New Zealand’s immigration system is designed to ensure New Zealanders are first in line for jobs, while making sure that employers have access to migrant workers where no New Zealanders are available. You need to understand how the current settings affect you when you think about recruiting temporary migrant staff. This booklet is intended to help you and your employees understand, plan for, and comply with New Zealand’s changing immigration system.

At glance

1. **The 2021 Residence Visa**: This one-off residence pathway is open to temporary migrant workers who fit the set criteria as at September 29, 2021.

2. **The median wage threshold for Essential Skills work visas is $27 per hour**: This means that Essential Skills work visa applicants who earn at or above this wage rate can be granted a visa for up to 3 years. Workers who earn below this wage rate can be granted a visa of 2 years.

3. **Suspension of offshore applications**: With limited exceptions for critical workers¹, the ability to submit offshore applications for temporary work visas has been suspended until August 2022.

4. **Opening of new Employer Accreditation System**: The introduction of the new Employer Accreditation System will take place in mid 2022.

5. **Streamlined processing for current work visa holders**: You can support an Essential Skills work visa for someone you currently employ full time on a work visa without submitting a labour market test. However, you can only do this if they do not change their role or location of work. To find out more, visit: [www.immigration.govt.nz/about-us/covid-19/in-new-zealand/visa-information/essential-skills-work-visa-changes](http://www.immigration.govt.nz/about-us/covid-19/in-new-zealand/visa-information/essential-skills-work-visa-changes)

6. **Working Holiday visa extension**: Working holiday visas that are expiring between 21 December 2021 and 30 June 2022 have been extended for a further six months. Visa holders must have been in New Zealand on 1 November, 2021, to qualify.

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Choosing the right visa category for a temporary migrant worker

According to circumstances, you and your worker may be eligible to apply for a Variation of Conditions or for one of several categories of visa. The two most prevalent visa categories in the hospitality sector are the 2021 Residence visa category and the Essential Skills visa category. For a detailed overview of these and other possible visa categories, visit: www.immigration.govt.nz/new-zealand-visas/options/work/all-work-visas

2021 Residence visa category:

The 2021 Residence visa category is a one-off residence pathway set up to benefit employers and workers. It enables employers to retain settled, skilled, and scarce migrant workers, while giving valued workers more certainty about their future. Temporary migrant workers who have been in New Zealand for more than three years (as at September 29, 2021), are being paid more than $27 per hour, or who are working in specified occupations may be eligible for this visa category. See page 2.

Essential Skills visa category:

The Essential Skills temporary work visa category is only available if there is a valid job offer. Different criteria apply depending on whether the temporary migrant worker is already in the role or someone new is being hired a vacant position. See page 4.

Variation of Conditions visa category:

If the person you are hiring already holds an Essential Skills work visa with time remaining, but their conditions of employment have changed, they may be eligible to apply for a Variation of Conditions visa. The conditions of a visa may include the employer, the job, or the location of employment. Any variation of conditions, if granted, will be for the balance of the current visa. See page 6.
Eligible visa holders

The 2021 Resident Visa pathway is available to most work-related visa holders. Eligible work-related visas include Essential Skills, Work to Residence and Post-Study Work visas.

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Individuals who were granted a Critical Purpose Visa for a role longer than six months and arrive and apply before 31 July 2022 are eligible.

Ineligible visa holders

The 2021 Resident Visa pathway is unavailable to shorter stay visa holders. These shorter stay visas include visitor visas, student visas and working holiday visas. Seasonal worker, such as people on the Recognised Seasonal Employer scheme, cannot make use of the 2021 Resident Visa pathway.

People who are on border exceptions and critical purpose visas for short term seasonal roles cannot make use of the 2021 Resident Visa pathway. This includes deepwater/deep-sea fishing crew, agricultural and mobile plant operators and shearers.

