

Accredited Employer Work Visa Review: Phase Two

Consultation - September – October 2024



Disclaimer

This material is being shared with you **in confidence** to inform advice on the Accredited Employer Work Visa.

While this can be distributed to your members to inform a collective submission **it is not for broader distribution or publication.**

The proposals outlined in this paper are not Government policy nor guaranteed to become Government policy rather are drafts for engagement and feedback.



Agenda

1. Introductions
2. Overview and objectives
3. Discussion on proposals
4. Feedback on current pain points, issues and suggested solutions
5. Wrap up and next steps – including opportunity for written submissions (by 11 Oct)

What we are seeking from you

- Feedback on the proposals across four main areas:
 - Accreditation
 - Job Check
 - Regional, sector and seasonal settings
 - Overall system and compliance
- Other significant issues with the AEWV and options that could improve the system
- Anything else about the AEWV you'd like to raise



Overview of the AEWV Review: Phase Two



Context and objectives for further changes to the AEWV

Phase one AEWV changes

Immediate action to address record high net migration

- Through 2023 and early 2024 we saw record high levels of net migration alongside increasing reports of migrant exploitation. This prompted the Government to make the first suite of changes to the AEWV, largely to tighten settings for lower skilled migrants, in April this year.
- Early indications are that those changes are impacting both the skills mix and overall visa volumes for the AEWV. Alongside this, annual net migration is now easing, and the economy is continuing to soften.

Phase two AEWV changes

Getting the settings right

- It was intended that the initial changes were followed by further work on the AEWV to:
 - Review the three AEWV gateways to ensure they are fit for purpose – this includes:
 - Consideration of ways to lower compliance costs for employers and improve system efficiency while still maintaining appropriate checks and balances.
 - Ensuring that employers who have a genuine need for migrant labour can access it while still encouraging the employment of suitable New Zealanders first (particularly in the context of the Government's target to reduce Jobseeker numbers by 50,000 by 2030).
 - Support regional and economic growth by ensuring that New Zealand has access to the skills it needs.
 - This includes consideration of differentiated settings that reflect regional and sector differences.
 - Ways to better target and manage risk in the system.

