



BRIEFING

Short-term immigration responses to the labour market impacts of COVID-19

Date:	11 June 2020	Priority:	Medium
Security classification:	In Confidence	Tracking number:	3529 19-20

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Agree to the proposed package of short-term changes to temporary work visa settings	18 June 2020
Hon Carmel Sepuloni Minister for Social Development	Copy for your information	N/A
Hon Poto Williams Associate Minister of Immigration	Copy for your information	N/A

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Siân Roguski	Manager, Immigration Policy	04 901 3855	s 9(2)(a)	✓
Kate Manners	Policy Advisor	04 896 5924	s 9(2)(a)	

The following departments/agencies have been consulted
The Ministry of Social Development, the Ministry for Primary Industries, the Treasury

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments



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Purpose

This paper provides you with advice on a short-term package of changes to work visa settings for temporary workers who are currently in New Zealand. These changes respond to the labour market impacts of COVID-19 and balance objectives for jobseekers, employers and temporary migrants.

Executive summary

New Zealand's temporary work visa settings are intended to be flexible in response to changes in labour market conditions and economic growth or downturn. However, the rapid and unprecedented impacts of COVID-19 on the labour market necessitate consideration of some flexibility in current immigration settings to respond to the unique set of challenges that New Zealand jobseekers, employers and temporary workers are facing.

COVID-19 and associated restrictions have led to an increase in redundancies (of both New Zealanders and migrant workers), which are expected to increase as the effects of a recession are felt. As a result, we expect that there will be a decrease in the demand for migrant workers to fill genuine skills and labour shortages, as New Zealanders re-train and are redeployed to fill those roles. The role of the immigration system in prioritising New Zealanders for employment opportunities and incentivising employers to engage in training and workforce planning will be particularly important; noting that existing settings are in the process of being reformed to be better fit for these purposes.

In the short- to medium- term it is likely that some sectors, particularly those that have had a high reliance on migrant labour and where business activity has been largely able to continue during the COVID-19 lock down, will experience difficulty recruiting the labour and skills that they need while the border is closed and while training and redeployment of New Zealand jobseekers gets underway. A lack of flexibility in immigration settings to respond to this could negatively impact New Zealand's economic recovery.

Short- to medium-term immigration responses to labour market changes need to balance the following objectives:

- Maintain policy focus on maximising New Zealanders' access to the labour market and ensuring that employers only hire migrants to fill genuine labour and skills shortages (acknowledging that there are problems with achieving this with our current settings, which the temporary work visa reforms are aimed at addressing);
- Support activities needed for the COVID-19 response and economic recovery (i.e. support provision of essential services, and ensure immigration settings support longer term recovery of sectors and wider labour market objectives);
- Consider welfare implications for temporary migrants who are not able to leave New Zealand during periods of travel restriction who may not have work rights and who are more vulnerable to exploitation; and

- d. Consider New Zealand's special relationship with Pacific Island Countries.

As discussed with you, we recommend that the primary focus remains on prioritising New Zealanders for employment opportunities.

We have designed a package of short-term changes that could be applied over the next six months that would seek to:

- a. provide some flexibility in work visa settings for migrants who are in New Zealand over the next 6-12 months; and
- b. maintain a focus on prioritising New Zealanders for employment opportunities and reiterate to employers the need to plan their workforce and take on more jobseekers.

The changes are:

- a. Reducing the duration of new low-skilled Essential Skills visas from 12 months to 6 months to mitigate future labour market risk.
- b. Extending all on-shore employer-assisted temporary work visas expiring before the end of 2020 by six months (from the expiry date of each visa);
- c. Delaying the introduction of the stand-down period for 6 months where temporary migrants are eligible for an extension to the expiry of their visa (as per (b) above);
- d. s 9(2)(f)(iv)

- [Redacted]
- [Redacted]

We consider that this package provides an appropriate balance between supporting the economic recovery through providing short term, time-limited flexibility (up to June 2021) for temporary work visa holders *already in role*, and ensuring regular labour market testing as New Zealand job seekers are progressively trained, upskilled and redeployed from their previous employment.