Master’s and PhD students who have work rights are generally ineligible to use the 2021 Resident Visa pathway. The only exception to this is if they applied for an eligible visa on or before 29 September 2021.
The 2021 Resident Visa

Application timetable

From 1 December 2021, applications will be taken from individuals:

• who have already submitted a Skilled Migrant Category (SMC) or Residence from Work application and who meet the eligibility criteria.

• individuals who have dependent children 17 years or older as at 29 September 2021 who already have an SMC Expression of Interest (EOI) in the pool.

From 1 March 2022, applications will be taken from individuals:

• without dependent children 17 years or older as at 29 September 2021 who already have an SMC Expression of Interest (EOI) in the pool.

• other individuals who believe they fit the criteria for the 2021 Resident Visa Category.

Applications for the 2021 Resident Visa must be made by 31 July 2021.

* The days in New Zealand do not need to be consecutive and there is no minimum number of days within a calendar year. To check how much time you have spent in New Zealand, you can request the record of your travel movements from Immigration New Zealand.

** Health and character checks apply.

Working holiday visa extensions

Working holiday visas that are expiring between 21 December 2021 and 30 June 2022 have been extended for a further six months. Visa holders must have been in New Zealand on 1 November, 2021, to qualify.

The conditions of extended Working Holiday visas will remain varied to allow holders to work as part of a Working Holiday Scheme in any employment except permanent employment.

If a visa meets the criteria for extension but visa-holder’s record has not been updated, and they have not been contacted by Immigration New Zealand by the end of November 2021 they can request an extension check.

Request an extension check:

The Essential Skills work visa application process

This is a simplified work visa application process. Three scenarios apply. These are marked S1, S2, S3. (See page opposite.)

*The median wage as at July 2021 was $27 per hour.
Supporting an Essential Skills work visa

Before a temporary migrant can be considered for an Essential Skills work visa for a vacant position, the employer must establish that there are no suitable New Zealanders available for the job. This includes advertising the vacancy and assessing applicants. In all instances you must establish that you have made a genuine attempt to recruit a New Zealander. If you are unable to recruit a New Zealander and decide to support an Essential Skills work visa application, one of the following scenarios will apply.

If the temporary migrant is in New Zealand on a current work visa and:

S1 will work in the same full-time role, for the same employer, and in the same region. The employer does not need to meet the labour market test.

**Visa duration: dependent on wage rate**

S2 the job pays at or above the median wage.

The temporary migrant may be eligible for an Essential Skills work visa.

**Visa duration: up to 3 years**

S3 the job pays below the median wage

The temporary migrant may be eligible to be considered for an Essential Skills work visa, however the employer must engage with MSD to obtain a Skills Match Report.

**Visa duration: minimum 2 years**

If you are offering a position to a temporary migrant worker who is applying for work visa, you must include a completed INZ 1113 (Employer Supplementary Form). The form can be downloaded from:

Applying for a Variation of Conditions – Essential Skills work visa

Does the worker currently hold an Essential Skills work visa?  

To find out more about whether the conditions of the visa can be changed, visit the Immigration New Zealand website. (See below.)

Is the new job paid at or above the median wage?  

Is the worker’s current Essential Skills work visa for a job that is either lower skilled OR pays below the median wage*?

Do you want to change the worker’s occupation or region of employment?  

Is the new occupation on one of the Skills Shortage lists? (See below)

Does the worker meet the Skills Shortage list requirements?

New Work Visa required

The worker can apply to change employer

The worker can apply to change any combination of employer, occupation and region of employment

*Essential Skills visa approval letters will state the skill level for applications submitted before 27 July 2020, or the remuneration level for applications submitted on or after 27 July 2020.

Skills Shortage checker: skillshortages.immigration.govt.nz

To find out more about whether you can change the conditions of a work visa, visit: www.immigration.govt.nz/new-zealand-visas/apply-for-a-visa/tools-and-information/general-information/variation-of-conditions-temporary-visas/varying-a-work-visa
Submitting a complete application

If you intend to offer a position to a temporary migrant worker who does not have a current work visa for the role, it is important that you provide all the information we need. Immigration New Zealand often receives incomplete Essential Skills work visa applications. This slows down processing.

