

TEMPORARY VISA REFORM - FOR ACCREDITED EMPLOYERS

The work to residence visa category will disappear altogether in 2021.

Current staff holding work to residence visas are safe, but they are the “last of their kind”.

From 7 October 2019 new work to residence applicants must have remuneration above \$79,560 per annum – (\$38.25 per hour), until the visa category is removed permanently in 2021.

The residence pathway for all workers after 2021 will be removed except:

1. the skilled migrant programme – which requires reasonably high English language proficiency, recognized qualifications or work experience & remuneration of at least \$25.00 per hour. (*WARNING: this remuneration is likely to increase as well*).
2. The highly paid doorway explained below (\$50.00 per hour)

What happens once the accreditation expires/is phased out? Little change in my view. The current system is replaced with a nationwide accreditation process for every single employer of foreign staff.

For employers in general:

All 6 work visa gateways as we know them are being sealed up in favour of one solitary gateway – the “temporary work visa”. This will roll out in stages over the next 18 months.

The new temporary work gateway will be “wider” but immigration will beef up the security inside so to speak. The message to workers – don’t be thinking long term employment in itself will generate residence entitlements:

1. Work to residence (accredited employer) gone.
2. Work to residence (long term skill shortage) gone.
3. Approval in principle, gone.
4. Silver fern job search, gone.
5. Silver fern practical experience, gone.
6. Essential skills work visa, gone.

Our government also wishes to challenge employers that it suspects are not trying hard enough; not taking a view long or strategic enough, to solve labour shortages locally. Unless employers can demonstrate efforts to improve workplace conditions, (“workforce improvement” is a term we may hear a lot), to better recruit and train the local labour market, then they may be unable to employ any foreign staff.

“Reverse engineering” the visa process:

The most common criticism of the immigration process focuses on arbitrariness and inconsistent decision-making, overly bureaucratic/complicated rules, and an inflexible immigration view/attitude to regional variations or labour demands.

I suspect bureaucracy is here to stay, in fact many employers will endure unprecedented scrutiny/interference in their operations but once that is overcome the system promises to be more streamlined and responsive to employers' needs.

The new process comprises 3 steps:

1. Employer check (accreditation, in new clothes)
2. Job check (labour market testing, in new clothes)
3. Worker check (character/health/integrity checking)

Until step 1 is ticked off there may be some stressful times, particularly for employers seeking to extend visas of existing staff.

Auditing is conducted by INZ and the Labour Inspectorate. Take this process lightly at your peril. Labour Inspectors rarely look for compliance, right? Most employers who've been through the process will agree that labour inspectors will look (and look) until they find any non-compliance. How such discoveries are then treated is anyone's guess – hence my earlier comment about arbitrariness.

Once passed there are 3 forms of accreditation (1 gateway becomes 3 hallways):

- 1-5 visa applicants per annum (“standard”)
- 6 or more visas per annum (“high-volume”)
- all labour hire companies (same requirements as high volume plus extras)

Job check:

This can be satisfied 3 ways – the 3 hallways now have 3 extra doorways:

1. the highly-paid door (\$50.00 per hour) – no labour market test, residence after 2 years
2. the sector agreement door (determined by a sector-wide MOU concerning workforce improvement and pre-set minimum standards)
3. the regionalized labour market test door (regional jobs at \$25 per hour avoid labour market testing and result in renewable visas of up to 3 years duration (no stand-down), jobs below \$25 per hour must pass a strengthened labour market test and result in 12 month visas up to 36 months maximum stay with a 12 month stand-down to follow).

Worker check:

No visa application may be made until employer has completed the audit and the job check.

There will be less job capability checking, but it is not removed.

The biggest practical change?

Removal of the ANZSCO job classification to determine an employee's visa duration – the remuneration level offered is the main determinant of skill and value. Much better in my view.

Also, workers are able to bring family members with them again, but still have to satisfy INZ of the financial ability to support family. However, lower paid workers' spouses will only be granted visitor visas unless they are capable of obtaining a work visa in their own right. This will be challenging for some – we are aware of many families with the secondary applicant in part-time employment. It doesn't appear as though that part of policy will soften. More advocacy work required in my view.

When will this all be happening? (see page 19 of brochure attached)

- Accredited employers – the threshold increases to \$79,560 on 7 October 2019,
- Silver fern job search/practical work visas – removed 7 October 2019,
- Sector Agreements – Aged care and Meat processing – mid 2020,
- New work visa skill levels determined by remuneration - mid 2020,
- Lower-paid workers' families can join them – mid 2020,
- The new accreditation process for all employers – mid to late 2021,
- Accredited employer transition to new regime – streamlined – 2021.

What now?

We enjoy working with you all, and would be pleased to sit at your planning tables to assess the implications the changes may have for your businesses.

We understand the disconnection some may feel when changes are made with little consultation or warning, and some of the vocabulary choice in the attached document is open to interpretation as “anti-employer” and “anti-migrant”.

We were fortunate to be able to make submissions on these proposals back in April on behalf of the forestry sector, and we are pleased to see that the industry has been granted a sector agreement of its own. FICA is to be congratulated for their vision, erudite submissions and sheer determination.

We believe all challenges can be overcome by nimble thinking and good planning; after all the government does need employers to remain in business – we are the lifeblood of our economy regionally and nationally – and we’re here to stay so long as we are meeting our responsibilities to try local, and to never give up trying.

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