend any specific action be taken to transition affected migrants to the new settings. Overall, the numbers affected are small, and migrants will be able to renew their existing visas prior to 4 July to remain in New Zealand in the short-term.

### **Summary of proposals and implementation timeline**

<p><b>May or June 2022</b></p>	<p>AEWV system opens to employer accreditation and job check applications.</p> <p>Franchisee employer and employers using triangular employment arrangements automatically allocated high-volume accreditation status.</p> <p>Job check applications will be subject to:</p> <ul style="list-style-type: none"> <li>• median wage threshold (set at updated rate of \$27.76/hour)</li> <li>• updated (more flexible) wage calculation formula</li> <li>• requirement that wages must be paid at least monthly</li> <li>• advertising requirements in both cities and regions</li> <li>• Green List <b>Confidential advice to Government</b></li> </ul>
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<sup>1</sup> Standard allows the employer to have up to five AEWV holders at one time. High-volume has no limit.

<b>3 July 2022</b>	Last day for onshore migrants paid below the median wage to renew their visa before the threshold comes into effect. Following this, these visa holders will be required to either depart New Zealand or apply for a different visa type when their visa expires.
<b>4 July 2022</b>	AEWV system opens to visa applications from migrants. All partners of temporary workers paid at or above the median wage continue to have open work rights at this stage.
<b>From July 2022</b>	Specific sector agreement settings for each sector, including Pacific options, implemented (this could be staggered, depending on how long it takes to conclude each sector agreement).
<b>October 2022 (or some other time later in 2022)</b>	Open work rights turned off for specific partners and new visa for available for them (AEWV but able to work less than 30 hours). Employers able to upgrade to high-volume accreditation part way through accreditation period by paying upgrade fee (instead of submitting a full high-volume accreditation application).
<b>2023</b>	Accreditation of all employers of migrant workers, beyond just AEWV (pending policy work and decisions later in 2022).

## Recommended action

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

- a **Note** that, on 20 December 2021, Cabinet agreed to progress the Immigration Rebalance options for workers and partners [CAB-21-MIN-0554 refers], including:
- i. a wage threshold set at the median wage for employer-assisted visas
  - ii. Green List
  - iii. **Confidential advice to Government**
  - iv. sector agreements
  - v. partners of most workers required to qualify for work rights in their own right, but allowing them to work less than 30 hours a week
  - vi. expanding accreditation to include employers of any migrant in 2023

*Noted*

- b **Note** that, with the implementation of the Accredited Employer Work Visa (AEWV) and the main Rebalance changes due to be implemented in stages between May/June and July, detailed implementation decisions are needed to allow Immigration New Zealand (INZ) to finalise guidance for employers and migrants and give them enough time to prepare for the changes

*Noted*

## Implementing the median wage threshold

- c **Agree** that, from its date of implementation, the median wage threshold will apply to the AEWV
- Agree / Disagree*

d **Note** that the Fishing Crew Work Visa may also be subject to the median wage threshold, but this will be determined as part of the sector agreement process and will align with the response to the Ministerial inquiry into New Zealand's seafood workforce

*Noted*

e **Agree** to exclude the following employer-assisted work visas from the median wage threshold:

- i. visas lacking paid work requirements, including Religious Worker, Talent (Arts, Culture and Sports)
- ii. internationally-negotiated temporary visas including Thai Chefs, China Skilled Workers, Primary Sector Trainees, and China, Philippines, Vietnam, and Republic of Korea Special Work Visas
- iii. visas to support international relationships, including Military or Diplomat visas and visas for their dependents or staff

*Agree / Disagree*

f **Note** that the immigration instructions currently require that *each hour of work* must be paid at or above the median wage, for employment to be assessed as paid at or above the median wage, and that this is likely to be too inflexible for some employers who use variable hourly rates or incentive payments

*Noted*

g **Agree** that, in order to provide more flexibility to sectors with variable pay structures, the employee's guaranteed minimum remuneration for a pay-period (as per their employment agreement) may be averaged over the number of hours worked in that pay-period to determine the job's pay rate.

*Agree / Disagree*

h **Agree** to introduce a requirement that employees must be paid at least monthly to be granted a visa, in order to prevent employers from moving to unreasonably long pay-periods so that they can average their employees' pay over a longer period

*Agree / Disagree*

i **Note** that the current wage calculation formula for salaried employees can disadvantage industries where hours worked are variable across the year (e.g. in the dairy industry), and that we will report back to you on whether changes are needed to provide more flexibility in these cases

*Noted*

j **Note** that, prior to delaying the implementation of the AEWV from November 2021 to July 2022, you agreed that the 2021 median wage (\$27.76/hour) would come into effect in February 2022 [BR 2021-3370 refers]

*Noted*

k **Agree** that the 2021 median wage (\$27.76/hour) will instead come into effect for visa applications from 4 July 2022, to align with the closure of Essential Skills and implementation of the AEWV

*Agree / Disagree*

l **Agree** that, from 2023, there will be a standard process where INZ adopts the updated median wage in February, following its publication by Statistics New Zealand in August

*Agree / Disagree*

## Implementing the partner work visa changes

m **Note** that Cabinet previously agreed [CAB-21-MIN-0554 refers] to restrict work rights of most partners of migrant workers to roles they qualify for in their own right, but allowing them to work less than 30 hours a week

*Noted*

n **Agree** that partners of migrant workers will only be required to qualify for work rights in their own right if they otherwise would have been eligible for the Partner of a Worker work visa and the primary applicant:

- i. holds a visa type that is subject to the median wage threshold (i.e. the AEWV only at this stage), and
- ii. is not working in an occupation that is paid at least 200 percent of median wage, or on the Green List and paid at least median wage

*Agree / Disagree*

o **Note** that this means the Partner of a Student, Partner of a New Zealand Scholarship Student, and Partner of Military personnel work visas will retain open work rights

*Noted*

p **Note** that this change will require a new partner pathway in the AEWV system, and that this cannot be completed until October 2022 at the earliest

*Noted*

q **Agree** that changes to limit access to open work rights under the Partner of a Worker work visa coincide with the launch of the new partner pathway, noting that this means offshore applicants who apply for this visa before the launch will continue to receive open work rights if the primary applicant earns at least the median wage

*Agree / Disagree*

## Consequential changes to Accredited Employer Work Visa settings

r **Note** that high-volume accreditation was previously intended to require employers to pay at least 10 percent above the minimum wage or have a collective agreement in place for all job checks, and it was intended that an employer wanting to upgrade from standard to high-volume accreditation part-way through their accreditation period would need to submit, and pay for, a full high-volume accreditation application.