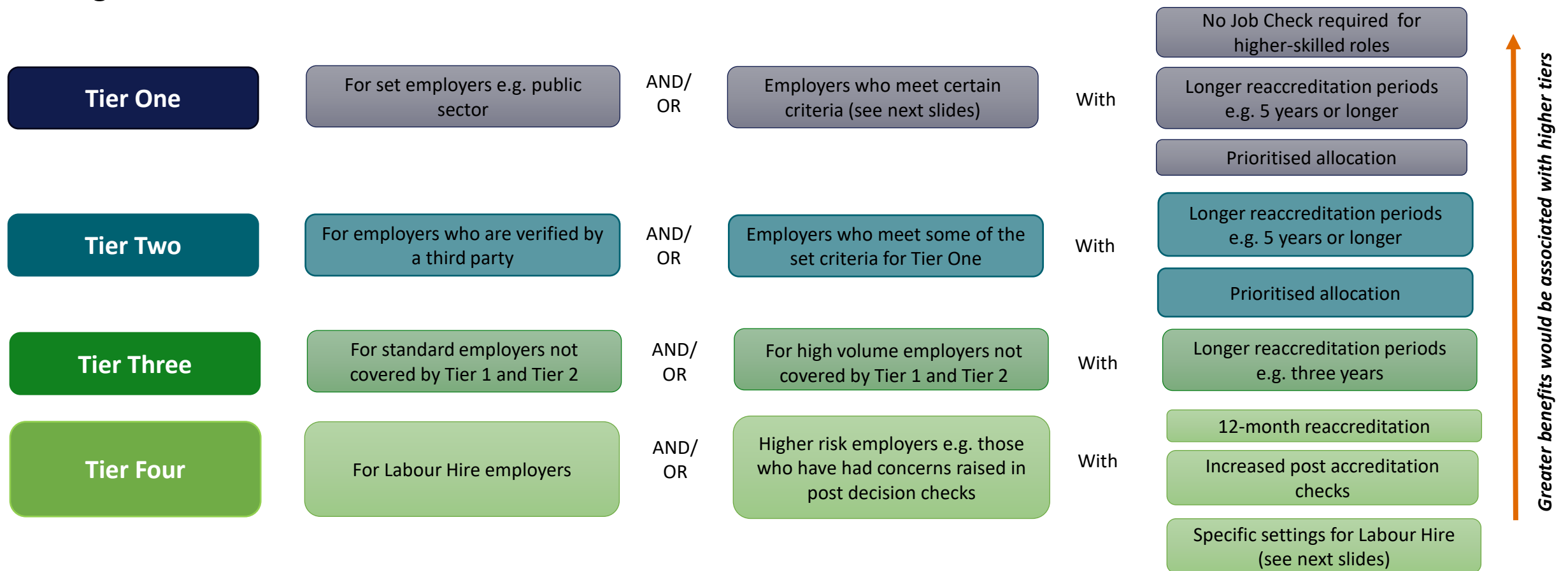


Accreditation options



Accreditation

- Accreditation settings can protect the integrity of the system by setting the standards that employers need to meet to employ migrants on an AEWV.
- There are three accreditation types which differ based on volume of migrants being employed (standard and high volume) and employment type (triangular), which differentiate by potential risk.
- We are considering options to:
 - Provide a substantiated basis to streamline the process for “high-trust” employers.
 - Use third party checks where appropriate to increase integrity and/or to improve timeliness.
 - Incentivise employers to meet higher employment standards.
- At a glance this could look like:



Accreditation – opportunities to streamline

- We are considering how best to determine which employers need fewer checks or ongoing engagement with Immigration New Zealand (INZ) (e.g. to be eligible for higher tiers of accreditation). This could be based on:
 - Employment type / model e.g. public sector employers or regulated industries or those that only recruit ANZSCO migrants for Level 1-2 roles and/or
 - Those who meet set criteria which could include some or all of the below:

Has been accredited for a minimum of 12 months and has demonstrated an exemplary record of meeting accreditation and wider immigration standards (this could include providing proof of wages and hours paid, and audits)

MSD certification that employer has engaged with them and/or Jobseekers recently

Endorsement/certification by third parties (or is a regulated profession) – see below

Evidence of training and upskilling New Zealanders (e.g., on the job training certificates, percentage of budget used for training and development, employer sponsored further education)

Meet a specified proportion of domestic workers (e.g., 75 per cent)

Business has been in operation for a minimum number of years

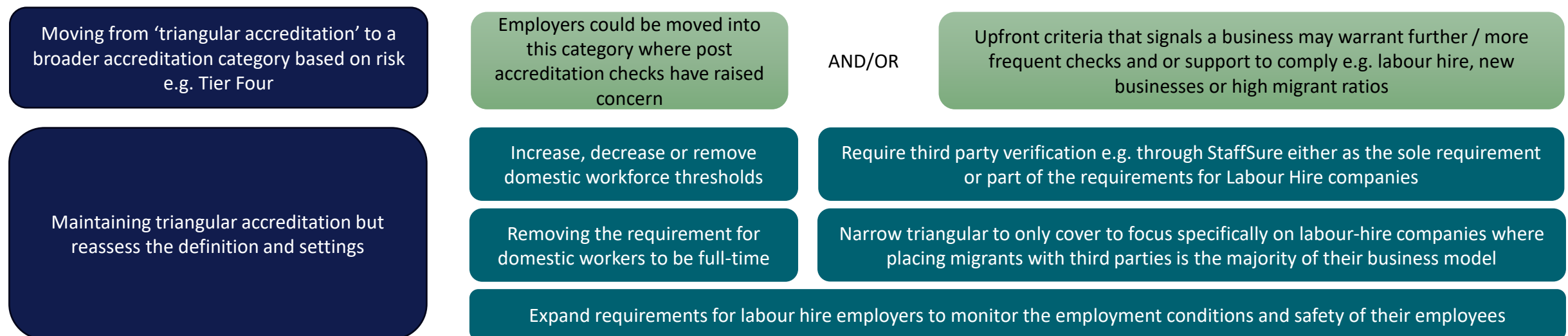
- There may be opportunities for third parties to:
 - Support eligibility for higher tiers of accreditation and/or
 - Certify employers meet certain accreditation standards instead of INZ, e.g. chartered accountants certifying financial standards and/or
 - Enable priority processing/allocation for supported applications – e.g. Licensed Immigration Advisors (LIAs) certifying an application is decision ready means it goes to the front of the queue.