Communication of the interim changes would be focussed on overarching objectives to support New Zealanders into employment, and will reiterate messaging to employers that they need to genuinely seek to fill vacancies with New Zealand jobseekers.

As the proposed interim measures above are implemented, we will continue to monitor key indicators of system health, in particular those relating to the placement of New Zealand jobseekers through the SMR and the distribution of available jobseekers compared with the grant of new employer-assisted work visas. This will inform any further advice on changes to work visa settings to respond to COVID-19, in addition to work to implement the reforms to the temporary work visa system.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Agree** to the following set of objectives for short- to medium-term immigration responses to COVID-19:
- i. Maintain policy focus on maximising New Zealanders' access to the labour market and ensuring that employers only hire migrants to fill genuine labour and skills shortages (acknowledging that there are problems with achieving this with our current settings, which the temporary work visa reforms are aimed at addressing);
 - ii. Support activities needed for the COVID-19 response and economic recovery (i.e. support provision of essential services, and ensure immigration settings support longer term recovery of sectors and wider labour market objectives);
 - iii. Consider welfare implications for temporary migrants who are not able to leave New Zealand during periods of travel restriction who may not have work rights and who are more vulnerable to exploitation; and
 - iv. Consider New Zealand's special relationship with Pacific Island Countries

Agree / Disagree / Discuss

- b **Note** that while current settings are functioning, there are risks that the objectives in recommendation (a) are not being met, most notably that:

- i. Existing policy and operational settings do not adequately prioritise opportunities for New Zealanders
- ii. Employers may experience genuine skills shortages as a result of border restrictions, workforce turnover and lag time to train New Zealand jobseekers, which could negatively impact economic recovery
- iii. Temporary migrants who are unable to leave New Zealand easily and have limits on their ability to work and access welfare support are at a further increased risk of exploitation and hardship

Noted

- c **Agree** to shorten the duration of low-skilled Essential Skills visas from 12 to 6 months to mitigate future displacement of New Zealanders from employment opportunities and reinforce messaging to employers

Agree / Disagree / Discuss

- d **Agree** to extend all employer-assisted temporary work visas expiring before the end of 2020 by six months (from the expiry date of each visa) using the discretionary powers made available to you under the Immigration Amendment Act 2020

Agree / Disagree / Discuss

- e **Agree** to delay the introduction of the stand-down period for low-skilled Essential Skills visa holders from August 2020 to January 2021 for temporary workers who are eligible for an extension of their work visa as set out in recommendation (d)

Agree / Disagree / Discuss

- f s 9(2)(f)(iv)

[Redacted text block]

- [Redacted text block]

■ s 9(2)(f)(iv)

- [REDACTED]
- h **Note** that there are options to provide further visa flexibility to employers and migrants in the short term, but these options are generally associated with a higher risk of displacing New Zealanders and undermining longer-term objectives; but that officials will continue to monitor sector profiles and report back to you if there is a case for further changes

Noted

- i **Note** that officials will continue to monitor key indicators of system health, in particular those relating to the placement of New Zealand jobseekers through the SMR and the distribution of available jobseekers compared with the demand for new Essential Skills work visas

Noted

- j **Note** that officials do not propose progressing work on provision of flexible or open work rights to support welfare outcomes for temporary migrants at this stage, noting ongoing work on the provision of welfare support

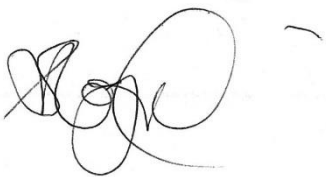
Noted

- k **Note** that officials will provide you with an overview of the proposals in this briefing to discuss with the Education, Employment and Training Ministerial Group

Agree / Disagree

- l **Note** that if you agree to pursuing a package of short-term changes, we intend to engage with both unions and employers as time allows, to seek their insights, feedback and advice as the details of the changes are finalised.

