



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

Further advice on possible changes to partner work rights

Date:	8 December 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-2124

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister of Immigration	Indicate your preferred approach to implementing the agreed changes to partner work rights Agree that Immigration New Zealand should progress changes to implement your preferred option immediately to take effect in April 2023	14 December 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	
Steven Sue	Principal Policy Advisor	Privacy of natural persons		
Rachel Carruthers	Senior Policy Advisor	Privacy of natural persons		✓

The following departments/agencies have been consulted
The 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 Withdrawn |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



BRIEFING

Further advice on possible changes to partner work rights

Date:	8 December 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-2124

Purpose

To provide you with further advice about alternative ways to implement the changes to partner work rights agreed by Cabinet as part of the Immigration Rebalance.

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.

We have previously identified some alternative ways to implement the partner work rights changes which sit outside of the AEWV system – you have requested further information on how these alternative implementation options could work.

The two identified options are:

- Option A – impose conditions on the existing ‘Partner of a Worker’ Work Visa category, so that most partners of AEWV holders are obligated to only work for accredited employers in roles paying at or above the median wage (or the relevant wage threshold for most roles covered by sector agreements), and
- Option B – develop a new version of the existing ‘Partner of a Worker’ Work Visa category, to include a streamlined assessment of the role which checks that it is with an accredited employer and pays at or above the median wage (or the relevant wage threshold for most roles covered by sector agreements).

Both options forgo the labour market testing requirement included in the current implementation approach via the AEWV. This means one of the Immigration Rebalance objectives – encouraging employers to source labour domestically in the first instance – is not being met by these options. The two new options require setting up new processes under the existing ‘Partner of a Worker’ Work Visa, but all options (the current approach and the two options) can be implemented by the end of April 2023.

The first option is a high-trust model and does not include any upfront assessment of the role the migrant partner would take up. Instead, this approach relies on migrants and employers being incentivised to meet the visa conditions due to the risk of deportation and loss of accreditation respectively if they do not. This lack of a role assessment means that this option presents the least ongoing processing burden for Immigration New Zealand (INZ), and the fewest interactions with the system for the visa holder - although they will need to independently confirm the median wage and that prospective employers are accredited.

The second option does include a streamlined assessment of the role before the visa is issued, so there is more assurance that the migrant partner is taking up a highly skilled role and therefore upholding the Rebalance objectives. This is achieved by checking that the role is paid at or above a pay threshold – there are no individual skill checks. This does mean migrant partners of

temporary workers will likely need to get another visa to enable them to work once they arrive in New Zealand, as we expect most would only secure a job once onshore. This option also presents a greater processing burden for INZ compared to the first option.

We recommend this change be implemented by requiring partners of most temporary migrants to get a tailored AEWV (the current proposal). Compared to the identified alternatives, it best upholds the Rebalance objectives as it includes a labour market test, any process improvements offered by the alternatives are minimal, and significant operational changes are needed to set up the alternatives.

If you do want to proceed with an alternative approach, we recommend Option A - imposing conditions on the existing 'Partner of a Worker' Work Visa category. It offers the greatest gains in terms of increased certainty for applicants and process improvements. There is some risk that applicants fail to work in roles that meet the conditions, but the incentive to uphold their visa conditions is significant.

Should you choose to proceed with one of the alternative options, we suggest you may want to consult Cabinet as neither contain a labour market test, meaning one of the Rebalance objectives is not being supported. Cabinet decisions will not be possible until February 2023, and INZ need to proceed with system changes immediately to meet the April 2023 timeline that was announced. We are seeking your explicit agreement for INZ to proceed with these changes ahead of any Cabinet consultation, noting that there is a risk of time and resource loss should Cabinet not endorse your preferred alternative approach.