We are interested in hearing from you:

- For employers:
 - Would skipping the Job Check for higher-skilled roles and or having longer accreditation incentivise you to meet higher upfront standards?
 - What other benefits or options to streamline would you be interested in being associated with higher tiers of accreditation?
 - Could you meet the standards outlined above?
 - Are there other or better ways for employers to demonstrate they pose fewer employment or immigration risks?
- What third parties could we utilise to check or endorse employers on INZ's behalf?
- For third parties – what appetite do you have to play a part in the system?

Accreditation – defining and managing risk

- Current settings have greater requirements for triangular employment models given they present higher risks of exploitation and immigration non-compliance due to the nature of the employment relationships.
- This includes but is not limited to a domestic workforce threshold to mitigate ongoing concerns about the reliance of migrant labour in some labour hire firms.
- We are exploring options to continue managing these risks, including settings for triangular employers and those who raise concerns during post-decision checks, while balancing compliance and impacts on employers. Options being considered are:



We are interested in hearing from you:

- Do current workforce thresholds/requirements for triangular employers affect your sector?
 - What proportion of your workforce are New Zealand citizens or residents?
 - In what circumstances are you struggling to attract New Zealanders?
- We have heard workforce thresholds may not best target the risks we are concerned about - how else could we target these risks?
- For Labour Hire companies - would you be willing and able to receive certification from a third party such as StaffSure?
- Are there risks you are concerned aren't being captured through current accreditation standards?

Job Check options – including wage thresholds and the Labour Market Test



The Job Check

- The Job Check currently:
 - Confirms the employment is acceptable:
 - Assesses whether the role is genuine.
 - Paid at least the relevant wage rate and required hours of work.
 - Terms and conditions meet immigration and employment law requirements.
 - Checks the employer has made genuine attempts to recruit domestically (referred to as the “Labour Market Test”)

Options: Wage thresholds

- The Government has committed to removing the median wage threshold.
- We have considered alternatives to the median wage threshold to balance the risk of distorting wages with providing a modest premium on access to migrant workers to continue to incentivise the employment of domestic entry-level workers.
- Options being considered are:

The minimum wage
+10% (\$25.50)

Whichever is higher
of minimum wage
+10% or the market
rate

No wage threshold i.e.
the minimum wage

We are interested in hearing from you:

- Do wage thresholds in the AEWV affect your hiring decisions?
- Would maintaining a wage threshold at 10% above the minimum wage impact your ability to hire migrants?
 - If so, in what areas/roles would this be challenging?
- How would you recommend we assess market rate?
- Do you think a minimum threshold of 10% above the minimum wage would be consistent with the minimum skills and experience requirement (three years relevant work experience or a relevant qualification on the New Zealand Qualifications and Credentials Framework (NZQCF) — this must be at least a level 4 qualification for a role at skill level 3, or a diploma for a role at skill level 2)?