*Noted*

s **Note** that, following the introduction of the median wage threshold, there will be no difference in the requirements for standard and high-volume accreditation when the AEWV goes live, but that there will continue to be a fee difference to reflect additional risk assurance activity for high-volume employers during the accreditation period

*Noted*

t **Agree** that employers who want to move from standard to high-volume accreditation part-way through their accreditation period will be able to do this by paying the difference between the standard and high-volume accreditation fees, instead of submitting a full high-volume accreditation application

*Agree / Disagree*

u **Agree** that high-volume accreditation status will automatically be allocated to franchisees and employers using triangular employment, as there is no fee difference between standard and high-volume accreditation fees for these employers

*Agree / Disagree*

- v **Note** that Cabinet originally agreed that, for jobs paid at or above the median wage, there would be tighter labour market test settings in cities (jobs must be advertised unless on a skill short list), and looser settings in regions (no labour market testing), to recognise that the risk of displacing New Zealanders is lower in regions

*Noted*

- w **Agree** to apply the tighter city settings across the board, to ensure that New Zealanders have visibility of job opportunities and any increases in pay rates resulting from the introduction of the median wage threshold

*Agree / Disagree*

- x **Agree** to use the Green List to determine which jobs are exempt from the advertising requirement, instead of skill shortage lists, as the list is based on similar criteria and using a single list will remove unnecessary duplication

*Agree / Disagree*

### **Arrangements for onshore migrants who will not be able to renew their visas**

- y **Note** that the implementation of the Rebalance package will mean that some currently onshore temporary migrants (mainly those paid below the median wage, and a small number of partners of Post-Study Work Visa holders), who have not qualified for the 2021 Resident Visa will no longer be eligible for a temporary work visa once their current expires

*Noted*

- z **Agree** that no specific action is needed to transition onshore temporary migrant workers and partners to the Rebalance settings

*Agree / Disagree*

### **Next steps**

- aa **Agree** that the detail in this paper will be communicated publicly at the same time as, or as soon as possible after, the announcement of the Rebalance package (currently scheduled for mid-February)

*Agree / Disagree*



Andrew Craig  
**Manager, Immigration Policy – Skills and Residence**

Labour, Science and Enterprise, MBIE

3 / 2 / 2022

Hon Kris Faafoi  
**Minister of Immigration**

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## Background

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1. On 20 December 2021, Cabinet agreed to progress the Immigration Rebalance options for workers and partners [CAB-21-MIN-0554 refers]. The package includes:
  - a. a wage threshold set at the median wage for employer-assisted visas
  - b. Green List
  - c. Confidential advice to Government
  - d. sector agreements
  - e. partners of most workers required to qualify for work rights in their own right, but allowing them to work less than 30 hours a week
  - f. expanding accreditation to include employers of any migrant in 2023.
2. You informed Cabinet that you intended for the Rebalance package to be implemented in three parts:
  - a. The median wage threshold, the Confidential advice to Government, and the Green List will be introduced at the same time as the launch of the new Accredited Employer Work Visa (AEWV) in July 2022.
  - b. Introduction of sector agreements, and new residence pathways for Green Listed applicants will commence from October 2022.
  - c. Extending the requirement to be accredited to all employers in 2023.
3. The AEWV is will open for visa applications from migrants on 4 July 2022. You previously agreed that employer accreditation and job check applications would open eight weeks earlier on 9 May, to employers a 'head start' so that they are more prepared to support an AEWV application [BR 2122-0382 refers]. However, changes to the system requirements and form structure as a result of the Rebalance decisions and resource priorities relating to the implementation of the 2021 Resident Visa may impact on the viability of the 9 May date. Immigration New Zealand (INZ) will provide further advice on the go-live date for accreditation and job check applications in mid-February.
4. With the implementation of the AEWV and the main Rebalance changes imminent, detailed implementation decisions are needed to allow INZ to finalise guidance for employers and migrants and give them enough time to prepare for the changes. This paper seeks detailed decisions on how the median wage and partnership changes will be implemented, including:
  - a. which visas the median wage threshold will apply to, and changes to make it easier for jobs with variable pay rates to meet the threshold
  - b. which partners will no longer be eligible for open work rights, and when the change will be implemented
  - c. consequential changes to AEWV settings
  - d. arrangements for onshore migrants who will be unable to renew their visas as a result of the Rebalance.
5. Detailed proposals and named occupations for the Green List, Confidential advice to Government and sector agreements are being worked through on a slower timeline to allow for consultation with peak bodies and government agencies. You will receive a further briefing in mid-February seeking agreement to policy detail for the Green List, Confidential advice to Government List, and sector agreements. This will be followed by two Cabinet report backs:
  - a. in March 2022 with the detailed proposals for, and implementation of the Green List, Confidential advice to Government, proposed industries to pursue sector agreements for

- b. in June 2022 with specific sector agreement proposals, and recommendations on skilled residence pathways.

## **Median wage threshold – confirming which visas are affected, and how the wage will be calculated**

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### **We recommend that the median wage threshold apply only to the Accredited Employer Work Visa at this stage**

6. Cabinet previously agreed [CAB-21-MIN-0554 refers] that the median wage threshold would apply to employer-assisted visas, and we are seeking your agreement to which employer-assisted work visas will be affected.

#### *Employer assisted visas to include*

7. At this stage, we recommend the median wage threshold only apply to the new AEWV, as the pathway for most temporary migrant workers in the future. It merges several other visa types, including the Essential Skills and Work to Residence work visas.
8. The Fishing Crew Work Visa entitles migrants to similar work rights as the AEWV, though in a more specific arrangement, and it may be appropriate to require these visas to meet the median wage threshold as well. However, action taken in relation to offshore fishing visas should align with the Government's response to the Ministerial inquiry into New Zealand's seafood workforce and will likely be considered as part of the sector agreement process. Officials are working on this matter with the Ministry for Primary Industries and you will receive further advice on this in the future.

#### *Employer-assisted visas to exclude*

9. There are several employer-assisted visa types that have already been excluded from the Rebalance by previous advice to Cabinet:
  - i. Recognised Seasonal Employer (RSE) scheme visas
  - ii. Working Holiday Scheme visas
  - iii. Non-partnership family and humanitarian visa, and
  - iv. Specific purpose, short-term business, or visitor visas.<sup>2</sup>
10. The Specific Purpose Work Visa is intended to allow visa holders to work in New Zealand on a specific, time-limited project or event. However, there is some flexibility in immigration instructions for this visa that could be exploited by employers to avoid the Rebalance changes, and our approach to this visa may need to be re-evaluated in the future.
11. We recommend that the following employer assisted work visas also be excluded from the median wage threshold:
  - a. *Visas lacking paid work requirements* - Religious Worker and Talent (Arts, Culture and Sports) Work Visas: these visas do not specifically require traditional employment and payment, so imposing a wage threshold would significantly vary the visa settings and purpose.
  - b. *Internationally-negotiated visas* - bilateral temporary visas like Thai Chefs, China Skilled Workers, Primary Sector Trainees, and China/Philippines/Vietnam/Republic of Korea Special Work Visas: these visas are limited duration, often-capped schemes which may impact international relationships if we seek to alter them.

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<sup>2</sup> The following visas are 'specific purpose, short-term business or visitor visas': all Visitor Visas (including Business Visitor Visas, Critical Purpose Visitor Visa and the COVID-19 Short-term Visitor Visa), Entertainers Work Visa, Work Exchange Scheme, and the Specific Purpose Work Visa.

- c. *Visas to support international relationships*, like military or diplomat visas and visas for their dependents or staff: these visas should be excluded as they are important to our international position and policy.
12. A full list of proposed visas to include and exclude from the median wage threshold is attached as Annex One.