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 on 28 November the Cabinet Business Committee noted that you intended to delay the changes to partnership rebalance settings outlined recommendation a above to early 2023 to align with other visa changes [CBC-22-MIN-0054 refers], which was subsequently announced on 5 December 2023

Noted

- c **Note** you have sought advice on alternative ways to implement the agreed change to partner work rights

Noted

- d **Agree** to implement the agreed change to partner work rights by [choose one]:

- i. Requiring partners of most Accredited Employer Work Visa holders (excluding those in Green Listed or highly paid roles) to qualify for a tailored Accredited Employer Work Visa system which has no minimum or maximum hours of work required (the proposal already noted by Cabinet) – **first order recommendation**

Agree / Disagree

OR

- ii. Impose conditions on the existing 'Partner of a Worker' Work Visa category, that require most Accredited Employer Work Visa holders to only work for an employer accredited under the Accredited Employer Work Visa scheme and in a role paid at or above the median wage (or the relevant wage threshold for most roles covered by sector agreements) – **second order recommendation**

Agree / Disagree

OR

- iii. Requiring partners of most Accredited Employer Work Visa holders to qualify for a variation of the 'Partner of a Worker' Work Visa that requires the applicant to have a job offer with an employer accredited under the Accredited Employer Work Visa scheme, and in a role paid at or above the median wage (or the relevant wage threshold for most roles covered by sector agreements)

Agree / Disagree

e If you chose recommendation d (ii) or d (iii), **indicate** your preference to either:

- i. take the revised implementation approach to Cabinet

Agree / Disagree/Not applicable

OR

- ii. proceed with changes without Cabinet consideration

Agree / Disagree/Not applicable

f **Agree** that, regardless of your decision on recommendation e above, Immigration New Zealand should progress changes to implement your preferred option at recommendation d to enable the agreed changes to partner work rights to take effect in April 2023

Agree / Disagree

Privacy of natural persons



Andrew Craig
Manager, Immigration (Skills and Residence) Policy
Labour, Science and Enterprise, MBIE
8 / 12 / 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]. Cabinet further noted in April 2022 that these changes were to be implemented in December 2022 by requiring partners to obtain a tailored Accredited Employer Work Visa (AEWV), with no minimum or maximum hours of work required [CAB-22-MIN-0145 refers]. This approach requires, among other things, that the employer be accredited, the role is paid at or above the median wage, and that the labour market was tested.
2. You decided to delay the implementation of this change will be delayed until early 2023, to allow alignment with expected changes to the Victims of Family Violence (VFV) Work Visa. The Cabinet Business Committee noted this delay on 28 November, and it was publicly announced on 5 December 2022 that the partner work right changes will be deferred until April 2023.
3. You also announced that you were considering some adjustments to the way the partner work rights changes will be implemented, with further details to be announced in February 2023. We understand that with these possible adjustments you are seeking to provide greater certainty for migrant partners of their ability to work in New Zealand in high skilled roles, and a more streamlined process.
4. We have previously provided high-level analysis of identified options for a partner work visa that sits outside of the AEWV system – these options limit any role requirements to working for an accredited employer and meeting the relevant wage threshold [2223-1923 refers]. This briefing provides further detail on the previously identified options, including how they could be implemented.
5. Our 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 as it includes a labour market test, any process improvements offered by the alternatives are minimal, and significant operational changes are needed to set up the alternatives.
6. Lessening the role assessment requirements compared to the tailored AEWV makes for an easier process for migrants and gives more choices of employers. However, retaining the median wage threshold means that these options do not fully address the concerns raised about the impact of partner work rights changes on migrants in family violence situations. This is instead being addressed through proposed changes to the VFV Work Visa [2223-0914, 2223-1709 and 2223-2003 refer].

Alternative ways to implement the changes to partner work rights

7. As previously advised, we have identified two options that deliver on your stated aims:
 - a. Option A – imposing conditions on the existing ‘Partner of a Worker’ Work Visa category, so that most partners of AEWV holders are obligated to only work for accredited employers in roles paying at or 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 at or above the median wage (or the relevant wage threshold for most roles covered by sector agreements).

8. Under Option A and Option B, roles offered to partners of migrant workers would not be advertised, which is the labour market test conducted under the currently proposed AEWV option. This means the availability of New Zealanders to fill the roles will not be assessed. The removal of labour market testing will mean these options will do less to uphold the Immigration Rebalance aims, which include ensuring employers look to the domestic labour market to meet their staffing needs.
9. The Ministry of Social Development (MSD) is of the view that, in general, it is beneficial to require roles offered to migrant workers first be advertised to New Zealanders (i.e. labour market tested), as happens under the AEWV. MSD support recommendation d (i) as this continues to apply the labour market test, which maintains consistency with the Job Check process for AEWV applications, ensures visibility of roles for local jobseekers, and maintains incentives on employers to develop the domestic workforce.

