



COVERSHEET

Minister	Hon Andrew Little	Portfolio	Immigration
Title of Cabinet paper	Immigration Rebalance - implementing agreed changes to partner work rights	Date to be published	12 July 2023

List of documents that have been proactively released

Date	Title	Author
February 2023	Immigration Rebalance - implementing agreed changes to partner work rights	Office of the Minister of Immigration
22 February 2023	Immigration Rebalance - implementing agreed changes to partner work rights DEV-23-MIN-0012	Cabinet Office
25 November 2022	Options for changes to partners work rights and oral item for Cabinet, 28 November	Ministry for Business, Innovation and Employment
8 December 2022	Further advice on possible changes to partner work rights	Ministry for Business, Innovation and Employment
2 February 2023	Draft Cabinet paper on Immigration Rebalance - implementing agreed changes to partner work rights	Ministry for Business, Innovation and Employment

Information redacted

YES / NO (please select)

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Some information has been withheld to maintain the privacy of natural persons.



BRIEFING

Options for changes to partner work rights and oral item for Cabinet, 28 November

Date:	25 November 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-1923

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister of Immigration	Progress an oral item to Cabinet Indicate whether you would like further advice	28 November 2022

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

The following departments/agencies have been consulted

Minister's office to complete:

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 Withdrawn |

Comments



BRIEFING

Options for changes to partner work rights and oral item for Cabinet, 28 November

Date:	25 November 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-1923

Purpose

To provide you with our initial advice about revising the changes to partner work rights, and talking points to support your oral item at Cabinet on 28 November, seeking agreement to:

- delay implementation of these changes and align implementation of proposed eligibility changes for the Victims of Family Violence Work Visa, and
- progress an immediate announcement of the delay of partner work right changes, previously announced as taking place in early December
- provide you the authority to finalise the approach for making changes to partner work rights, should you wish to explore this further.

Executive summary

Cabinet agreed to require partners of most temporary migrants to qualify for a work visa in their own right, to support the Immigration Rebalance objectives [CAB-21-MIN-0554]. This change was planned to be implemented by requiring relevant partners to gain a tailored Accredited Employer Work Visa (AEWV) (with an exemption to hours of work requirements) from December 2022.

You indicated you want to delay the implementation of the change to partner work rights to align with planned changes to the Victims of Family Violence Work Visa to ensure there are alternative visa options available to people in family violence situations. We have provided an oral item for Cabinet on Monday 28 November to support this delay.

You have also indicated that you would like to consider alternative ways to implement the change Cabinet agreed to, to provide a simpler process for applicants and greater certainty that partners can get a work visa before arriving in New Zealand.

We have explored options outside of the AEWV system that limit the job assessment to working for an accredited employer and in a role that meets the relevant wage threshold. Our first best advice remains that this change be implemented by requiring partners of most temporary migrants to get a tailored AEWV. Compared to the identified alternatives, it best upholds the Rebalance objectives, and any process improvements are minimal, and significant changes are needed to set up the alternatives which could not be done until April 2023.

Identified options are:

- imposing conditions on the existing work visa for partners of a temporary migrant, so that most partners of AEWV holders are obligated to only work for accredited employers in roles paying above the median wage (or the relevant wage threshold for most roles covered by sector agreements), or

- developing a new version of the current partner work visa which includes a streamlined assessment of the role, to confirm that it is with an accredited employer and pays above the median wage (or the relevant wage threshold for most roles covered by sector agreements).

We have excluded labour market testing from both options, which means employers will not need to advertise the role to test if there are New Zealanders available.

The first option is a much simpler process and applicants receive the visa while offshore as they do not need to have a job offer to apply - rather they are obliged to work within the conditions of their visa. However, there is no assessment of any job they do take up so we cannot be sure that the Rebalance objectives are upheld, and monitoring options to identify people working outside their visa conditions are limited.