The Job Check – Labour Market Test

- A Labour Market Test is used to confirm whether there are suitable and available New Zealanders for job vacancies before an employer progresses towards hiring or retaining a migrant worker for a role.
- Currently, employers are required to:
 - advertise the role domestically; and
 - engage with the Ministry of Social Development (MSD) for lower-skilled roles (ANZSCO level four and five) before submitting a Job Check application. Following this engagement, MSD provides INZ with advice about whether there is available and suitable supply for the role being advertised.
- The current Labour Market Test is light touch but resource intensive for MSD, with little impact on placing Jobseekers into AEWV vacancies. Between 8 April and 12 August 2024, for roles that had completed their advertising period, MSD operational data shows that 3,483 AEWV-roles were listed, and 87 clients were placed.
- This is a placement rate of 2.5 percent, compared to 54 percent for non-immigration related positions over the same period.*

**Note that given the timeframes since this requirement was introduced, operational systems are still being smoothed out, and monitoring and analysis of referrals and placements is ongoing. It is expected that this data will change over time.*

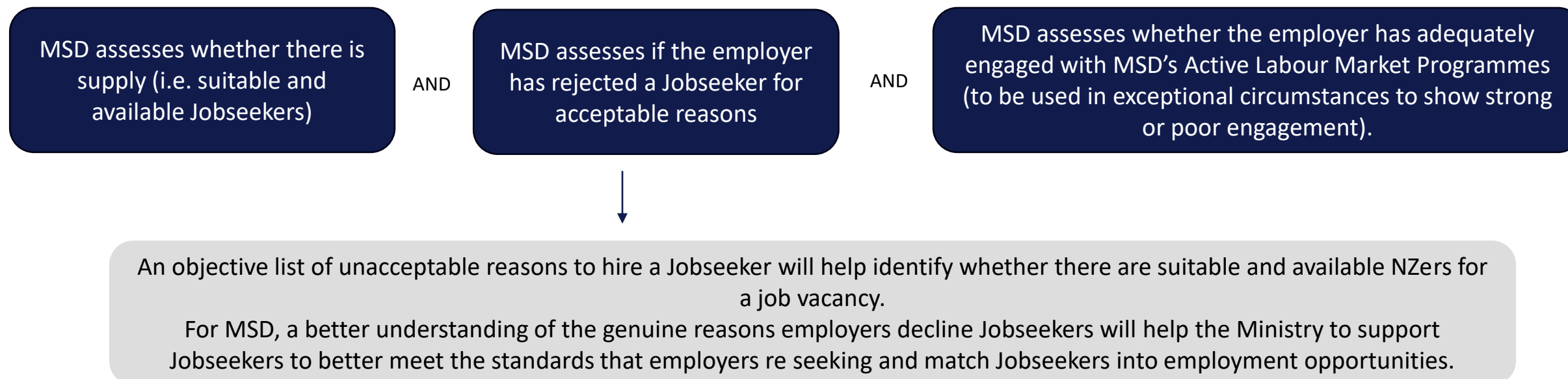
- In this context we are considering options to ensure suitable New Zealanders are considered first for vacancies including options to strengthen the current process (see next slide).



The Job Check – Labour Market Test

Options: The Labour Market Test

- We are considering option to strengthen the current MSD process. For example:



- We are also considering other options such as removing the Labour Market Test for higher-skilled roles and relying on upfront accreditation checks or standards.

We are interested in hearing from you:

- Whether there are any other mechanisms that could be used to ensure that New Zealanders are prioritised for vacancies that otherwise would be filled by an AEWV holder?
- Your views on the strengths and weaknesses of the options outlined, and any impact that a strengthened Labour Market Test would have on your business and/or engagement with MSD.
- What do you consider would unacceptable reason for an employer to decline a Jobseeker and why?