1. A Skills Match Report
   If the role is vacant and pays less than the median wage.

2. Job advertisements
   If the role is vacant and the pay rate is below the median wage, you must advertise locally or more widely for at least one week. If the pay rate is at or above the median wage, you must advertise nationally for at least 2 weeks.
   The use of large recruitment websites such as Seek and TradeMe is acceptable. Advertising on your own website or Facebook page is not enough.
   If possible, provide the Seek or TradeMe dashboard showing the number of candidates who responded. A visa application should be submitted within 3 months of the date the role was advertised.
   Evidence of the advertising you have placed establishes that you have genuinely attempted to recruit a New Zealander.

3. Information about candidates
   Information about the people who have applied for the role will help establish whether or not there are suitable New Zealanders available to do the job. You should show how many people applied for the job, along with each person’s:
   › immigration status
   › qualifications
   › work experience
   the reasons they were found unsuitable.

4. Complete and correct employment agreements
   Your prospective worker must provide a completed and signed employment agreement. Agreements often miss:
   › the correct legal name of the business
   › the name and address of the worker
   › the hours of work
   › the rate of pay (hourly or annual salary)
   › whether the role is fixed term or permanent.
   (If the role is fixed term, you must provide a genuine business reason why this is so.)
   For more information: www.employment.govt.nz/starting-employment/employment-agreements/things-an-agreement-must-contain/

5. Confirmation that the role guarantees a minimum of 30 hours of work per week
   To qualify for an Essential Skills work visa, your migrant worker must be working at least 30 hours a week. This must be specified in the employment agreement. If the hours of work fluctuate – due to weather, for example – the employee must still be paid for at least 30 hours a week.

6. Complete job descriptions
   Information often missed from job descriptions that must be included, includes:
   › job title
   › location of employment
   › tasks and responsibilities
   › required skills, qualifications and experience.

7. Completed INZ 1113 (Employer Supplementary Form)

Every application is assessed individually. Immigration New Zealand may request more information after the submission of an application to assist with processing.
A work entitlement checklist

Is the person you are checking a New Zealand citizen?

**Yes**

Checking a New Zealand citizen’s work entitlement

- Sight a New Zealand passport, or
- Confirm New Zealand passport information at www.immigration.govt.nz/visaview and sight the passport or other photo identification, or
- Sight a New Zealand birth certificate and photo identification, or
- Sight a New Zealand citizenship certificate and photo identification
- Retain copies of the above

*A new Zealand driver licence is not sufficient evidence on its own to confirm citizenship.

A New Zealand birth certificate can be ordered online at www.bdmonline.dia.govt.nz by anyone who has a RealMe ID.

This checklist is designed to help you meet your obligations under the Immigration Act. For a more comprehensive work entitlement guide, visit: www.immigration.govt.nz/visaview

**No**

Checking a non-New Zealand citizen’s work entitlement

- Check work entitlement at www.immigration.govt.nz/visaview, or
- Sight a passport with a valid New Zealand visa with conditions that allow the person to work for you, or
- Sight a valid electronic visa (printout) and verify through VisaView or
- Sight an Australian passport, or
- Sight a passport with an Australian permanent residence visa or a current returning residence visa.
- Retain copies of the above

A tax code declaration IR330 form is not a reasonable excuse for employing someone who is not entitled to work for you.

Did VisaView confirm that this person is entitled to work for you?

- No. You may not be able to employ this person. Non-New Zealand citizens should contact the Immigration Contact Centre on 0508 558 855 to apply for a visa to work in New Zealand.
- Yes. You can employ this person until the date specified and in accordance with any conditions stated.
- Call the Immigration Contact Centre employer-designated contact number: 0508 967 569
Using VisaView to check if someone can work for you

There is nothing to stop a migrant or potential migrant from applying for a job in New Zealand. However, before they can be employed, they must have a visa that allows them to work in New Zealand.

