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. New Zealand’s immigration settings have changed. You need to understand how the current settings affect you when you think about recruiting temporary migrant staff.

What you need to know

1. **Migrants and employers must meet the conditions set out in existing visas.** These include the region, the role, and the minimum 30-hour per week requirement for full-time work.

2. **The median wage threshold for Essential Skills work visas has increased to $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. **Occupation oversupply and undersupply lists.** The Ministry of Social Development will no longer issue a Skills Match Report (see page 3) for occupations on its oversupply list. These include a number of lower-level hospitality sector jobs. Other than in exceptional cases, Immigration New Zealand is unlikely to issue Essential Skills work visas for occupations on the oversupply list.

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

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

6. **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)

---


---

This booklet was accurate at date of publication. However, the immigration environment is changing. To check information and stay up-to-date, visit: [www.immigration.govt.nz](http://www.immigration.govt.nz)
Essential Skills work visas and temporary migrants: guidance for New Zealand hospitality sector employers

This booklet is intended to help you and your employees understand, plan for, and comply with New Zealand’s changing immigration system.

Many staff within New Zealand’s hospitality industry hold temporary work visas. The most common one is the employer assisted Essential Skills work visa.

As an employer, you need to understand how the visa system works and to understand the criteria that apply when applications are assessed.

A wage threshold set at the New Zealand median income now applies. This is currently $27 per hour. Those earning this amount or above are eligible for Essential Skills work visas of up to 3 years in duration, while those earning less than this amount can be granted a 2-year work visa.

When assessing Essential Skills applications, Immigration New Zealand considers the current economic environment and labour market. If the temporary migrant worker is already in the role, then no labour market test is required.

[Continued overleaf]
If the role is vacant, then a number of measures to protect the local labour market have been introduced. One of these is a stronger labour market test for jobs paid below the median wage. Employers are required to provide a Skills Match Report if the role that is being recruited pays below the median wage ($27.00 per hour). In addition, the Ministry of Social Development now publishes an ‘oversupply’ list of occupations for which they will not issue a Skills Match Report.

The oversupply list acknowledges the importance of making jobs available to out-of-work New Zealanders who have the appropriate experience. The oversupply list is not region specific.

An employer may also be asked for financial information about their business to confirm that the offer of employment made to a migrant worker is sustainable.

In mid-2022, Immigration New Zealand will be introducing a new employer-led visa application process.

This is a major policy change with implications for all employers intending to support work visa applications.

Oversupply and undersupply lists

The Ministry of Social Development (MSD) has created lists of occupations and regions where there is a clear over or undersupply of New Zealanders on Jobseeker Support (a weekly payment that helps people until they find work).

If an employer is trying to fill an occupation that is on the undersupply list, they will not need to get a Skills Match Report, even if the job is paid below the New Zealand median wage.

There is an oversupply of New Zealand job seekers on a Jobseeker Support benefit in all regions for some occupations in the following sectors:

- retail and hospitality
- construction
- administration and call centre workers
- manufacturing and warehousing
- transport.

In the hospitality sector, the oversupply of New Zealand job seekers in all regions includes café workers, cooks, commercial housekeepers, domestic housekeepers, fast food cooks, kitchenhands, and waiters.

If the role is not oversupplied or undersupplied in your region, and the position pays less than the median wage, you will need a Skills Match Report to hire a migrant.

To check if a role is on the oversupply list or the undersupply list in your region, visit: workandincome.govt.nz/about-work-and-income/news/2020/skills-match-report-changes.html
The Essential Skills work visa application process

This is a simplified work visa application process. Five scenarios apply. These are marked S. (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 applicant 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. The duration of the visa will depend on whether the job pays above or below the median wage.

Visa duration: dependent on wage rate

If the applicant is in New Zealand on a current work visa and is applying for a job with a different role, employer or region, and:

S2 the job pays at or above the median wage. The visa applicant may be eligible for an Essential Skills work visa.

Visa duration: up to 3 years

S3 the job pays below the median wage and the occupation is on the undersupply list. If the visa applicant will be paid below the median wage and their occupation is on the undersupply list, they may be eligible for an Essential Skills work visa.

Visa duration: minimum 2 years

S4 the job pays below the median wage, and the occupation is on the oversupply list. If the visa applicant will be paid below the median wage and the occupation is on the oversupply list, the Essential Skills work visa application is unlikely to be successful.

S5 the job pays below the median wage and the occupation is not listed on the undersupply or oversupply list. 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 person from overseas who is applying for work visa, you must include a completed INZ 1113 (Employer Supplementary Form). The form can be downloaded from: www.immigration.govt.nz/documents/forms-and-guides/inz1113.pdf
Submitting a complete application

If you decide offering 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. You can help us to help you by getting things right.

1. A Skills Match Report
If the role is vacant and pays less than the median wage and is not on the under or oversupply lists, you must request a Skills Match Report from the Ministry of Social Development.


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)
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

*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.