The second option does offer a simpler process than the AEWV, but applicants still need to have a job offer to apply meaning there are no certainty gains. The second option also requires a new visa to be set up, which will require significant effort.

Both options would require system changes which could be implemented in early April 2023. Should you wish to further explore these alternatives, you will need to inform Cabinet and seek authority to take delegated decisions on them. We have provided you with optional additional talking points and recommendations to support the oral item should you wish to do so.

Recommended action

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

- a **Note** that Cabinet previously agreed that partners of most temporary migrants will be required to qualify for work rights in their own right, and noted that this would be implemented through an Accredited Employer Work Visa (with an exemption to hours of work requirements) from December 2022 [CAB-21-MIN-0554 and CAB-22-MIN-0145 refer]

Noted

- b **Note** that in response to concerns raised about how these planned changes to partner work rights will impact on financial independence of partners, you are progressing changes to the Victims of Family Violence Work Visa which will not be implemented until February 2023

Noted

- c **Agree** to seek Cabinet agreement to delay the implementation of the partner work rights changes so they can be aligned with implementation of proposed Victims of Family Violence Work Visa changes

Agree / Disagree

- d **Note** that officials advise that the existing approach agreed by Cabinet to implement partner visa changes through the Accredited Employer Work Visa system will best deliver on the Rebalance objectives as compared to options through other visa categories without a labour market test

Noted

e **Agree** to EITHER

- i. progress partner work rights changes by implementing a partner-AEWV as planned but on 27 February (**recommended**)

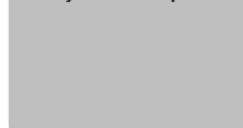
Agree / Disagree

OR

- ii. seek Cabinet approval to consider and take decisions on alternative ways to implement the decision that partners of most temporary migrants will be required to qualify for work rights in their own right, and request that officials provide you further advice on this

Agree / Disagree

Privacy of natural persons



Andrew Craig
Manager, Immigration Policy (Skills and Residence)
Labour, Science and Enterprise, MBIE

25/11/2022

Hon Michael Wood
Minister of Immigration

..... / /

Context

1. In December 2021, Cabinet agreed to progress the Immigration Rebalance options for workers and partners, including requiring partners of most temporary workers to qualify for work rights in their own right [CAB-21-MIN-0554 refers]. Currently partners of eligible temporary migrants can receive an open work visa for the same duration as the principal applicant's visa, meaning they can work for any employer at any wage rate (above the minimum wage).
2. In February 2022 the previous Minister of Immigration agreed the detailed policy settings for changes to partner work rights [2122-2326 refers], including that the requirement to qualify for work rights independently would only apply to partners of Accredited Employer Work Visa (AEWV) holders (excluding partners of AEWV holders in a Green List or highly paid occupations).
3. In April 2022 Cabinet further noted that these changes were to be implemented in December 2022 by requiring partners to obtain a tailored AEWV, with no minimum or maximum hours of work required [CAB-22-MIN-0145 refers]. These changes were announced in May 2022, to give families and partners time to make informed choices about their employment and financial prospects.
4. The change to partner work rights is intended to support Rebalance objectives for a higher skill level overall among temporary migrant workers. Nearly half of all temporary migrant workers in New Zealand did not come here on their own work visas – many are partners of workers working in sectors we aim to transition away from reliance on low-wage, low-skilled migrant labour.
5. Concerns were raised during consultation on the impact of these changes on partners of temporary migrants in family violence situations, and work is progressing to expand access to the Victims of Family Violence (VFV) to partners of temporary migrants [2223-0914 and 2223-1709 refer]. You indicated that you would like to delay implementation of the partner work right changes to align with implementation of VFV visa changes. These will be considered by Cabinet on 12 December and implemented in February 2023 (should Cabinet agree).
6. You also sought advice on how the implementation of partner work rights changes could be revised. We understand your interest is in offering greater certainty of work prospects for applicants and a more streamlined process, which limits the role requirements to being with an AEWV accredited employer and to meet relevant wage threshold.
7. This briefing discusses how the partner work rights changes could be implemented without the full AEWV process being required and provides advice about how these compare to the current proposal to implement via the AEWV system. Talking points and draft recommendations to support an oral item at Cabinet on 28 November are attached at Annex One and Two respectively.