Noted



Siân Roguski
Manager, Immigration Policy
Labour, Science and Enterprise, MBIE

11/06/2020

Hon Iain Lees-Galloway
Minister of Immigration

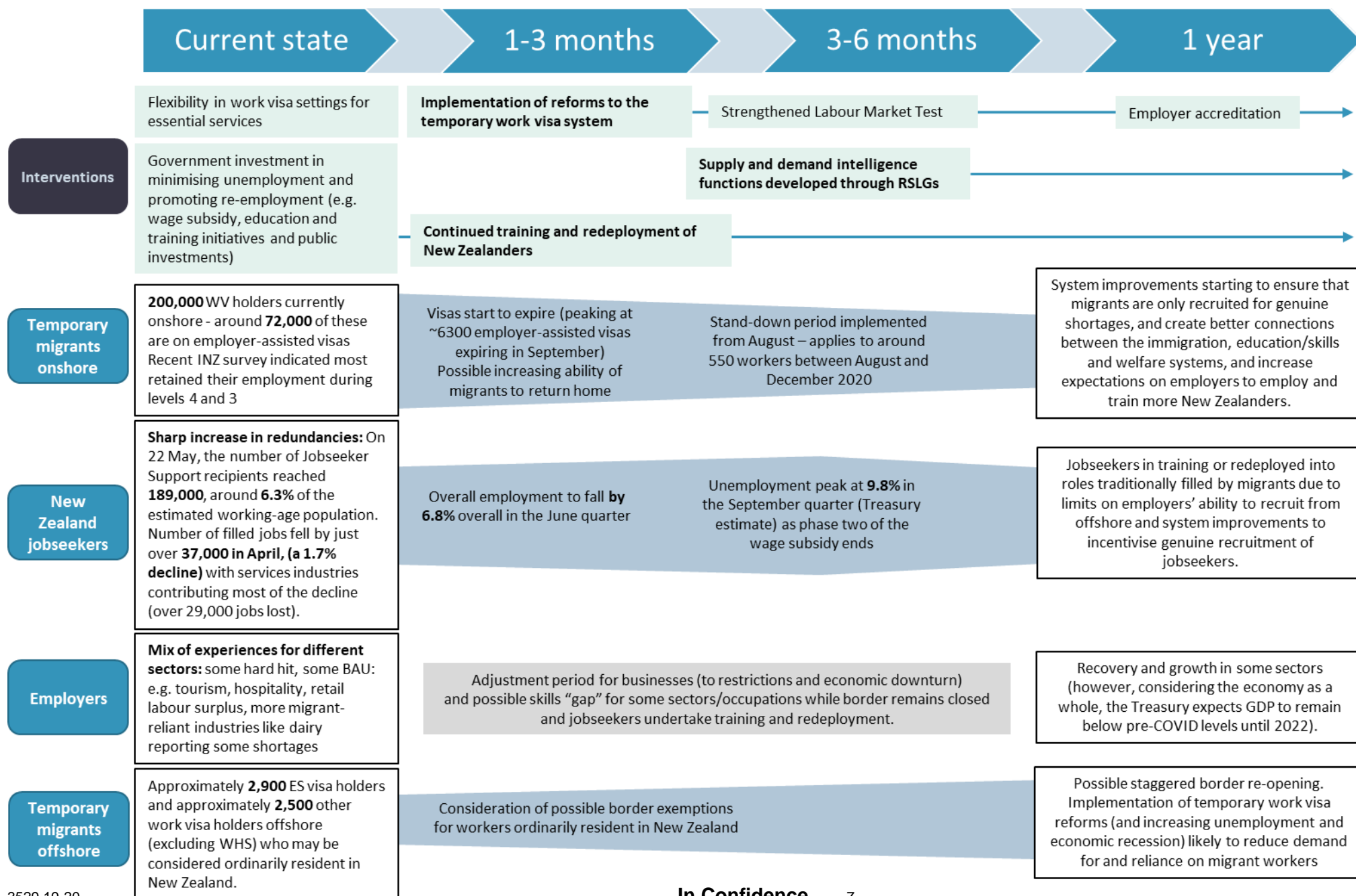
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Background