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

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
Applying for a Variation of Conditions – Essential Skills work visa

If one of your workers holds an Essential Skills work visa, but their conditions of employment have changed, they must either apply for a variation of conditions on their current visa or apply for a new Essential Skills work visa. The conditions of a visa may include the employer, the job, and the location of employment. Any variation of conditions, if granted, will only be for the balance of the current visa.

**Does the worker currently hold an Essential Skills work visa?**

- **Y**
  - Is the worker’s current Essential Skills work visa for a job that is either lower skilled OR pays below the median wage*?
    - **Y**
      - Is the new job paid at or above the median wage?
        - **Y**
          - **New Work Visa required**
        - **N**
    - **N**
  - **N**
    - **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?**

- **Y**
  - **To find out more about whether the conditions of the visa can be changed, visit the Immigration New Zealand website. (See below.)**
- **N**
  - **Does the worker currently hold an Essential Skills work visa?**
    - **Y**
      - **Do you want to change the worker’s occupation or region of employment?**
        - **Y**
          - **Is the new occupation on one of the Skills Shortage lists? (See below)**
            - **Y**
              - **Does the worker meet the Skills Shortage list requirements?**
                - **Y**
                  - **The worker can apply to change any combination of employer, occupation and region of employment**
                - **N**
            - **N**
        - **N**
          - **New Work Visa required**
      - **N**
    - **N**
      - **The worker can apply to change employer**

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

**New Work Visa required**

**Does the worker meet the Skills Shortage list requirements?**

**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](http://skillshortages.immigration.govt.nz)

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.
The Government recognises that COVID-19 presents a unique set of challenges for New Zealand jobseekers, employers and temporary work visa holders. Regional impacts vary, but there are more people looking for work as a consequence of the impact of COVID-19 on businesses. Minimising unemployment and promoting re-employment is central to the Government’s response to COVID-19.

The Government’s overall aim is to reduce reliance on low-skilled migrant labour and incentivise more integrated planning across the employment, immigration and education systems.

New Zealand’s immigration system is designed to ensure that New Zealanders are first in line for jobs, while making sure that access to migrant workers is available where there is a genuine skill need that cannot be met.

It is possible that some temporary migrants who had hoped to make New Zealand their long-term home will need to make a plan to depart New Zealand if they can no longer remain here lawfully. Understandably, this may be distressing for migrants and their employers. It is the responsibility of the temporary migrant to ensure they remain lawful while they are in New Zealand. Information about visa types is available on the Immigration New Zealand website or a qualified immigration professional, such as a Licensed Immigration Adviser or lawyer, can help.

Being a good employer

The Government recognises that COVID-19 presents a unique set of challenges for New Zealand jobseekers, employers and temporary work visa holders. Regional impacts vary, but there are more people looking for work as a consequence of the impact of COVID-19 on businesses. Minimising unemployment and promoting re-employment is central to the Government’s response to COVID-19.

The Government’s overall aim is to reduce reliance on low-skilled migrant labour and incentivise more integrated planning across the employment, immigration and education systems.

New Zealand’s immigration system is designed to ensure that New Zealanders are first in line for jobs, while making sure that access to migrant workers is available where there is a genuine skill need that cannot be met.

It is possible that some temporary migrants who had hoped to make New Zealand their long-term home will need to make a plan to depart New Zealand if they can no longer remain here lawfully. Understandably, this may be distressing for migrants and their employers. It is the responsibility of the temporary migrant to ensure they remain lawful while they are in New Zealand. Information about visa types is available on the Immigration New Zealand website or a qualified immigration professional, such as a Licensed Immigration Adviser or lawyer, can help.

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: www.employment.govt.nz/starting-employment/rights-and-responsibilities/minimum-rights-of-employees/

For information about what happens if an employer breaches employment standards, visit: www.employment.govt.nz/resolving-problems/steps-to-resolve/labour-inspectorate/employers-who-have-breached-minimum-employment-standards/#standdown
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/

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.

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 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

Self-isolation

If a migrant is required to self-isolate and they are experiencing difficulty in doing so, they should contact their Embassy or Consulate for assistance. Contact details are available on the Ministry of Foreign Affairs and Trade website.


Departing New Zealand

If a migrant is unemployed or in difficulty and wants to return to their country of origin, they should talk to their Consulate or Embassy. The Consulate or Embassy should be able to provide advice about assistance and the availability of flights. Contact details are available

Guidance for hospitality sector employers | August 2021 11
Migrants may also register with a local travel agency to be contacted when the appropriate international flights become available.

Access to Kiwisaver if leaving New Zealand

Anyone who moves to Australia, can transfer their KiwiSaver funds to an Australian superannuation scheme. However, transferring your KiwiSaver account to Australia is not compulsory.

After you’ve been living overseas (not Australia) for 1 year, you can take most of the savings from your KiwiSaver account.

You can withdraw:
› your contributions
› your employer’s contribution
› the $1,000 kickstart (if you got it)
› fee subsidies (if you got these)
› interest you have earned.

You cannot take out the government contributions.

Contact your KiwiSaver provider if you decide to transfer your KiwiSaver funds. They can guide you through the process.

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.

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 Citizens Advice Bureau (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

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