### **More flexibility is needed in the way INZ calculates pay rates for these visas**

13. With the median wage becoming the minimum pay rate for most jobs under the Rebalance, the way that INZ calculates pay rates will become more important. The median wage is already used as a way to differentiate visa settings for Essential Skills visas and to determine minimum pay rates for some visas.
14. Immigration instructions require that pay rates are always calculated on a per hour basis (this ensures that employers cannot obscure the true pay rate by paying a high salary but requiring the employee to work very long hours). The immigration instructions currently require that *each hour of work* must be paid at least the median wage, for employment to be assessed as paid at or above the median wage.
15. This approach is consistent with the way minimum wage requirements are enforced – the minimum wage must be paid for every hour worked (i.e. an employer cannot pay more than the minimum wage in one hour and offset this by paying less than the minimum wage in another hour). However, this approach is likely to be too inflexible in light of the new median wage threshold. In industries where hourly rates may vary, or some parts of the remuneration cannot be allocated to a particular hour of work (e.g. piece rates, commission), a job may not meet the median wage threshold, even if the employer is willing to guarantee that the employee will be paid the equivalent of \$27 an hour when pay is averaged over a pay-period. For example:
  - a. A bus driver is guaranteed six shifts a week, with three paid at \$25 an hour, and three paid at \$29 an hour. INZ will calculate their pay rate as \$25 an hour, making them ineligible for a visa, even though they are guaranteed to be paid the same as someone who does six shifts with each hour paid at \$27.
  - b. A meat process worker is paid an hourly base rate of minimum wage (\$20), as well as piece rates, calculated at the end of each shift of the basis of the number of carcasses processed. The employer includes a guarantee that the worker's pay will be topped up each pay cycle to the equivalent of \$27 for every hour worked if they haven't already earned that through piece rates. INZ will calculate their pay rate as \$20 an hour, making them ineligible for a visa, because the piece rates and top up payment cannot be allocated to a specific hour of work.
16. We consider that these scenarios meet the intent of the policy and should be able to access work visas, as the effective pay rate is at least the median wage. We therefore recommend allowing INZ to average the employee's pay over the number of hours worked in the pay-period to determine the job's pay rate (rather than considering the pay in each individual hour of work). The employer would still need to guarantee, in the worker's employment agreement, that the equivalent of \$27 per hour worked will be paid in each pay cycle and that any paid leave would also be paid out at this rate. Some employers may need to change employment agreements to provide these guarantees. Where a collective agreement is in place, the employer and employee can mutually agree to vary the terms of the employment agreement to include additional pay guarantees.<sup>3</sup>
17. This will mean that the approach to calculating pay for work visas no longer aligns with the minimum wage. However, we consider that this is appropriate, as the two systems have different objectives – the minimum wage is focused on ensuring employees get minimum

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<sup>3</sup> See section 61 of the *Employment Relations Act 2000*.

entitlement, whereas the median wage threshold in the immigration system is focused on assessing the overall skill level of the job and whether employers are paying enough to attract New Zealanders.

18. In order to prevent employers from moving to unreasonably long pay-periods so that they can average their employees' pay over a longer period, we recommend introducing a requirement that employees must be paid at least monthly<sup>4</sup>, in order for a visa to be granted. We considered a minimum pay-period of two weeks, but consider that this is too restrictive, as monthly pay-periods are common in many industries.
19. This change will primarily benefit industries that use incentive pay structures, i.e. primary industries using piece rates (e.g. meat and seafood processing, shearing, forestry) and the retail industry using commission-based pay. Detailed examples of how the rules will apply in practice are provided at Annex Two.
20. We are also aware that the current formula for calculating the job's hourly rate can put salaried employees at a disadvantage in some cases. The immigration instructions currently require that the total salary be divided by 52, and then by the maximum number of hours that the employee might be required to work in any week. The resulting hourly rate must at least the median wage (currently \$27) for employment to be assessed as paid at or above the median wage. This is known to cause issues in the dairy sector, where payment is made by salary, but the number of hours worked from week to week is variable depending on the season, with longer hours during the peak-season offset by shorter hours off-peak. In these cases, INZ calculates the hourly rate based on only the longer peak-season hours, meaning that the job may not meet the median wage threshold, even if, over the course of a year, the employee is paid an average of at least \$27 for every hour worked.
21. Confidential advice to Government  
[Redacted]

### **We recommend updating the median wage to \$27.76 to coincide with the implementation of the median wage threshold**

22. The median wage threshold is already used in several parts of the immigration system:
  - a. in Essential Skills visas (to be replaced by the AEWV) to determine visa conditions
  - b. in the Skilled Migrant Category to determine skilled employment points
  - c. in the border exceptions regime to determine whether an applicant qualifies as an "Other Critical Worker".
23. INZ uses the median wage published by Statistics New Zealand in August each year. INZ adopted the 2020 median wage (\$27/hour) in July 2021 – this was delayed to support employers through the earlier stages of COVID-19. You previously agreed that the 2021 median wage (\$27.76/hour) would be adopted in February 2022, to give employers sufficient time to prepare (six months) following the last increase [BR 2021-3370 refers].
24. However, since then, both the closure of Essential Skills and introduction of the AEWV has been delayed (from November 2021 to July 2022). We no longer recommend updating the median wage in February, as this will result in changes to Essential Skills Visa settings only a few months before the category is due to close. We instead recommend updating the median wage to \$27.76 for visa applications from 4 July 2022, when the Essential Skills category has closed and the AEWV goes live.

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<sup>4</sup> i.e. a calendar month

25. In order to give employers more certainty moving forward, we recommend that, from 2023, there will be a standard process where INZ adopts the updated median wage in February, following its publication by Statistics New Zealand in August

## **Removing open work rights for partners – confirming which partners are affected and implementation timelines**

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### **We recommend that the removal of open work rights only apply to partners of work visa holders who are subject to the median wage threshold, with exceptions for highly paid roles and those on the Green List**

26. Cabinet agreed that most partners of migrant workers will need to qualify for work rights individually but be allowed to work less than 30 hours a week. Partners of New Zealand citizens and residents are excluded – this is because the main purpose of partner-based visas is to support family ties, rather than a pathway to work. We are seeking your agreement to which groups of partners of migrant workers this change will affect.
27. There are four work visas for partners of temporary migrants that bestow open work rights: Partner of a Worker, Partner of a Student, Partner of a New Zealand Scholarship Student, and Partner of Military personnel. We recommend that the Rebalance requirement to qualify for work rights individually **only apply to those currently eligible for open work rights under the Partner of a Worker work visa**. This is the highest-volume visa category for partners. The other partner work visas have stricter eligibility limitations so are available to a limited number of partners, who are with primary applicants we want to attract and retain.
28. The Partner of a Student work visa is only available to partners of primary applicants studying for a degree listed on the Long-Term Skills Shortage List, or at a Masters' or PhD level. We recommend that prospective holders of this visa be excluded from the requirement to qualify for a work visa independently, as open work rights for partners will attract migrants to study these higher value courses. These well-educated primary applicants will likely form part of our skilled workforce if they remain in New Zealand after completing their studies. Having a partner with established connections in New Zealand supports this aim.
29. We recommend linking eligibility for this visa to degrees aligning with the Green List, rather than the Long-Term Skill Shortage List. This will ensure consistency with the wider Rebalance changes and that New Zealand is most attractive to students in areas of high skill need. Further advice will be provided in a future briefing covering the specifics of the Green List.
30. We propose that those partners who would seek a Partner of a Worker work visa be required to qualify for a work visa in their own right, excepting the following groups who would retain open work rights:
- a. (As previously agreed) *Partners of primary applicants who are highly-skilled or working in an area of absolute skill shortage (previously agreed by Cabinet)*: this would apply to partners of primary applicants earning at least 200 percent of the median wage or employed in a Green List occupation and earning at least the median wage. This will ensure New Zealand is an attractive option for these highly-skilled primary applicants;
  - b. *Partners of temporary visas excluded from the median wage threshold*: to ensure consistency with wider Rebalance decisions, we recommend that partners of the following visa types be excluded from the Rebalance requirement:
    - i. Temporary visas lacking paid work requirements, like Religious Worker and Talent (Arts, Culture and Sports) visas;
    - ii. Internationally negotiated visas like Thai Chefs, China Skilled Workers, Primary Sector Trainees, and China/Philippines/Vietnam/Republic of Korea Special Work visas; and