In many cases a job offer is required to support their visa application.

Before a temporary migrant worker can begin working for you, you must make sure that the conditions of the visa they hold allows them to work.

With VisaView, you can satisfy yourself that your prospective employee is able to live in New Zealand and work for you.

VisaView allows registered employers to verify that prospective and current employees hold a valid visa, the conditions of the visa, and the date of expiry. Enquiries are saved in the employer’s VisaView account and these records can be used as evidence of compliance with the Immigration Act 2009.

To access VisaView, you need a RealMe account. If you have created a RealMe account for another purpose, you can use that for VisaView.

The conditions of the migrant’s visa will also be noted on the visa label in their passport, or in a letter from Immigration New Zealand. You should ask to see those documents, as well as photo identification, and keep a copy of them for your records.

To learn more about VisaView, visit: www.immigration.govt.nz/visaview

VisaView also allows registered employers to confirm New Zealand passport information provided by a New Zealand citizen candidate. To do this, you will need to complete and return the Disclosure Agreement to the Department of Internal Affairs: www.immigration.govt.nz/documents/online-systems/dia_registeredemployeragreement.pdf

It is an offence under the Immigration Act 2009 to allow, or continue to allow, someone to work for you who is not entitled to do so.

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Being a good employer

Compliance with employment standards

All employers are required to comply with employment standards.

Among other requirements, you must pay at least the minimum wage for every hour worked and you must not charge fees or deduct money from wages unless this is legally required or has been agreed to in writing first.

Employers who do not comply with the standards or who have breached employment law can be stopped from recruiting migrant workers. Employers that have received a penalty (or similar) for a breach will be viewed as non-compliant with New Zealand employment law and will face a set stand-down period that prevents them from supporting a visa application. The period commences when an infringement notice or penalty is issued.

For information about employee rights, visit:

For information about what happens if an employer breaches employment standards, visit:

Redundancy

If you can no longer offer employment that meets the terms of your employee’s visa, you may need to offer redundancy.

Remember that employment legislation has not changed. Employers must continue to comply with their legal obligations.

An employer must follow a fair process whenever they want to make an employee redundant. Employers cannot make someone redundant without going through a workplace change process first.

The employer needs a genuine business reason to restructure and will need to state this reason clearly to the employees or union as they go through the proper process.

For more information about offering redundancy, including employer obligations for the period of notice you must provide final payments, including redundancy compensation, visit:
www.employment.govt.nz/ending-employment/redundancy/

For information about workplace change, including fair process, visit:
www.employment.govt.nz/workplace-policies/workplace-change/

For information about terminating employment agreements during COVID-19 response and recovery, visit:
Migrant exploitation

In the current economic environment, temporary migrants whose visa status is tied to their employment are at greater risk of exploitation.

Immigration New Zealand and Employment New Zealand’s Labour Inspectorate take the issue of migrant exploitation extremely seriously.

Exploitation for work is a serious crime. Employers who exploit migrants can be imprisoned for up to 7 years and fined up to NZD $100,000. Additionally, they will be placed on a list of non-compliant employers and unable to support visa applications for a period of time.

The Immigration Act 2009 sets out criminal offences relating to immigration.

Some types of exploitation include when an employee:
› has to pay part or all of their wages back to the employer
› does a “deal” and is charged a premium (money for getting a job)
› is paid too little money for their work or none at all
› is made to work an excessive number of hours, with no break or have no time-off from work
› is not paid for holidays or annual leave.

If you are aware of instances of migrant exploitation, contact Employment New Zealand, free phone 0800 20 90 20.

Note: If the migrant is in immediate physical danger, call 111 and ask for Police.

For more information, visit:
www.employment.govt.nz/resolving-problems/types-of-problems/migrant-exploitation

Migrant support

Websites

NEW ZEALAND NOW

NEW ZEALAND NOW is a comprehensive source of targeted information for new and prospective migrants to Aotearoa New Zealand. The website is run by Immigration New Zealand.