Changes to partner work rights

8. Migrant partner visa holders make up a significant portion of the temporary migrant workforce. Requiring partners of most temporary migrant workers to obtain work rights in their own right can be used to uphold the Rebalance principles of increasing the skill level of the migrant workforce, by ensuring that wage thresholds are consistently applied, and that the vast majority of roles taken up by migrant workers have been labour market tested to ensure no New Zealander is available.
9. We advise that this is best achieved by implementing a tailored Accredited Employer Work Visa for partners that provides flexibility in the hours that they can work. Early analysis of

other alternatives which do not involve the AEWV system do not provide significant improvements on simplicity or clarity for applicants without creating a high risk that Rebalance objectives are compromised. We consider delivery of the Rebalance principles to be a higher priority than providing certainty or simplifying the process for applicants, given the Cabinet decisions already taken to change partner work rights.

10. The AEWV approach is also consistent with our focus on reducing system complexity as it uses the same visa for both principal applicants and their partners, with only slight differences as necessary. Employers will take the same action regardless of whether they are employing a partner or not.
11. The existing implementation work that has been progressed to ready the partner changes for December can be delayed to 27 February, should you agree to progress based on these existing Cabinet decisions. There will be no need to consult Cabinet beyond noting the change in timing to align with the VFV Visa changes.

Exploring alternative ways to make partner visa changes

12. You could continue to explore a revised approach to implementing the partner changes. We understand you are interested in other options that may provide greater certainty that a partner can get a work visa before arriving in New Zealand, and simplify the application process by streamlining the job check. You suggested only requiring that partners work for an accredited employer and that wage thresholds to be met for the role they are in. We endorse retaining these requirements, as removing them would be a significant shift away from the Rebalance objectives, and have not explored options that remove these elements.
13. We have considered options that deliver on your stated aims, and the main difference from using the AEWV is that roles offered to partners of migrant workers would not be labour market tested. This means the availability of New Zealanders to fill the roles will not be assessed and no advertising will be required. The removal of labour market testing will mean all options considered will do less to uphold the Rebalance aims, which include ensuring employers look to the domestic labour market to meet their staffing needs.
14. Two alternative approaches to implementing the partner work right changes without requiring a labour market test have been identified:
 - a. Option A - imposing conditions as part of an open work rights visa so that most partners of AEWV holders are obligated to only work for accredited employers in roles paying above the median wage (or the relevant wage threshold for most roles covered by sector agreements), and
 - b. Option B - developing a new version of the current partner work visa which includes a streamlined assessment of the role, to confirm that it is with an accredited employer and pays above the median wage (or the relevant wage threshold for most roles covered by sector agreements).
15. Option A creates a very simple and certain visa process for partners. As applicants do not need to have a job lined up when they apply, it provides certainty for applicants of their ability to work before coming to New Zealand as they can receive this visa while offshore. However, it imposes the conditions of only working for an accredited employer and meeting relevant wage thresholds on the visa holder. While compliance with visa conditions is not assured, visa holders can be liable for deportation if they do not meet these conditions, and their non-compliant employers could face loss of privileges like accreditation. These can be effective incentives for visa holders to only work in jobs that meet these conditions and it is how the Working Holiday Scheme work restrictions operate.
16. The applicant's compliance with the conditions would not be tested by Immigration New Zealand (INZ) before the visa was issued. Monitoring of compliance would be difficult and

reliant on random audits, with high potential for non-compliance. It is therefore not a guaranteed means to achieve the Rebalance objectives.

