COVERSHEET

Minister | Hon Ian Lees Galloway | Portfolio | Immigration
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Title of Cabinet paper | A New Approach To Employer-Assisted Work Visas And Regional Workforce Planning: Paper One - Employer Gateway System And Related Changes And A New Approach To Employer-Assisted Work Visas And Regional Workforce Planning: Paper Two - The Job Gateway | Date to be published | 9 October 2019

List of documents that have been proactively released

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Information redacted: YES

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A New Approach to Employer-Assisted Work Visas and Regional Workforce Planning: Employer Gateway System and Related Changes (Paper One)

Portfolio Immigration

On 28 August 2019, the Cabinet Economic Development Committee:

Background

1 noted that on 10 December 2018, Cabinet agreed to the release of a consultation document on a package of proposed changes to employer-assisted temporary work visas and regional workforce planning [CAB-18-MIN-0608.01];

2 noted that the proposals in the paper under DEV-19-SUB-0228 support the priorities set out in the government’s This is Our Plan and the Coalition Agreement between the New Zealand Labour Party and New Zealand First;

3 noted that proposals will also support the government’s wider labour market objectives by ensuring that:

3.1 employers are placing more New Zealanders into jobs, which help their businesses to grow and thrive, and result in better jobs for New Zealanders;

3.2 foreign workers, when they are employed, are not exploited and have wages and conditions that are consistent with New Zealand norms;

4 noted that this is the first of two papers:

4.1 Paper One, under DEV-19-SUB-0228, covers the overall gateway system, the employer gateway and related changes;

4.2 Paper Two, under DEV-19-SUB-0229, provides the design of the job gateway, including regional differentiation of the labour market test, sector agreements and the worker gateway;

5 noted that on 24 July 2019, the Cabinet Social Wellbeing Committee agreed to establish Regional Skills Leadership Groups as regional labour market planning bodies, and to their proposed role and functions, composition, appointment process and resourcing [SWC-19-MIN-0087];
noted that most submitters supported the proposed gateway framework, but that some employers expressed concerns about the impact of increased compliance costs;

noted that the Minister of Immigration is not proposing to implement a premium accreditation, which was included in the consultation referred to above;

Gateway framework

agreed that:

8.1 all employers and employer-assisted foreign workers would need to come through the new employer-assisted gateway framework, consisting of:

8.1.1 the employer gateway – where employers would be accredited to enable them to hire a foreign worker;

8.1.2 the job gateway – where the job is checked to ensure that no New Zealander is able to fill the job being recruited for, subject to skill, sectoral and regional differentiation;

8.1.3 the worker gateway – where checks will be made to make sure the foreign worker is of good character and health;

8.2 the gateway framework would replace the existing Essential Skills, Approval in Principle, Talent (Accredited Employer), Long Term Skills Shortage List Occupations, Silver Fern Job Search, and Silver Fern Practical Experience visa categories;

Employer gateway

agreed that:

9.1 all direct employers would need to be accredited before they could recruit employer-assisted foreign workers;

9.2 there would be three accreditation types: standard, high volume, and labour-hire company;

9.3 accreditation would be valid for the following periods:

9.3.1 standard accreditation would last for 12 months the first time, followed by renewal every two years;

9.3.2 high volume accreditation would last for 12 months the first time, followed by renewal every two years;

9.3.3 labour-hire accreditation would last for 12 months, followed by renewal every 12 months;

agreed that standard accreditation would be for employers recruiting between one to five employer-assisted workers in a 12 month period, and would require employers to meet the following standards:

10.1 the employer is a genuinely operating business or other legitimate organisation;

10.2 the employer and any key office holders have no recent history of regulatory non-compliance;
10.3 the employer is taking steps to minimise exploitation by providing information on
foreign worker employment rights and paying the costs of any recruitment;

11 agreed that high volume accreditation would be for employers recruiting more than five
foreign workers in a 12 month period, and would require employers to meet the same
standards as standard accreditation, as well as the following:

11.1 the employer must demonstrate a commitment to training and upskilling resident
workers;

11.2 the employer must demonstrate a commitment to improving pay and conditions over
time;

12 agreed that labour-hire accreditation would require employers to meet the same standards as
high volume and standard accreditation, as well as the following:

12.1 the employer must have a history of contracts for the supply of labour and of
placing/employing New Zealand workers (i.e. the employer cannot have been set up
for the purpose of recruiting foreign workers);

12.2 the employer will only contract foreign worker labour to compliant businesses;

12.3 the employer has good systems in place to monitor employment and safety
conditions on site;

13 agreed in principle that industry accreditation or other third party standards could be used
as evidence that employers are meeting the standards, subject to these being assessed as
robust and equivalent to the proposed standards;

14 noted that further consultation will be undertaken with industry and unions prior to
implementation of the system to ensure that these commitments are appropriate, and to
identify any additional options;

15 noted that risk management in the new system would be underpinned by an assurance
model that would target pre-decision verification and post-decision assurance, including site
visits;