- iii. Visas to support international relationships, like Military or Diplomat visas and visas for their dependents or staff.
31. Where a partner is unable to qualify for a work visa in their own right, they will still be able to come to New Zealand on a visitor visa.

### **This change will be implemented later in 2022**

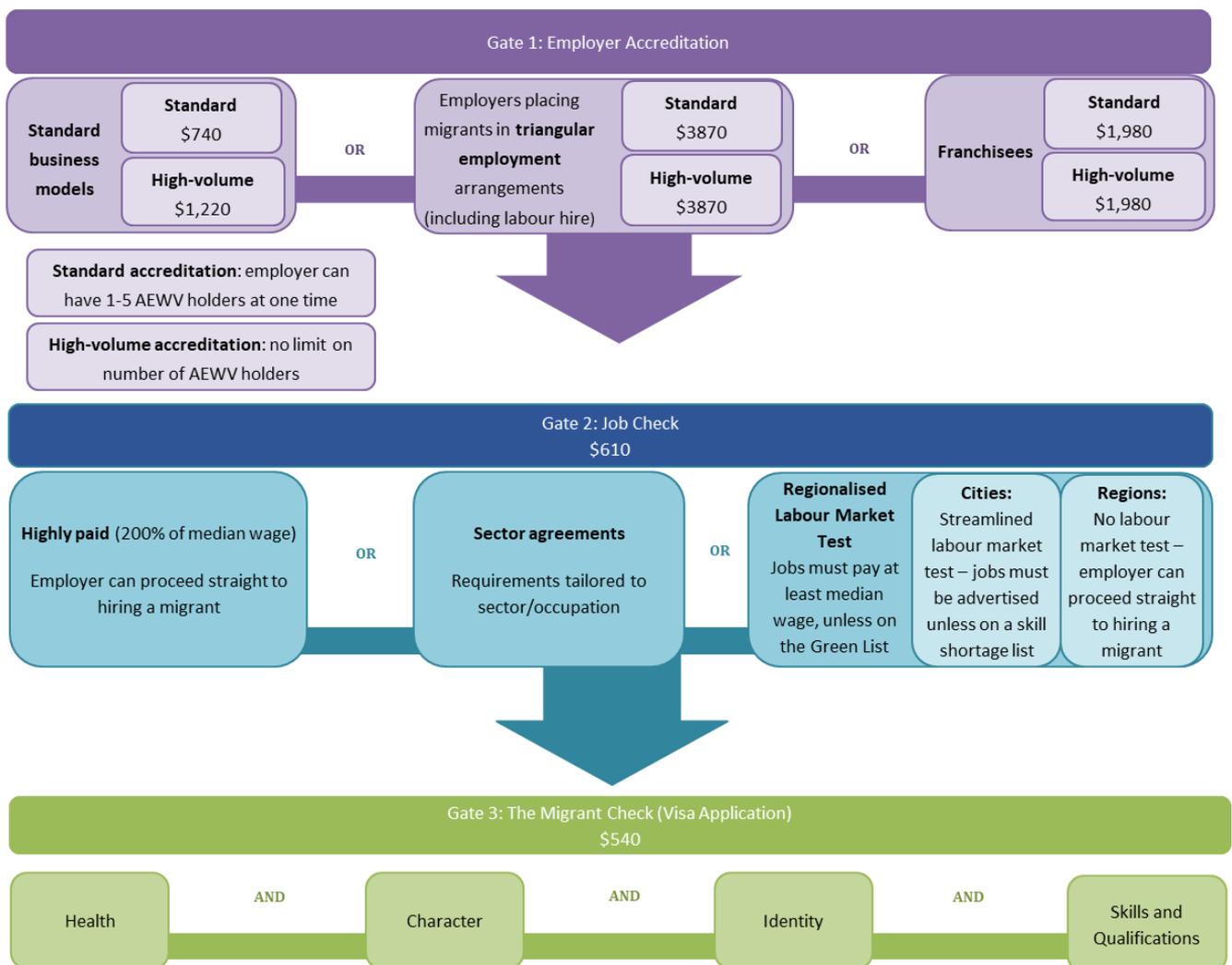
32. If you agree to the recommendations on the scope of the partner visa changes, they will be implemented by:
- a. amending the eligibility criteria for the Partners of a Worker work visa, to be available to excepted categories of partners only (who would retain their open work rights), and
  - b. a new pathway in the Accredited Employer Work Visa that requires partners to meet the same requirements as other applicants, less the requirement to work 30+ hours per week.
33. You proposed to Cabinet that the median wage threshold, **Confidential advice to Government**, and the Green List be introduced at the same time as the launch of the new AEWV in July 2022. However, it will take time to build the new pathway through AEWV, and this will not be ready to go live until October 2022 at the earliest – this was noted in the December 2021 Rebalance Cabinet paper [CAB-21-SUB-0554 refers]. Some options to transition to this new visa are discussed below.
34. Assuming the border reopening proceeds as planned, there is going to be a delay when new AEWV applications can be received (July), and when the new partner pathway will be ready (October). There is a decision to be taken on when to change the eligibility criteria for the Partner of a Worker visa to limit access to open work rights to excepted groups only. **We recommend that these changes coincide with the launch of the new partner pathway.** This means offshore applicants who apply for this visa before October will continue to receive open work rights if the primary applicant earns at least the median wage.
- a. *Strengths*: this is the most generous approach for migrants (providing them with open work rights for longer) and for employers (more open work rights holders will be available to help alleviate the skills shortage in the short-term). It is also the most easily communicated option.
  - b. *Weaknesses*: this means partners of newly-arriving temporary workers, once the border reopens, will receive open work rights: pent-up demand is anticipated which means there may be a large number of new open work rights holders. This may partially undermine the change to partner settings under the Rebalance in the short-term. This can be mitigated to an extent by clear communication that this is a short-term measure only, and that all partners of workers will have to qualify for work rights independently in the future.
35. There are limited alternatives for partners and these are not recommended. You could limit open work rights for partners of workers to excepted groups only prior to October. This would mean there will be a period where there is no viable work visa option that enables part-time work. This could mean further labour shortages, depending on when the border substantively reopens. While this could be mitigated to a degree by, for example, allowing onshore partners to renew their open work rights, this would be unnecessarily burdensome from an operational perspective and difficult to communicate.