1. In the context of rising unemployment, the task for the immigration system is to sufficiently safeguard work opportunities, work conditions and wages for New Zealand workers, but enable access to migrants where there is a genuine need that cannot be met in order to support economic recovery. Changes have already been made to immigration settings to enable more flexibility for migrant workers and their employers in response to COVID-19, including:
 - a. Extending the implementation of the stand-down period by one year for onshore workers in the health care sector, including aged residential care and support workers
 - b. Removing the weekly caps on hours able to be worked for student visa holders currently employed in the health care sector
 - c. A 30-day relaxation of visa restrictions to 25 April for current supermarket employees on a temporary visa, allowing work visa holders to work in roles other than those specified on their visa; and removing the weekly cap on hours able to be worked for student visa holders
 - d. Implementing new Variation of Conditions (VOC) process to allow employees currently working in essential services to move between employers or changes duties, or allow students currently employed in essential services to work more than the cap of 20 hours per week. This is for a time-limited period, at which New Zealand remains at Alert Level 3 or 4 plus six weeks, after which point visa holders' visa conditions revert back to original settings.
2. Minimising unemployment, and promoting re-employment, is central to the Government's response to the recession. The Government is responding to rising unemployment through:
 - a. stimulating employment **demand**, and keeping workers connected to their employers (eg fiscal policy, public investments, wage subsidies to prevent redundancies)
 - b. increasing **employability** of displaced workers (eg education and training, apprenticeships, work-readiness courses, wage subsidies to encourage new employment)
 - c. **matching** demand and supply (eg brokerage, redeployment)
 - d. supporting **incomes** (eg wage subsidies, COVID leave scheme, Temporary Income Relief, increased benefits)
3. Steps are underway in each of these areas, with a further \$2.4 billion of investment allocated through Budget 2020. From a policy perspective, immediate priorities include enhancing labour market intelligence, taking stock of existing active labour market programmes, and developing a framework to guide new investments.
4. The Government has also passed legislation to support the quick and efficient management of visa changes during COVID-19, some of which could be used to make changes to work visa settings to contribute to labour market objectives.
5. In 2019, Cabinet agreed to reform the temporary work visa system through the development of a new employer-led framework for employer-assisted temporary work visas. Work to implement the reforms is underway and expected to be completed in 2021.

COVID-19 is causing drastic changes in the labour market and the demand for temporary foreign workers

6. While the full impacts of COVID-19 on the labour market are not yet known, it is possible to make some initial assumptions about the role of immigration in the COVID-19 recovery.
7. The following diagram summarises the key impacts and interventions expected on and in the labour market in the next phases of the COVID-19 response as they relate to temporary work visa settings, which include:
 - a. COVID-19 and associated restrictions have led to an increase in the number of unemployed New Zealanders and therefore potential labour supply, that is expected to continue to increase;
 - b. Border restrictions have severely limited the supply of new temporary migrant workers and access to workers who were working in New Zealand but were overseas when restrictions were put in place;
 - c. In the medium- to long-term, we expect the overall demand for migrant workers to fill genuine labour and skills shortages to decrease, although this will affect sectors differently;
 - d. Priority should be given to redeployment and/or re-training of New Zealand job seekers to fill changing skill needs, although this will take time (and will vary significantly across different sectors and occupations);
 - e. Some sectors (and in particular those that have had a high reliance on migrant workers in the past) will experience short- to medium-term labour and skills “gaps”, as employers adjust to the changed labour market conditions and New Zealanders re-train and move into new occupations and regions; and
 - f. the risk of migrant exploitation is higher in the current environment due to pressure to cut labour costs; and because migrants who have lost their jobs or have their hours reduced will be more vulnerable to exploitative employers, particularly if they are unable or unwilling to leave New Zealand.