Supplementary and transitional arrangements

16 agreed that foreign workers who work for an accredited employer for two years and earn
more than 200 percent of the national median income would be able to apply for residence
and bypass the normal Skilled Migrant Category requirements;

17 agreed that a simple remuneration threshold set at the national median income (currently
$25 per hour) be used to determine the labour market test through the job check and visa
conditions for foreign workers;

18 agreed to provide all lower-skilled employer-assisted workers with the ability to support
partners and dependent children for the length of their visa, with partners granted a visitor
visa and subject to a labour market test should they seek paid employment;

19 agreed to increase the remuneration threshold for the Talent (Accredited Employers) Work
Visa, so that it is aligned with the remuneration threshold for the Skilled Migrant Category,
which is indexed to at least 150 percent of the national median income ($37.50 per hour or
$78,000 per annum);
agreed that Immigration New Zealand stop granting five-year accreditation periods to employers under the Talent (Accredited Employers) policy and remove fast tracked access to a permanent resident visa under this policy;

**Implementation**

noted that:

21.1 the changes to the Talent (Accredited Employers) Work Visa (paragraphs 19 and 20 above) would be implemented in late 2019, subject to decisions on announcements of the wider changes;

21.2 other changes that are not dependent on the new IT system could be implemented in mid-2020;

21.3 the gateway system itself is likely to be implemented in early 2021, once IT system changes are in place;

noted that the Silver Fern Job Search visa will be disestablished in November 2019;

agreed that the changes will be evaluated by officials, and the outcomes of the evaluation reported back to the Minister of Immigration;

invited the Minister of Immigration to certify any Immigration Instructions required to implement the proposed changes in due course;

noted that officials will report back to the Minister of Immigration on the detailed implementation of the new gateway system, including:

25.1 the detailed design of the accreditation standards, including whether any third party standards may be used as proxies;

25.2 clarifying the immigration rules for self-employed contractors;

25.3 a process for suspending and rescinding accreditation, and a corresponding complaints and reconsideration process for employers;

25.4 any transitional arrangements;

noted that the Minister of Immigration will make announcements on the changes in due course in consultation with the Prime Minister and the Ministers of Education, Social Development and Employment;

**Financial implications**

noted that on 15 April 2019, Cabinet noted that the Minister of Immigration intended to seek out-of-cycle funding to enable work to begin on implementing the employer-assisted temporary visa changes in 2019 [CAB-19-MIN-0174.23];

noted that implementation of the new gateway system will require a new online portal to process employer applications to be built, with associated development and project costs;

noted that some or all of this funding could be recovered from application fees paid for by employers and migrants, and could therefore be fiscally neutral for the Crown;
31 invited the Minister of Immigration to report back to Cabinet subject to a business case agreed by the Ministers of Finance and Immigration, seeking agreement to:

31.1 the funding for the online portal system changes and associated costs;
31.2 whether any costs of the IT system would be recovered from fees;
31.3 the associated appropriation changes;

32 invited the Minister for Social Development and the Minister of Immigration to report back to Cabinet subject to a business case agreed by the Ministers of Finance, Immigration and Social Development, seeking agreement to any additional funding required for the Ministry of Social Development to implement the strengthened labour market test as part of the job gateway;

33 noted that the report referred to in paragraph 32 above will be incorporated into the Minister of Immigration’s report under paragraph 31 above, unless this is not possible due to the timing of business case completion;

34 noted that:

34.1 the ongoing operating costs of the employer-assisted temporary visa changes can be recovered from employers and visa applicants;
34.2 the current estimate of the final cost-recovery fees are $540 for standard accreditation, $700 for high volume accreditation, $940 for labour hire employer accreditation, $540 to process a job check, and $390 to process a foreign worker’s visa application;

35 invited the Minister of Immigration to report back to Cabinet to seek agreement to a replacement fee schedule for the employer-assisted visa system, which would need to be established in order to recover costs from foreign workers and employers, and the corresponding appropriation changes;

36 noted that the Minister of Immigration for investigation, compliance and intelligence resources to support the employer-assisted changes, alongside any proposals resulting from the review of migrant exploitation;

37 noted that the associated paper titled *A New Approach to Employer-Assisted Work Visas and Regional Workforce Planning: The Job Gateway (Paper Two)*, under DEV-19-SUB-0229, seeks agreement to Crown funding of $1.425 million in the first year and $1.725 million in outyears to negotiate and monitor sector agreements as part of the wider package of employer-assisted changes.
Present:
Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon David Parker
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O’Connor
Hon Willie Jackson
Hon James Shaw
Hon Julie Anne Genter
Hon Eugenie Sage

Hard-copy distribution:
Minister of Immigration

Officials present from:
Office of the Prime Minister
Officials Committee for DEV
Department of the Prime Minister and Cabinet
Ministry of Business, Innovation and Employment
Ministry of Social Development