### **Consequential changes to Accredited Employer Work Visa settings**

36. The AEWV will be the main visa affected by the Rebalance. It will replace Essential Skills as the main temporary work visa in July 2022. We have reviewed the AEWV settings in light of the Rebalance package. We consider that some changes are needed to simplify the system, provide more flexibility for employers, and ensure New Zealanders have the opportunity to apply for jobs ahead of migrant workers.

## AEWV system overview

37. Cabinet agreed to high-level design of the AEWV system in 2019 and 2020 [DEV-19-MIN-0228, DEV-19-MIN-0229, and DEV-20-MIN-0034 refer]. The system is built around three sequential gateways:
- the employer gateway – where employers must become accredited to enable them to hire a migrant worker
  - the job gateway – where employers must demonstrate that the job for which they are recruiting pays the market rate and that no New Zealander is able to fill it
  - the migrant gateway – where the migrant can apply for the visa once the employer is accredited and has an approved job check.
38. You agreed to further implementation detail, such as employer accreditation standards, and detailed advertising requirements for jobs at the job check in 2021 [BR 2021-2254 and BR 2021-3160 refer].
39. A summary of the system design, factoring in the Rebalance decisions, is set out below



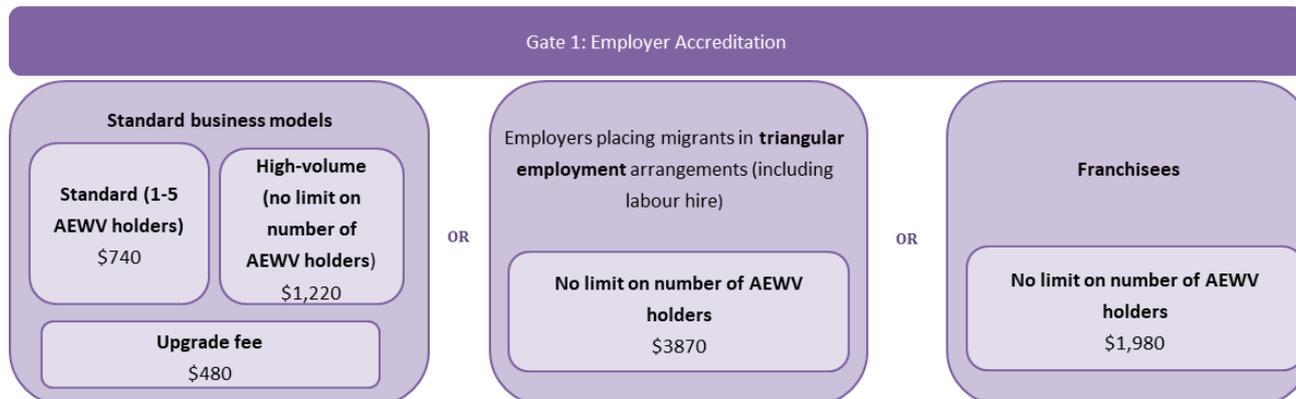
40. The main areas where we recommend changes in light of the Rebalance are the allocation of employers to standard or high-volume accreditation, and the regionalised labour market test settings.

## **Standard vs high-volume accreditation – we recommend introducing an upgrade fee for employers with standard business models, and automatically allocating all other employers to high-volume**

41. High-volume accreditation was originally intended to manage labour market risks associated with having a large number of migrant workers, by requiring employers to make commitments to improving pay and conditions over time, and training and upskilling New Zealanders.
42. You have agreed that:
  - a. employers could meet their commitment to improve pay and conditions by either paying at least 10 percent above the minimum wage, or having a collective agreement in place, for every job approved at the job check
  - b. there will be no training and upskilling requirements for high-volume employers at go-live of AEWV, but that further consideration will be given to introducing them at a later date. The earliest any training and upskilling requirements for high-volume employers would be implemented is late 2023.
43. Following decisions on the Rebalance, all jobs approved at the job check will need to pay at least the median wage (unless special Green List or sector agreement arrangements apply). This makes the requirement for high-volume employers to pay at least 10 percent above the minimum wage or have a collective agreement in place redundant. This means that, when the AEWV launches, there will be no difference in the accreditation requirements for standard and high-volume employers. We intend to do further work on the potential introduction of training and upskilling requirements, and also consider whether high-volume employers should be subject to union engagement requirements and/or be required to make further commitments to improve pay and conditions. The earliest any additional requirements for high-volume employers would be introduced is late 2023.
44. This could result in some perverse outcomes if an employer has originally applied for standard accreditation, but finds part-way through their accreditation period that they in fact need high-volume accreditation. It was originally intended that an employer in this situation would need to apply and pay for high-volume accreditation and commit to paying at least 10 percent above the minimum wage, or have a collective agreement in place. However, expecting employers to apply and pay for high-volume accreditation is no longer reasonable, given that they would only be committing to meet the same conditions as they already had in their initial standard accreditation application.
45. We therefore recommend allowing employers to 'upgrade' to high-volume accreditation part-way through their accreditation period, by paying the difference between the standard and high-volume accreditation fees, instead of requiring them to submit a full high-volume accreditation application. The fee difference (\$480) primarily reflects additional risk assurance activity undertaken on higher volume employers during the accreditation period, as the impact of non-compliance increases with greater numbers of migrant employees.
46. We signalled this change to you recently when we provided you with the Cabinet paper seeking agreement to the AEWV fees [BR 2122-2461 refers]. The Cabinet paper has been drafted to include the upgrade fee and is scheduled to be considered by the Cabinet Economic Development Committee on 18 February 2022. The option for employers to upgrade to high-volume will require system changes and will not be ready when the AEWV goes live in July – it will instead be implemented later in 2022. We do not expect this delay to cause major issues, as any employers who need to upgrade to high-volume are unlikely to need to do this until later in their accreditation period.
47. For franchisee employers and those placing AEWV holders in triangular employment arrangements, there is no fee difference between standard and high-volume accreditation (as these employers are already paying considerably more for risk assurance activities, due

to the risks associated with their business models). We therefore recommend automatically allocating high-volume status to these employers at this stage.