There is a number of objectives to balance in responding to these changes

8. In undertaking this work, and in discussion with you, we have developed the following objectives for the way in which our immigration settings should function in relation to the labour market in the COVID-19 response and recovery:
 - a. Maintain policy focus on maximising New Zealanders' access to the labour market and ensuring that employers only hire migrants to fill genuine labour and skills shortages (acknowledging that there are problems with achieving this with our current settings, which the temporary work visa reforms are aimed at addressing);
 - b. Support activities needed for the COVID-19 response and economic recovery (i.e. support provision of essential services, and ensure immigration settings support longer term recovery of sectors and wider labour market objectives);
 - c. Consider welfare implications for temporary migrants who are not able to leave New Zealand during periods of travel restriction who may not have work rights; and
 - d. Consider New Zealand's special relationship with Pacific Island Countries.
9. The objectives align with the trajectory of the planned reforms to the temporary work visa system, and the government's overall aim to reduce reliance on low-skilled migrant labour and incentivise more integrated planning across the employment, immigration and education systems.

COVID-19 presents some specific risks to achieving these objectives

10. The rapid and drastic changes in the labour market that have been caused by COVID-19, along with the impact of border restrictions on migrants and employers, have heightened some risks associated with existing immigration settings and MSD-administered processes which the immigration system relies on to determine whether there are New Zealand jobseekers who are available, suitable and trainable. An overview of the key risks for jobseekers, employers and temporary migrants is provided on the following pages.

	Desired outcomes in the short/medium term	Risks to achieving short/medium term outcomes
New Zealand workers and jobseekers	<p>Jobseekers are able to find new opportunities quickly, and support to do this is accessible and effective</p> <p>Jobseekers are able to take up opportunities in different occupations/sectors and training required to do this is accessible (including training provided on the job)</p>	<p>Weak Labour Market Test (LMT) settings may not protect opportunities for New Zealanders and degrade wages and conditions. This risk is particularly heightened in the post-COVID-19 environment where there has been a large increase in the number of people becoming unemployed and entering the benefit system (many for the first time), for whom evidence shows that timely reattachment to the labour market is important for long-term outcomes. Weak LMT settings also risk driving down wages and conditions for all workers, a risk which is heightened in the current environment as businesses have been impacted by COVID-19 and are incentivised to cut costs.</p> <ul style="list-style-type: none"> • For jobs paying below the national median wage: These roles must be advertised with MSD, and employers must provide an SMR from MSD as part of the visa application. As part of this process the role is advertised to jobseekers to ensure that employers have genuinely attempted to hire New Zealanders. There are some weaknesses in existing processing for the LMT: <ul style="list-style-type: none"> ○ Employers are able to refuse MSD clients who are referred to them, even though they may be available, suitable and trainable, and persevere with seeking a migrant worker (or re-train the migrant worker who is currently in the role). ○ The SMR process does not result in many jobseekers being placed into roles (around two per cent of vacancies advertised with MSD as part of the SMR resulted in jobseekers being employed in 2019). With increasing numbers of unemployed New Zealanders entering the system, we would expect to see the number of suitable, trainable and available New Zealanders to increase, which is likely to lead to an increase in the number of jobseekers who are placed into roles advertised through the SMR. However, without strengthening LMT settings, the placement rate of New Zealand job seekers may remain low and result in displacement of suitable workers by temporary migrants. ○ Employers are required to advertise low-skilled jobs more widely, but do not need to provide any evidence that New Zealanders did not respond to advertising; this may not sufficiently target people who are not in the benefit system and are not captured in MSD's reporting as part of the SMR. • For jobs paying above the national median wage: New Zealand workers may not get priority for higher paid/higher skilled jobs as the LMT process for these roles (which consists of a requirement to