Web: www.newzealandnow.govt.nz

Government agencies

Immigration Contact Centre

The Contact Centre takes calls from 8.00am-10.00pm, Monday to Friday. Anyone who has already applied for a visa, should ensure they have their client number, application number and passport number with them when they call.

You can request urgent assistance from the Immigration Contact Centre.

Toll-free*: 0508 558 855
Auckland: 09 914 4100
Wellington: 04 910 9915

*From NZ landlines only

Ministry for Ethnic Communities

The Ministry for Ethnic Communities is government’s principal advisor on ethnic diversity in New Zealand. It provides information, advice and services to, and for, ethnic communities in New Zealand and administers funds to support community development and social cohesion. The Ministry maintains a directory of ethnic community organisations and support services.

Visit: www.ethniccommunities.govt.nz

Human Rights Commission

The Human Rights Commission provides human rights education and resources, reports on human rights matters, and resolves disputes relating to discrimination.

Visit: www.hrc.co.nz
Interpreters and multilingual information services

**Government helplines**

When calling a government helpline, ask for help in the preferred language. Interpreters are available for over 180 different languages.

- Call the helpline
- Ask for an interpreter and tell them the language
- Wait to be connected to a professional interpreter who will help you talk to the agency.

**InfoNOW**

InfoNOW is a free service providing information to migrants settling in New Zealand in their preferred language.

Phone or email InfoNOW, or use the online chat service.

**Tel:** 0800 4636 669  
**Email:** info@infonow.nz  
**Web:** www.infonow.nz

**Healthline**

For general help related to COVID-19, call the government helpline on 0800 779 997.

If you think you have any COVID-19 symptoms call Healthline 0800 358 5453. If you need an interpreter, press 1 after you dial the number and you will be connected to a Healthline worker, say your language and wait on the line until you are connected with someone who speaks your language.

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**Immigration advice**

Anyone who needs personalised immigration advice must use a Licensed Immigration Adviser or a person exempt from licensing.

**Community Law Centres o Aotearoa**

Community Law Centres o Aotearoa operates more than 20 law centres around New Zealand offering free legal help.

A lawyer is permitted to give immigration advice without a licence providing they hold a current practising certificate from the New Zealand Law Society.

**Visit:** communitylaw.org.nz

**Citizens Advice Bureau**

Citizens Advice Bureau (CAB) is an independent community organisation providing free confidential information, advice, support and advocacy. The CAB has a walk-in migrant information service, Migrant Connect, in 30 locations throughout the country.

Call **0800 FOR CAB** (0800 367 222) for more information or visit the website.

**Visit:** cab.org.nz

**Licensed Immigration Advisers**

The New Zealand Immigration Advisers Authority can put you in touch with a licensed adviser in your area. The advisers provide a commercial service and must adhere to a regulatory system managed by Immigration New Zealand.

**Visit:** www.iaa.govt.nz

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**Unions**

**Union Network of Migrants**

Union Network of Migrants is a network of migrant workers within FIRST Union. FIRST Unemig is migrant-led, non-profit and non-sectarian. Unemig aims to protect the rights and welfare of migrant workers in New Zealand.

**Visit:** unemig.org.nz

**E tū**

E tū represents 10,000 members in Public and Commercial Services. This includes workers in the hospitality and tourism sectors.

**Visit:** etu.nz

**Unite**

Unite covers workers in a number of workplaces, including restaurants and hotels.

**Visit:** unite.org.nz

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**Migrant welfare**

**Emergency assistance**

Temporary visa holders in hardship due to COVID-19 may be able to get an Emergency Benefit from Work and Income at the Ministry of Social Development.

**Visit:** workandincome.govt.nz/temporaryvisa

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Welcoming Communities helps recent migrants, former refugees, international students and other newcomers feel accepted, valued, and at ease in New Zealand. To learn more or get in touch, contact, visit: www.immigration.govt.nz/about-us/what-we-do/welcoming-communities