48. This would result in a simplified accreditation system:



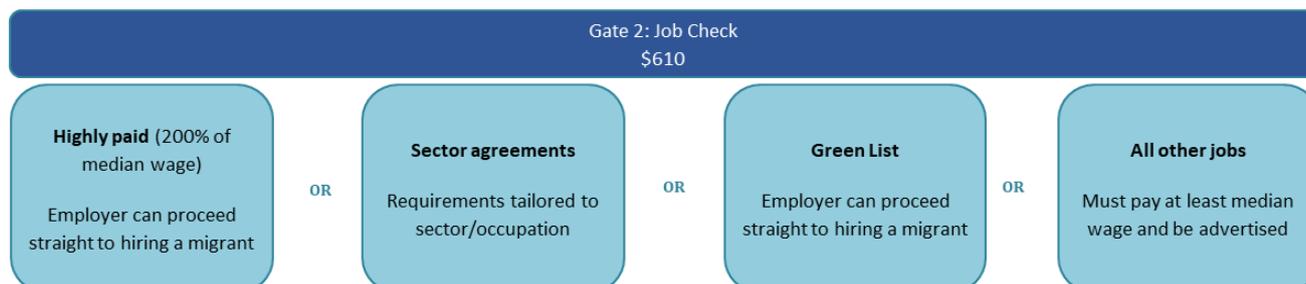
### Regionalised labour market test – we recommend applying tighter labour market settings in the regions

49. Cabinet originally agreed to a regional framework for labour market testing to take into account the differences in regional labour markets. For jobs at, or above, the median wage, Cabinet agreed that settings would be looser in the regions (no labour market testing), and tighter in cities (jobs must be advertised, unless on a skill shortage list). This was to recognise that the risk of displacing New Zealanders is lower in regions. The overall rate of work visas issued in the regions is lower, and there is evidence that regions have struggled to attract migrant workers at higher skill levels. Cabinet also agreed to additional regional distinctions for jobs paying below the median wage, but these settings will no longer apply since the Rebalance has removed below-median wage jobs from the system.

50. However, in light of the removal of jobs paid below the median wage, we now recommend applying the city settings in regions for those jobs remaining above the median wage. The removal of jobs paid below-median wage may result in increases in market rates for some jobs that previously paid below this threshold, and requiring employers in the regions to advertise the role with the higher pay rate will ensure that New Zealanders have visibility of job opportunities and increased market rates. Reintroducing advertising requirements in the regions will result in additional costs for employers. However, we consider the impact will be minimal, as advertising is a relatively low-cost activity that employers with a vacancy are likely to undertake anyway.

51. Applying the same rules in cities and regions will also simplify the system by reducing the number of different pathways for employers. To further simplify the system, we recommend using the Green List to determine which jobs are exempt from the advertising requirement, instead of skill shortage lists. The Green List is based on similar criteria to the skill shortage lists, and will likely contain many of the same occupations. Having a single list will remove unnecessary duplication and make the system easier for employers to navigate.

52. This would result in the following simplified job check system:



## Arrangements for onshore migrants who will not be able to renew their visas

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53. The implementation of the Rebalance package from July 2022 will mean that some migrants will no longer qualify for work visas and be required to either depart New Zealand or apply for a different visa type. This affects both temporary workers and possibly some migrant partners who have not been able to qualify for the 2021 Resident Visa. Options for each group are discussed below.

### Temporary workers

#### *Who misses out?*

54. The following groups of migrant workers currently hold employer assisted visas that they will no longer be eligible for once the Rebalance changes take effect:
- those being paid below median, and
  - Confidential advice to Government
55. The number of visa holders affected is difficult to determine, as the effects of the 2021 Resident Visa also need to be accounted for. The table below provides an estimate of the number of Essential Skills visa holders (the largest employer assisted visa category at present), who were ineligible for the 2021 Resident Visa<sup>5</sup> and who have visas expiring in the 12 months from July 2022. There are also many Post-Study Work Visas expiring from July 2022 (not included in the table below). Note, there are more visas expiring after June 2023, including a significant cohort of people who have been granted two-years Essential Skills visas.

Month	Estimated number of Essential Skills visas expiring (ineligible for 2021 Resident Visa)
July 2022	170
August 2022	230
Sept 2022	200
Oct 2022	290
Nov 2022	280
Dec 2022	180
Jan 2023	260
Feb 2023	300
March 2023	150
April 2023	10
May 2023	-
June 2023	50
<b>Total</b>	<b>2120</b>

56. The affected Essential Skills visa holders entered New Zealand when the stand-down policy was in place for Essential Skills visas for work paid below the median wage. They therefore entered New Zealand with the expectation that they would have to leave or transfer to another visa type after three years. Likewise, Post-Study Work Visas do not have a pathway to a future work visa or residence attached to them, and these visa holders have always held the risk of not being able to remain in New Zealand on the expiry of their visa if they could not qualify for an employer-assisted or other work visa.

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<sup>5</sup> A simplified estimation of the criteria of the 2021 Residence visa was applied that does not reflect precisely how the policy was operationalised, and as such figures are only estimates. It is likely that the estimates of visas expiring are on the higher side.

57. The implementation of Step 3 of Reconnecting New Zealanders means that migrant departures from the workforce from July 2022 can be offset by new migrants entering the workforce under the Working Holiday Scheme (from 13 March) and AEWV (from 4 July), noting that there will be a slight delay to allow applications to be processed and new migrants to travel to New Zealand. Most migrant departures will be from roles paid below the median wage (otherwise they could qualify under AEWV). Assuming the role remains paid below the median wage, employers will need to secure an open work rights holder to fill it (e.g. a Working Holiday Scheme participant).

#### *Options for temporary workers*

58. **We recommend that no specific action be taken to transition temporary migrant workers to the Rebalance settings.** This will mean that the Essential Skills visa will close to renewals and new applications as planned on 3 July 2022. Any temporary work applications from 4 July will go through the AEWV pathway. There will be some affected migrants as a result of this approach but the expected numbers are small, and they will be able to apply for a further Essential Skills visa prior to 4 July to remain in New Zealand in the short-term.
- a. *Strengths:* This approach fits with the intention of the Rebalance – to lessen reliance of migrants to fill lower-paid, lower-skilled roles – and sets clear expectations for onshore and future temporary migrant workers, and their employers. It sends a clear signal to employers that they need to meet this pay threshold if they want to retain their existing migrants or employ new ones. This requires no changes to current implementation plans for the AEWV and is the best option from an operational perspective (introducing grandparenting provisions or extensions would require significant diversion of ICT and other resources while INZ is trying to implement Reconnecting New Zealanders and the 2021 Resident Visa). It is also the most easily-communicated for employers, who are already familiar with the AEWV timeframes, and affected migrants.
  - b. *Weaknesses:* There will be some negatively-affected migrants and resulting noise, and possibly some short-term labour shortages for businesses if there is a lag between when existing migrant employees' visas expire and when Working Holiday Scheme participants arrive onshore - this is subject to 'Reconnecting New Zealanders' timeframes. There may be a greater rush of visa renewals by those with visas expiring from 4 July 2022 (beyond what was expected as a result of implementing the AEWV). This will mean an increased processing burden for INZ (but this may be partially offset by the streamlined Essential Skills assessment process introduced last year).
59. If reopening timelines are extended, and you want to minimise the short-term labour shortage for businesses, we can provide further advice. There may be an option to extend affected visas using COVID-19 Special Powers provided by s 78A of the *Immigration Act 2009*, if the border remained substantively closed when the affected visas start to expire.

