NEW ZEALAND IMMIGRATION

VISA PAK ISSUE 630— 19 JUNE 2025

ASSESSING EMPLOYMENT AGREEMENTS IN AEWV, AND VOC APPLICATIONS LINKED TO AEWV, WHERE 90-DAY TRIAL PROVISIONS ARE PRESENT

This item is to provide guidance for how immigration officers should assess employment agreements that include 90-day trial provisions when assessing Accredited Employer Work Visa (AEWV) applications and Variations of Conditions (VOC) for job changes linked to AEWV.

Accredited Employers are not, under the immigration instructions, permitted to offer employment agreements to AEWV applicants or holders where the employment agreement includes a trial period as defined in section 67A (2) of the Employment Relations Act 2000 (section 67A(2) trial period).

If a proposed employment agreement provided by an AEWV applicant includes a relevant trial period that is legally enforceable, the applicant may not meet the requirements to be granted a visa under Immigration Instructions WA4.10.1 d.

As section 67A(2) trial period provisions may only be lawfully included (and relied on) in relation to employees who have not previously been employed by the relevant employer, any provision in an agreement between an employer and an applicant who has previously been employed by that same employer (or is currently employed by that employer) cannot be lawfully relied on and is arguably invalid or void as it relates to that applicant.

If a 90-day trial provision is found in the employment agreement, the immigration officer should take the following steps:

- For **first time** AEWV applications or Maximum Continuous Stay (MCS) applications with a new employer, a Potential Prejudicial Information (PPI) letter should be sent to the applicant advising we need an updated, signed, employment agreement with the provision removed. This process also applies to VOC applications where the applicant is applying for a job change with a **new** employer.
- For subsequent AEWV applications, and where they are applying for the balance of their MCS (with the **same** employer) or VOC job change applications where the applicant is applying to vary their job or location with the **same** employer, the immigration officer is not required to PPI or ask for an amended employment agreement as the 90-day trial provision will not be able to be legally relied on by the employer in relation to that applicant.
- This guidance does not prevent an immigration officer sending a PPI on a 90 day trial provision where it may be considered appropriate (immigration officers should discuss with a Technical Advisor first) nor does it limit a PPI being sent relating to any other provisions within the employment agreement that do not comply with immigration or employment law.

If the immigration officer identifies other concerns with the employment, an updated employment agreement with the 90 day trial clause removed should be provided with the PPI response.

Immigration officers should also note that 90-day trial provisions are not prohibited under immigration instructions for applications made in the Skilled Residence pathways.