17. Option B would confirm employer accreditation and wage threshold requirements are met before the visa is issued and is more consistent with the Rebalance objectives than Option A. However, any improvement from simplifying the process for applicants is only marginal as compared to implementing through the AEWV – this process would be migrant-led (like the previous Essential Skills Work Visa) requiring the applicant to seek information from their potential employer to then provide to INZ. This requires creation of a new visa as these changes cannot be delivered in the AEWV system, which increases complexity for the applicant and employer to understand a new and different process – this is inconsistent with our aims of simplifying the immigration system.
18. This option also offers no more certainty for partners than the current proposal through the AEWV, as they will likely need to be onshore before securing a job offer and many partners may enter New Zealand on a visitor visa, as under the current AEWV proposal. In short, this option would require a lot of additional effort to implement for no to little gains over the current proposal.
19. The below table shows how these options compare to the current proposal (i.e. a partner AEWV):

Option	Certainty ahead of arrival in NZ	Straightforward for applicants	Rebalance principles
Current proposal (AEWV partner visa)	x	●	✓ ✓
Option A – imposing conditions on the status quo	✓	✓ ✓	x
Option B – a new light-touch work visa for partners of AEWV holders	x	●	✓

20. If you would like to pursue revisions to implementation of partner work right changes, you will need to notify Cabinet and seek approval to take further decisions. Talking points and draft recommendations to support this is provided in Annex One and Two respectively (conversely, should you prefer against revising the policy, you can omit these from your oral item at Cabinet).
21. If you would like to explore these options further, we will provide you with further advice on options in the coming weeks. This would allow for consultation with key agencies, including the Ministry of Social Development, which is yet to occur.

Indicative implementation timelines, should you choose to progress partner changes through these alternatives

22. If policy requirements for partner changes vary beyond the options outlined in this briefing, Immigration New Zealand will reassess development and delivery. However, early indications are that both alternative options outlined here could be implemented from 3 April 2023. The planned implementation of the VFV visa changes could also be delayed to align.

Next steps

23. We recommend the delayed implementation of the partner work rights changes is communicated as soon as possible after Cabinet agrees on Monday 28 November. Officials will work with your office to provide any information needed to support this.

24. If you agree to proceed with implementing the partner work right changes through the AEWV (i.e. based on existing Cabinet decisions), these can be implemented on 27 February alongside the VFV visa changes. The new date for implementing partner work rights changes could be announced alongside VFV visa changes following Cabinet agreement.
25. If you prefer to pursue further work to revise how the partner work rights changes are implemented, you could seek Cabinet approval to consider and take decisions on a revised approach. The following timeline would apply:

Action	Timing
Oral item seeking Cabinet's agreement	Monday 28 November 2022
Further briefing on alternative implementation options	Wednesday 7 December 2022
Announcement of revised implementation approach and VFV changes	Week commencing 12 December 2022
New systems able to go live	(tentative) 3 April 2023

26. Talking points and recommendations for Cabinet on Monday 28 November that support either approach are provided at Annexes One and Two respectively.

Annexes

Annex One: Talking points to support Cabinet oral item, 28 November

Annex Two: Draft recommendations to table for Cabinet oral item, 28 November

Annex One: Talking points to support Cabinet oral item, 28 November

Context

- In December last year, we agreed that as part of the Immigration Rebalance we would be making some changes to the work rights of partners of temporary workers.
- Most partners of people who hold an Accredited Employer Work Visa will no longer receive an open work visa issued on the basis of their relationship – rather they would have to qualify for a work visa in their own right. Partners of New Zealanders, or people in a Green List or highly paid occupation are exempt from this change.
- The change supports Rebalance objectives for a higher skill level overall among temporary migrant workers, as nearly half of all temporary migrant workers in New Zealand did not come here on their own work visas. Many are partners of workers working in sectors we want to see transition away from reliance on low-wage, low-skilled migrant labour.
- This change was announced in May and notice was given that it was to be implemented in December this year.