## **Partners**

### *Who is affected and recommended action*

60. We expect most onshore partners will be unaffected by the change to partner work rights, as most will be eligible for the 2021 Residence Visa or are specifically excluded from the impact of the Rebalance (like Partners of Students Work Visa holders). Partners of those temporary workers who will not be eligible for a work visa once the Rebalance changes take effect (discussed above) do not qualify for the Partner of a Worker open work visa already, so will be unaffected. While partners of Post-Study Work Right visa holders may lose their open work rights on expiry of their current visa, they are reliant on the primary applicant to qualify for work rights – as Post-Study Work Visas have no expectation of a future work visa or residence pathway attached, neither can the visa holder's partner. **Given the minimal number of onshore migrants affected, we recommend that no specific action be taken to transition onshore partners to the new partner settings.**

## Next steps

### Confirming decisions with Cabinet

61. The establishment of an upgrade fee for employers moving from standard to high-volume mid-accreditation will be confirmed by Cabinet when they consider the fees for the AEWV system. We recently provided you with a final Cabinet paper for consultation [BR 2122-2461 refers], and the paper is scheduled to be considered by the Cabinet Economic Development Committee on 16 February 2022.
62. For all other proposals in this paper, we do not consider that it is necessary to seek Cabinet approval, as they are generally technical in nature. While the proposals relating to the AEWV will alter settings that were originally agreed to by Cabinet in 2019, they are consistent with decisions Cabinet has subsequently made relating to the Rebalance.
63. Furthermore, we recommend announcing the decisions in this paper at the same time as, or as soon as possible after, the announcement of the Rebalance package, currently scheduled for mid-February. The detail in this paper is critical to help employers and migrants understand what the Rebalance will mean for them, and give them the certainty that they need to plan for the introduction of the changes. Seeking Cabinet approval to the proposals will not allow us to communicate this detail in a timely way to employers, as the next opportunity to seek Cabinet decisions will be the March report back on the Green Confidential advice to Government (currently scheduled for 31 March),

### Overview of next steps and Rebalance implementation timeline

<b>Mid-February 2022</b>	Briefing seeking agreement to policy detail for the Green List, <small>Confidential advice to Government</small> and sector agreements.
	INZ briefing providing advice on go-live date for AEWV employer accreditation and job check applications.
	Cabinet confirms fee levels for the AEWV system.
	Rebalance package announced.
<b>Late March 2022</b>	Cabinet report back on Green <small>Confidential advice to Government</small> and proposed industries to pursue sector agreements for.
	Cabinet approves regulations required to implement fees for the AEWV system.
<b>May or June 2022</b>	<p>AEWV system opens to employer accreditation and job check applications.</p> <p>Franchisee employer and employers using triangular employment arrangements automatically allocated high-volume accreditation status.</p> <p>Job check applications will be subject to:</p> <ul style="list-style-type: none"> <li>• median wage threshold (set at updated rate of \$27.76/hour)</li> <li>• updated (more flexible) wage calculation formula</li> <li>• requirement that wages must be paid at least monthly</li> <li>• advertising requirements in both cities and regions</li> <li>• Green List <small>Confidential advice to Government</small> .</li> </ul>
<b>June 2022</b>	Cabinet report back on specific sector agreement proposals, and recommendations on skilled residence pathways.

<b>3 July 2022</b>	Last day for onshore migrants paid below the median wage to renew their visa before the threshold comes into effect. Following this, these visa holders will be required to either depart New Zealand or apply for a different visa type when their visa expires.
<b>4 July 2022</b>	<p>AEWV system opens to visa applications from migrants.</p> <p>All partners of temporary workers paid at or above the median wage continue to have open work rights at this stage.</p> <p>Work to residence pathway available for Green List and sector agreement occupations (residence applications cannot be made until the work to residence period is completed, i.e. from 2024).</p>
<b>From July 2022</b>	Specific sector agreement settings for each sector, including Pacific options, implemented (this could be staggered, depending on how long it takes to conclude each sector agreement).
<b>August 2022</b>	<p>Pending the Skilled Migrant Category (SMC) review:</p> <ul style="list-style-type: none"> <li>• SMC expression of interest draws restarted with new points system</li> <li>• Tier One Green List Fast Track Residence pathway available under SMC.</li> </ul>
<b>October 2022 (or some other time later in 2022)</b>	<p>Open work rights turned off for specific partners and new visa available for them (AEWV but able to work less than 30 hours).</p> <p>Employers able to upgrade to high-volume accreditation part way through accreditation period by paying upgrade fee (instead of submitting a full high-volume accreditation application).</p>
<b>2023</b>	Accreditation of all employers of migrant workers, beyond just AEWV (pending policy work and decisions later in 2022).
<b>2024</b>	Applications taken for new residence from work pathways under Green List and sector agreements.

## Annexes

Annex One: Proposed visas subject to various Rebalance changes, subject to transition exceptions

Annex Two: Examples of how the wage calculation rules will apply in practice

## Annex One: Proposed visas subject to various Rebalance changes, subject to transition exceptions

### Temporary work visas subject to the median wage threshold

Included	Excluded
Accredited Employer Work Visa, which incorporates:	Recognised Seasonal Employer Scheme visas
• Essential Skills Work Visa	Supplementary Seasonal Employer visas
• Talent (Accredited Employer) Work Visa	All Working Holiday Scheme visas
• Long Term Skills Shortage List Work Visa	Entertainers Work Visa
• Silver Fern Practical Experience Visa	Work Exchange Scheme Work Visa
Fishing Crew Work Visa [TBC]	Specific Purpose Work Visa
	Religious Worker Work Visa
	Talent (Arts, Culture and Sports) Work Visa
	Thai Chefs Work Visa
	China Skilled Workers Work Visa
	Primary Sector Trainees Work Visa
	China Special Work Visa
	Philippines Special Work Visa
	Vietnam Special Work Visa
	Republic of Korea Special Work Visa
	Diplomatic and military work visas

### Partner groups subject to requirement to qualify for work rights in their own right

Included	Excluded
All partners who would qualify for existing Partner of a Worker work visa	Partners of primary applicants who hold the following visas:
	• Entertainers Work Visa [TBC]
	• Work Exchange Scheme Work Visa [TBC]
	• Specific Purpose Work Visa
	• Religious Worker Work Visa
	• Talent (Arts, Culture and Sports) Work Visa
	• Thai Chefs Work Visa
	• China Skilled Workers Work Visa
	• Primary Sector Trainees Work Visa
	• China Special Work Visa
	• Philippines Special Work Visa
	• Vietnam Special Work Visa
	• Republic of Korea Special Work Visa
	• Diplomatic and military work visas
	• Migrant Exploitation Protection Work Visa
	• Victims of Family Violence Work Visa
	• Trafficking Victim Work Visa
	Partners of primary applicants employed in a Green List occupation or earning at or above 200 percent of the median wage
	Partner of a Student Work Visa applicant or holder
	Partner of a New Zealand Scholarship Student work visa applicant or holder
	Partner of Military personnel work visa applicant or holder

## Annex Two: Examples of how the wage calculation rules work in practice

Note: the following scenarios are based on the current median wage of \$27/hour, however the median wage will rise to \$27.76 in March 2022.