The Job Check

Other options being considered:

Increasing the maximum AEWV duration to three years alongside a new labour market test (e.g. no 2+1 visa duration for skill level 4 and 5 roles)

Having a broad system lever which could be activated to manage volumes e.g. a cap or pricing mechanisms

- Concerns have been raised about the genuineness of roles being recruited for and INZ's ability to decline Job Checks in certain cases.
- Alongside the genuine job assessment in the Job Check, we are considering options to:

Remove the ability for employers to support the application of a family member for an AEWV

Provide INZ the ability to decline a Job Check on the basis of labour market concerns (e.g. high unemployment in the region) and/or where a declaration or declarations have been breached

Prevent employers from changing the skills and experience requirements for a role in the middle of the immigration process

We are interested in hearing from you:

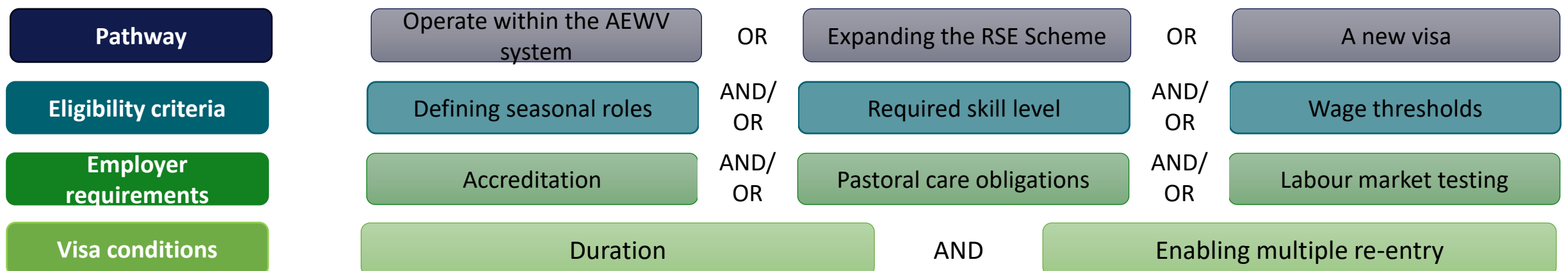
- Have you heard of instances of the AEWV being used to support family members to come to New Zealand?
- Are there any reasons why the skills and experience requirements for a role might change mid-way through an immigration process?
- What works well about the current Job Check process?
- Are there any other pain points or issues within the Job Check you do not think these options address (e.g. job token duration)?

Regional, sector and seasonal settings



Seasonal visa pathway - options

- In response to concerns from employers that the AEWV settings are not optimised to recruit seasonal workers for short-term but annually recurring work, we are considering **options for a permanent, fit-for-purpose approach to seasonal work** (*horticultural/viticultural seasonal work will continue to be catered for by the Recognised Seasonal Employer Scheme*)
- The Government recently announced a short-term seasonal pathway under the Specific Purpose or Event Work Visa, which enables migrants to work for up to 9 months in a seasonal role, while this work is underway
- Key considerations:

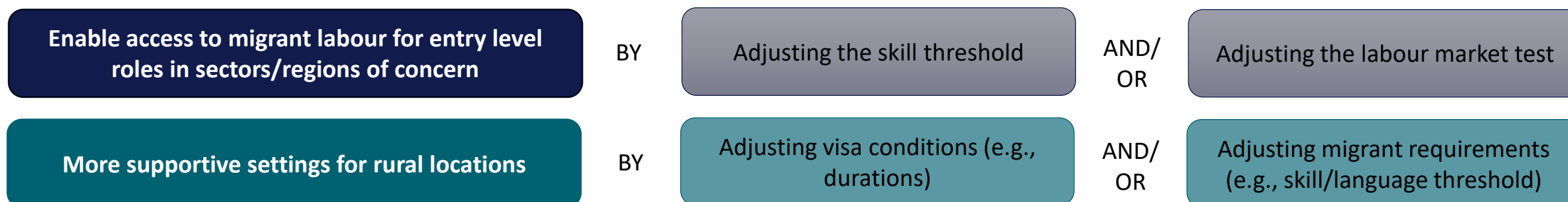


We are interested in hearing from you:

- What does seasonal work look like for your sector?
 - How long does a season last? How many workers do you need to bring in for the season and in what roles? How skilled/experienced are they? Do you tend to bring the same workers back year-on-year? What proportion of your seasonal workforce are New Zealanders vs. migrant workers?
- What challenges are there for you in meeting your seasonal labour demand locally? What changes could be made to the system to better support you to hire locally?
- Would you be willing and able to meet pastoral care requirements? Or would you be willing to pay a higher wage rate to offset the need to meet these requirements?