		<p>advertise only) is weak, and is based on assumptions that there are fewer New Zealanders available for these roles.</p> <p>Heightened risk of degradation of wages: The current settings for the LMT do not sufficiently incentivise employers to make genuine attempts to hire New Zealanders; particularly as many businesses are looking to reduce costs and retain lower paid migrant employees (i.e. there is a heightened risk of degradation of wages and employment conditions).</p> <p>New Zealand workers' being made redundant to preserve the visa status of temporary migrants: Temporary workers on employer-assisted visas are required to work in a specified occupation, full time, and for a specified employer. As such, redundancy for a temporary worker has an impact on their visa status. Feedback from some sectors indicates that employers may be making redundancies and reducing the work hours of New Zealand employees to ensure that migrant employees are meeting the requirements of their visa. This is heightened by the lack of welfare support available for temporary migrants.</p>
Employers	Employers that are making genuine attempts to hire New Zealanders and undertake workforce planning are able to remain solvent and contribute to economic recovery	<p>Difficulties recruiting to fill skills gaps resulting from the border closure: Businesses whose employees have not been able to enter (or return to) New Zealand as a result of border restrictions have had to quickly change their plans for recruitment, and either seek to hire New Zealanders or migrant workers who are on-shore in new Zealand. While there has been an increase in the supply of New Zealand jobseekers that may compensate for the "gap" created by the border closure, it will take time for newly-unemployed New Zealanders to move into new occupations and regions. Where there are genuinely no New Zealanders available, employers are able to hire temporary migrants on new Essential Skills work visas. While this strengthens the incentives for employers to provide the kinds of wages and conditions that will attract New Zealand jobseekers to the role, the speed of the impact could contribute to firm insolvency, negatively impacting economic recovery and potential future opportunities for New Zealanders.</p> <p>Workforce turnover: As migrant workers' visas expire and they are required to submit a new application that will be subject to the LMT (or they will be subject to the stand-down period), we expect that the effect of increased unemployment, if settings are working as intended, will be that migrant workers will be replaced by New Zealanders at a greater rate than we may have seen before COVID-19. Replacing migrant workers with inexperienced New Zealand jobseekers at speed and scale could contribute to productivity losses and firm insolvency.</p> <p>Inexperienced workforce: Replacing migrant workers with New Zealand workers could result in poor sector-specific outcomes i.e. an increase in workplace accidents, poor animal welfare or food safety.</p>

<p>Temporary migrants (currently in New Zealand)</p>	<p>Migrants remaining in New Zealand in the medium/long term should hold an appropriate visa, and otherwise should leave New Zealand when they are able</p> <p>Migrant exploitation and negative impacts on migrant welfare are minimised (i.e. avoid situations where there are large groups of temporary migrants in New Zealand without access to welfare support or employment),</p>	<p>Migrant welfare: If movement across borders continues to be severely restricted, migrants who lose their jobs (or have limitations on the amount that they can work) will not be able to easily leave New Zealand and under current settings cannot access welfare support. As such, temporary migrants in these situations are at risk of hardship and exploitation. Under existing settings, an Essential Skills visa holder who is made redundant has time to find new employment and apply for a new visa before compliance action is taken. Currently, given the inability of many migrant workers to return home if they do not find subsequent work, INZ is not taking compliance action against those affected; however, the situation of the migrant is tenuous because they could be made liable for deportation at any time. Temporary migrants with limited work rights (such as students, visitors or working holiday makers) are able to apply for a new Essential Skills visa onshore if they are able to find employment; however the impact of COVID-19 on the economy means that securing new employment will be difficult. Migrants who have lost their jobs may also be more likely to work outside the terms of their visa or take lower terms and conditions to support themselves. If well-settled, they may be unwilling to leave New Zealand even when flights become available.</p> <p>Migrant exploitation: The constrained environment for businesses will increase the likelihood that migrant workers will be expected to work longer hours, be paid less, or suffer from other exploitative practices. Migrants who are stuck in New Zealand without work rights are at high risk of exploitation, which has the potential to negatively impact conditions in the labour market and New Zealand society as a whole.</p>
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We are recommending some immediate short-term changes to provide greater flexibility and certainty to employers and migrants