### Scenarios that already meet the median wage threshold under existing immigration instructions

Builder paid by hourly rate	IT professional paid by annual salary																																								
<ul style="list-style-type: none"> <li>Builder is paid a standard hourly rate of \$27 for every hour they work – the \$27/hour threshold is met.</li> </ul>	<ul style="list-style-type: none"> <li>IT worker is paid an annual salary of \$57,000.</li> <li>Employment agreement states the maximum number of hours they can be required to work in a week is 40.</li> <li>Hourly pay rate is calculated by dividing the annual salary by 52, and then the maximum number of hours worked in a week (40).</li> <li>Hourly rate is \$27.40 – the \$27/hour threshold is met.</li> </ul>																																								
Meat process worker paid by piece rates on a hourly basis, with guaranteed top-up payment																																									
<ul style="list-style-type: none"> <li>Meat process worker is paid a base rate of \$20/hour, and 10c for every carcass processed (calculated on an hourly basis)</li> <li>Employer also provides a guarantee in the employment agreement that they will pay a top up payment for any hour where the employee does not process enough carcasses to earn \$27.</li> <li>Employee is guaranteed to earn at least \$27/hour for each hour worked – the \$27/hour threshold is met.</li> <li>For example, in an eight-hour shift:</li> </ul>																																									
<table border="1"> <thead> <tr> <th>Hour</th> <th># of carcasses</th> <th>\$ earned before top-up</th> <th>Top up paid</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>50</td> <td>\$25</td> <td>\$2</td> </tr> <tr> <td>2</td> <td>70</td> <td>\$27</td> <td>-</td> </tr> <tr> <td>3</td> <td>75</td> <td>\$27</td> <td>-</td> </tr> <tr> <td>4</td> <td>75</td> <td>\$27.50</td> <td>-</td> </tr> <tr> <td>5</td> <td>65</td> <td>\$26.50</td> <td>\$0.50</td> </tr> <tr> <td>6</td> <td>75</td> <td>\$27.50</td> <td>-</td> </tr> <tr> <td>7</td> <td>80</td> <td>\$28</td> <td>-</td> </tr> <tr> <td>8</td> <td>70</td> <td>\$27</td> <td>-</td> </tr> <tr> <td><b>Total</b></td> <td><b>560</b></td> <td><b>\$216</b></td> <td><b>\$2.50</b></td> </tr> </tbody> </table>		Hour	# of carcasses	\$ earned before top-up	Top up paid	1	50	\$25	\$2	2	70	\$27	-	3	75	\$27	-	4	75	\$27.50	-	5	65	\$26.50	\$0.50	6	75	\$27.50	-	7	80	\$28	-	8	70	\$27	-	<b>Total</b>	<b>560</b>	<b>\$216</b>	<b>\$2.50</b>
Hour	# of carcasses	\$ earned before top-up	Top up paid																																						
1	50	\$25	\$2																																						
2	70	\$27	-																																						
3	75	\$27	-																																						
4	75	\$27.50	-																																						
5	65	\$26.50	\$0.50																																						
6	75	\$27.50	-																																						
7	80	\$28	-																																						
8	70	\$27	-																																						
<b>Total</b>	<b>560</b>	<b>\$216</b>	<b>\$2.50</b>																																						
<p>*Note that most industries that use piece rates do not have systems in place to record units processed in this way – it is more commonly calculated on a per shift basis.</p>																																									

**Scenarios that would meet the median wage threshold as a result of the ability to average pay over a pay-period**

Bus driver with guaranteed night shifts	Factory worker with guaranteed overtime
<ul style="list-style-type: none"> <li>• Bus driver is guaranteed six days shifts (paid at \$25/hour) and two night shifts (paid at \$30/hour) every fortnight.</li> <li>• Any additional hours worked beyond the standard shifts are paid at \$30/hour.</li> <li>• Employee is guaranteed to earn the equivalent of at least \$27 per hour worked in a pay-period (\$2,160 for standard 80 hours of work, with any additional hours paid at \$30).</li> </ul>	<ul style="list-style-type: none"> <li>• Factory worker is required to work 45 hours a week.</li> <li>• First 40 hours are paid at \$26, and any hours worked beyond that are paid at time and a half (\$39).</li> <li>• Employee is guaranteed to earn the equivalent of at least \$27.44 per hour worked in a pay-period (\$1,235 for standard 45 hours of work, with any additional hours paid at \$39)</li> </ul>
<p><b>Meat process worker paid by piece rates on a shift basis, with guaranteed top-up payment</b></p>	
<ul style="list-style-type: none"> <li>• Meat process worker is paid a base rate of \$20/hour, and 10c for every carcass processed (calculated on a per shift basis)</li> <li>• Employer also provides a guarantee in the employment agreement that they will pay a top up if the employee does not process enough carcasses to earn the equivalent of \$27/hour across the pay-period.</li> <li>• E.g. employee works 40 hours in one week, and processes 2,600 carcasses. Total pay before top up is \$1,060 (\$26.50/hour). Employer tops up pay to \$1,080 (\$27/hour).</li> </ul>	

**Scenarios that will not meet the median wage threshold, even with the ability to average pay over a pay-period**

Bus driver with higher rate for night shift, but night shift not guaranteed	Bus driver with rotating roster
<ul style="list-style-type: none"> <li>• Bus driver is paid \$25/hour for day shift and \$30/hour for night shift.</li> <li>• Employer does not provide any guarantee about how many day and night shifts will be worked each pay-period.</li> <li>• If the employee does not work enough night shifts in a pay-period, they will earn less than \$27/hour.</li> <li>• The \$27/hour threshold is not guaranteed, so a visa cannot be issued.</li> </ul>	<ul style="list-style-type: none"> <li>• Bus driver is paid \$25/hour for day shift and \$30/hour for night shift.</li> <li>• They are guaranteed a roster of one week of morning shifts, followed by a week of afternoon shifts, followed by a week of night shifts, and are paid weekly.</li> <li>• Over the course of three weeks, pay is \$27/hour on average. However, in pay-periods where the driver has done morning or afternoon shifts, pay is \$25/hour.</li> <li>• The \$27/hour threshold is not guaranteed for every paid period, so a visa cannot be issued.</li> </ul>
<p><b>Meat process worker paid by piece rates, but no provision for top up payments</b></p>	
<ul style="list-style-type: none"> <li>• Meat process worker is paid a base rate of \$20/hour, and 10c for every carcass processed</li> <li>• Employer does not commit to topping up pay if the total from the base rate and piece rates in the pay-period is less than \$27/hour on average.</li> <li>• The \$27/hour threshold is not guaranteed, so a visa cannot be issued.</li> </ul>	

### **IT Professional paid by annual salary**

- IT worker is paid an annual salary of \$57,000.
- Employment agreement states the standard hours of work each week are 40, but no maximum hours of work given. Employer confirms to INZ that the employee can be required to work up to 50 hours in some weeks without any additional payment.
- Hourly pay rate is calculated by dividing the annual salary by 52, and then the maximum number of hours worked in a week (50).\*
- Hourly rate is \$21.92
- The \$27/hour threshold is not guaranteed if the employee works for than 40 hours a week, so a visa cannot be issued.

\*Note that we are preparing further advice on potential changes to allow an annual salary to be averaged over the maximum number of hours worked in a year (rather than a week).

### **Meat process worker with guaranteed weekly payment based on 30 hours, but no guarantee for additional hours**

- Meat process worker is paid a base rate of \$20/hour, and 10c for every carcass processed
- Employer commits to paying at least \$810/week (equivalent of \$27/hour for a 30 hour week), regardless of how many carcasses are processed.
- However, no minimum pay guarantee is provided for any hours worked beyond 30.
- The \$27/hour threshold is not guaranteed if the employee works more than 30 hours in a pay-period, so a visa cannot be issued.