Delaying implementation

- During consultation on this change, some of you raised concerns that this change could lead to greater financial dependency for partners, and it may in some family violence situations increase the coercive control exerted by abusers.
- As a result, I am progressing work to extend access to our existing Victims of Family Violence Work Visa to partners of temporary migrants, to ensure that temporary migrants in family violence situations have a way to get out of a dangerous situation without worrying about their immigration status. I will be seeking Cabinet agreement to proposals about changes in access very soon.
- However, any changes we agree to for the Victims of Family Violence Visas will not be able to take place until February 2023, so I am notifying Cabinet of my intention to delay the implementation of partner work rights changes so the two can be aligned.
- This will be communicated as soon as possible to clarify that changes for partners will no longer be occurring in December.

Change of approach [only for use if you prefer to further explore other options than AEWV]

- I have also been considering how we implement the changes to partner work rights.
- The changes were to be implemented by requiring partners of most AEWV holders to acquire their own AEWV visas, although there would be no minimum or maximum number of hours that they are required to work.
- I am considering alternative ways to implement these changes to provide greater certainty for migrant partners of their ability to work in New Zealand and a more streamlined process.
- This could be done by reducing the assessment to confirming the employer is accredited and the role pays above the relevant pay threshold or imposing these requirements as visa conditions.
- To be clear, the kind of options I am exploring would not include the same labour market testing as the AEWV does through the Job Check. This would mean that there is no check that roles are advertised to New Zealanders before being offered to this group of migrant partners, and that no suitable New Zealander was available.

- I consider that removing this requirement may be beneficial if the process is able to be streamlined and provide more certainty for this group of partners, and I would like to explore this further. I also consider that continuing to require wage thresholds to be met for most partners will suitably achieve the core Rebalance principle of lifting migrant skill levels.
- More work is needed on how partner visa changes could be done, and whether there is a more beneficial alternative to the AEWV approach – I am seeking Cabinet's agreement to consider options for implementation which could include this kind of change, and to be delegated authority to make final decisions on this.
- I expect any revised visa process I decide would be announced in mid-December, at the same time as any changes we agree to the Victims of Family Violence work visa. Early indication is that revised approaches could be implemented in early April.

Annex Two: Draft recommendations to table for Cabinet oral item, 28 November

EITHER

To solely defer implementation of the existing Cabinet policy choices for partners:

The Minister of Immigration recommends that the Committee:

1. note that Cabinet previously agreed that partners of most temporary migrants will be required to qualify for work rights in their own right, and noted that this would be implemented through an Accredited Employer Work Visa (with an exemption to hours of work requirements) from December 2022 [CAB-21-MIN-0554 and CAB-22-MIN-0145 refer];
2. note that this change will now occur in February 2023.

OR

To defer implementation of the partner changes and also consider an alternative approach:

The Minister of Immigration recommends the Committee:

1. note that Cabinet previously agreed that partners of most temporary migrants will be required to qualify for work rights in their own right [CAB-21-MIN-0554 refers];
2. note that Cabinet also previously noted that this change would be implemented through an Accredited Employer Work Visa (with an exemption to hours of work requirements) from December 2022 [CAB-22-MIN-0145 refers];
3. note that the change to require partners of most Accredited Employer Work Visa holders (excluding those in Green List or highly paid occupations) to qualify for work rights in their own right will now be implemented in April 2023, with the Minister of Immigration to confirm precise timing;
4. agree that in addition to the option to implement through the Accredited Employer Work Visa, the Minister of Immigration also considers other options for implementing the decision in [1] which may not involve a labour market test, but do require:
 - a. an employer to be accredited, and
 - b. relevant wage thresholds for the role to be met;
5. agree to delegate authority to the Minister of Immigration to take final decisions on how to implement the decision in [1], in line with the approach outlined in [4].