Sector or region-specific settings

- We know that some existing or proposed AEWV settings will likely have a larger impact in some sectors and/or regions and are **considering when it might be appropriate to allow exemptions to or variations of the AEWV requirements** to allow for entry level migrant labour.
- This work will consider settings under **existing sector agreements** (Care workforce, Construction and Infrastructure, Meat and Seafood processing, Seasonal Snow and Adventure Tourism and Transport as well as the Tourism and Hospitality Wage exemption), particularly in the context of removing the median wage requirement.
- We are also considering whether there is need for further variations or exemptions. Options we are considering include:



- These options are based on concerns previously raised – we will also be assessing whether other situations warrant an exemption to or variation of AEWV conditions or requirements as they are brought to our attention during consultation.
- Note that consideration of residence pathways is beyond the scope of the AEWV review but can be included in the review of skilled residence settings in 2025.

We are interested in hearing from you:

- Do you need access to migrants for entry-level or lower-skilled roles? If so, for what sort of roles?
- Where do current or proposed settings pose challenges for your sector/region?

Compliance and assurance options



Overall system compliance and assurance

- We are continuing to look at policy and operational options to improve compliance and risk management.
- We have highlighted some potential gaps that we are considering options to address.

Options: Preventing migrants being charged excessive fees by agents

- We have heard that migrant workers often engage an unlicensed recruitment or immigration agent offshore to help them find a job with a New Zealand employer and apply for a visa.
- These agents have charged the migrant worker for their services. These fees can be significant and well in excess of a fair market value for the services the agent provides or what the job pays, suggesting that they are in fact a fee to secure the job.
- While it is unlawful for an employer to charge a premium for a job under New Zealand employment law, this does not extend to payments collected and retained by recruitment agents. We are considering options including:

New accreditation standard -
Do not consider candidates referred by third parties unless satisfied they don't charge fees to candidates

New accreditation standard -
Take reasonable steps to ensure AEWV applicants have not paid a fee before issuing job token

New Job Check requirement -
Employer must provide credible plan for recruiting non-NZers if requested

New migrant requirement -
Do not pay visa-related fees to anyone other than an LIA/lawyer

We are interested in hearing from you:

- Could this proposal unintentionally prevent legitimate recruitment practices?
- Could there be any other unintended consequences associated (e.g. for migrants)?

Overall system compliance and assurance

Options: Settings for migrants whose employment has ended

- In the first phase of changes, a new accreditation requirement was introduced for employer to inform INZ when an AEWV holder's employment ends.
- This was intended as a first step to a more structured and proactive approach to encouraging migrants in these circumstances to promptly get a new job or visa, or leave the country.
- We are considering the following package of options as a next step:

No longer allow job changes or new visas if applicant has been in NZ without a lawful purpose for more than three months

Establish process and expectation for visa holders to inform INZ if their employment has ended


Clear communications to visa holders that their case will be referred to compliance if they don't rectify their status within three months

We are interested in hearing from you:

- Is three months enough time for a skilled worker to apply for a new visa or job change? If not, what would be?
- What would be the impact of the proposed changes?
- Are there other options we should consider?



Discussion

- Your views on the proposals outlined.
 - Are there any other key issues/pain points with the AEWV these options do not address?
 - We note that the immigration system is often criticised for both being too complex and not adequately catering to the needs of different sectors or regions. Where should the system be simpler and where should it be more nuanced or complex?
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Wrap up and next steps

- Optional: Stakeholders can provide any written feedback by **5pm 11 October**.
- MBIE will report back to the Minister of Immigration in early November.