Option A –imposing conditions on the existing ‘Partner of a Worker’ Work Visa category

10. This option would be delivered by developing a variation of the existing ‘Partner of a Worker’ Work Visa category (i.e. the main existing work visa for partners of temporary migrants). Applicants who are the partner of a qualifying AEWV holder (i.e. not in a Green List or highly paid occupation) would need to meet the same criteria as the existing visa category, and the following conditions would be imposed:
 - a. They can only work for an employer accredited under the AEWV, and
 - b. They can only work in roles paid at or above the median wage (or the relevant wage threshold for most roles covered by sector agreements).
11. Visa holders would be required to meet these conditions when taking up a role, but employers do not need to maintain accreditation throughout the migrant’s employment or continue to meet a wage threshold. This is consistent with the approach taken to wage thresholds and accreditation for the AEWV. All other conditions of the existing ‘Partner of a Worker’ Work Visa category would also apply to this new visa - for example, visa duration would match that of the primary visa holder, and no minimum or maximum hours of work requirement would apply to this option.
12. The below table outlines the actions required to deliver this option. Please note, the below timings assume policy decisions are taken in December 2022 – the impact on timelines of delayed policy decisions is discussed further in the ‘Next Steps’ section:

Activity	Timing
Instruction changes presented for certification	Mid-February (with an effective date aligned to ‘go live’)
Details announced	Late February 2023
IT system changes (non-ADEPT) complete	Mid-April 2023
Go live	Late-April 2023

13. This option is the easiest process for migrants, as they only need to apply for one visa to enter New Zealand and to gain work rights. To access this pathway, partners of temporary migrants would simply apply for a ‘Partner of a Worker’ Work Visa as they do currently. There would be two different sets of conditions that would be applied to those granted a ‘Partner of a Worker’ Work Visa – the existing open work conditions, or the requirement to only work for an accredited employer in a role paid at or above a relevant wage threshold. Immigration New Zealand (INZ) will determine which conditions apply depending on the visa held by the primary applicant.
14. This option enables visa holders to work for any accredited employer, and they can change roles without interacting with Immigration New Zealand. They would also be certain that they had a visa with work rights before coming to New Zealand, assuming most apply from

offshore. There will be some added burden for visa holders as this approach would be migrant-led, instead of employer-led like the AEWV. They would need to confirm that a prospective employer is accredited and the pay rate is at or above the relevant wage threshold before they began working. To better support compliance, there would ideally be a way for visa holders to confirm if their employer is accredited - we will progress work on this if required.

15. Delivery against the Rebalance aims cannot be assured as this option forgoes labour market testing and assessment of whether a role meets the requirements ahead of a visa being issued. INZ rely on both visa holders and employers being incentivised to uphold the visa conditions – visa holders can be liable for deportation if they do not and employers risk losing their AEWV accreditation. Given these are partner visa holders, any deportation could risk split families. Non-compliance would be discovered by spot checks and work history anomalies being identified on visa reapplications.
16. This option is easier to implement than Option B – both options require new processes, but the existing online form will only require minor adaptation for this option. This option also requires the least ongoing processing for INZ (as they are not required to assess roles as part of visa applications). This option may require the creation of a Variation of Conditions mechanism, to allow visa holders to change to an open work version of this visa if their circumstances change.
17. If this option were pursued, the current ‘Partner of a Worker’ Work Visa fee would be appropriate (\$700) as there is no additional processing required for these applicants. This is compared to an AEWV fee of \$750 per migrant check.

Option B – a version of the ‘Partner of a Worker’ Work Visa with streamlined job assessment

18. This option would be delivered by creating a variation of the ‘Partner of a Worker’ Work Visa for partners of qualifying AEWV holders. This would have the same checks as the standard Partner of a Worker Work Visa, plus a streamlined job assessment. Before issuing the visa, Immigration Officers would need to confirm that the applicant has a job offer with an AEWV-accredited employer and that the role is paid at or above the median wage (or the relevant wage threshold for most roles covered by sector agreements). There would be no individual skill checks.
19. All other conditions of the existing ‘Partner of a Worker’ Work Visa category would also apply to this new visa - for example, visa duration would match that of the primary visa holder, and no minimum or maximum hours of work requirement would apply to this option.
20. The below table outlines the actions required to deliver this option. The below timings also assume policy decisions are taken in December 2022:

Activity	Timing
Instruction changes presented for certification	Mid-February (with an effective date aligned to ‘go live’)
Details announced	Late February 2023
IT system changes (non-ADEPT) complete	Mid-April 2023
Go live	Late-April 2023

21. This option requires the migrant partner to likely get a different visa after arriving onshore to be able to work – this assumes most partners would wait to be onshore to secure a job, and is the same impact as the currently proposed AEWV option. However, this would be a more streamlined process than the AEWV, as applicants need to provide less information to INZ as there is no labour market test. For the government, the inclusion of a role assessment before the visa is issued provides greater assurance that most of the Rebalance objectives are being upheld (i.e. that the visa holder is working in a higher skilled role).

22. Like Option A, this option also requires setting up new forms and process, but there would be a greater ongoing processing burden for INZ as the streamlined job assessment would become part of the application assessment. This option would also require the creation of a Variation of Conditions mechanism, to allow visa holders to change jobs. Again, to better support compliance, there would ideally be a way for visa holders to confirm if their employer is accredited - we will progress work on this if required.
23. If this option were pursued, we suggest the current 'Partner of a Worker' Work Visa fee be used (\$700). While there will be some additional processing required, compared to the standard 'Partner of a Worker' Work Visa, establishing a new fee would require updates to regulations, which would make meeting an April 'go live' date impossible.

Sector agreement roles

24. Partners on a visa issued under Option A or B will not be able to work on that visa in roles offered under the meat processing or seafood sector agreements in roles below the median wage. Both of these sector agreements have capped allocations of visas that can only be issued via the AEWV or Fishing Crew Visa.
25. Partners on a visa issued under Option A or B will still be able to take up below median wage roles offered under the care workforce, construction and infrastructure, and seasonal snow and adventure tourism sector agreements, provided the role offered meets the wage threshold in the relevant sector agreement. Partners who do take up a role under the sector agreements will not be subject to the stand-downs – their visa duration will instead align with that of the primary visa holder.

Recommendation

26. We continue to recommend that the agreed changes to partner work rights be implemented through the AEWV. This approach best upholds the Rebalance objectives and uses the same system as the primary visa holder (i.e. a familiar system). This approach can also be implemented by late April, although there may need to be some prioritisation of changes required to the ADEPT system pending Cabinet decisions on matters like the Green List.
27. If you would like to pursue one of the alternatives, then we recommend Option A – imposing conditions on a 'Partner of a Worker' Work Visa. This option provides the most certainty and streamlined application process for applicants as they do not need to have a job lined up to apply, and the least ongoing processing burden for INZ as there is no assessment of a role to ensure it meets conditions. This approach relies on visa holders upholding their visa conditions without guaranteed monitoring – this high trust model is also used for Working Holiday Scheme visas, where applicants are trusted to only work for the months allowed in their visa, which is less than their full visa duration.

Next steps

28. If you agree to continue with implementation via the AEWV, you will not need to seek any further approvals from Cabinet as this implementation approach has already been noted. The following timeline would apply:

Action	Timing
Briefing submitted with instruction changes for certification	Mid-February 2023
Announcement of implementation detail and VFV changes	Late February 2023
New systems ready to go live	Late April 2023

29. If you want to proceed with either of the alternative options, we suggest you consult Cabinet given that neither option involves a labour market test which means one of the Rebalance objectives (i.e. encouraging employers to look first to the domestic market) is not being

supported. If you consider that your oral item to the Cabinet Business Committee on 28 November resulted in Cabinet's endorsement to change these settings, you could choose not to consult Cabinet.

30. Cabinet could not realistically be consulted until February 2023. To meet the April 2023 'go live' timings that were announced, INZ need to begin designing system changes immediately and requires your agreement to do so in advance of final Cabinet decisions. There is a risk that, should Cabinet not endorse your preferred alternative approach that there will be time and resource lost.

Action	Option A - timing	Option B - timing
Briefing submitted with instruction changes for certification	Mid-February 2023	Mid-February 2023
Announcement of implementation detail and VFV changes	Late February 2023	Late February 2023
New systems able to go live	Late April 2023	Late April 2023

31. If you prefer to proceed with either of the alternative options you may wish to circulate a copy of this briefing to key Ministerial colleagues, for consideration in advance of Cabinet in the New Year. If so, officials will work with your office to identify a list of Ministers to share this with.