- [illegible]

Shortening the duration of new low-skilled essential skills visas will mitigate future displacement of New Zealanders from employment opportunities and reinforce messaging to employers

13. To encourage employers to focus on longer-term workforce planning and recruitment of New Zealand jobseekers, and to maximise New Zealanders' access to employment opportunities, we recommend a time-limited reduction in the duration of new low-skilled Essential Skills visas that would apply until the end of December 2020.
14. Current settings allow for low-skilled Essential Skills visas to be granted for a period of up to 12 months, after which point the visa must be renewed (or if the migrant is subject to the stand-down period, they must leave New Zealand). We recommend shortening this duration to six months for all new low-skilled Essential Skills visas granted before the end of 2020. This would mean that where employers are seeking to hire new migrant workers from onshore in low-skilled roles, or migrant workers are moving to a different employer or region (to work in a low-skilled role) in the next 6 months, the maximum duration of the visa that can be granted will be 6 months.

15. This change would require certification of a change in Immigration Instructions. Subject to your agreement, officials will provide you with updated Immigration Instructions for certification.
16. Reducing the maximum visa duration would have some operational impacts for INZ and MSD (as there may be an increase in the workload associated with processing more frequent visa renewals over the next 12 months); however, the change is proposed to be time limited and will be offset to a degree by the extension of existing visas.

While travel restrictions are in place, we recommend extension of all existing employer-assisted temporary work visas where the migrant is onshore in New Zealand

17. Under current settings, migrants who are currently employed on an employer-assisted work visa but whose visa is expiring are required to apply for a renewal of their visa, through which the labour market is tested. If that application is declined (for example, if the LMT is not met), the migrant must find other suitable employment or leave New Zealand.
18. We propose that you extend all employer-assisted temporary work visas expiring before the end of 2020 by six months (from the expiry date of each visa). This proposal would include migrants whose work visas were extended by the epidemic management notice¹, in addition to work visa holders whose visas are due to expire after 9 July. There are approximately 16,500 Essential Skills and Work to Residence visa holders who are onshore in New Zealand and whose visas will expire before the end of 2020 and who would benefit from this proposal. We propose that you use the discretionary powers made available to you as the Minister of Immigration under the Immigration Amendment Act 2020 to effect this change.
19. While temporary migrant workers are largely unable to leave New Zealand, and while businesses are facing uncertainty around the level of turnover in their workforces, we consider that it would be pragmatic to provide a short extension to existing employer-assisted work visas in order to:
 - a. Provide some certainty to businesses that they will be able to retain existing staff in the short-term (which may help to address situations where employers are prioritising migrant employees for hours and jobs in order to maintain their visa status); and
 - b. Mitigate the risk of migrant exploitation and associated negative impacts on the labour market.
20. Guaranteeing the ability of existing employer-assisted temporary workers to retain their ability to work in New Zealand may have a small displacement effect on New Zealand jobseekers. However, we consider the overall labour market risk to be low, particularly given that it is challenging under existing settings for the LMT to incentivise employers to hire a jobseeker rather than renew the visa of an existing migrant employee (unless the migrant is subject to the stand-down period). The conditions on temporary workers' visas that they work in a specified occupation and for a specified employer would remain in place, meaning that employers wishing to hire migrants in a new role, or migrants wishing to change occupation, employer or region, would still need to apply for a new labour market-tested visa.
21. This change would be accompanied by communications that reiterate messaging to employers that they need to genuinely seek to fill vacancies with New Zealand jobseekers

¹ Temporary migrants whose visas were due to expire between 2 April and 9 July 2020 had their visas automatically extended to 25 September by the Epidemic Management Notice.

(and that this will be tested when the visas of their existing migrant employees expire) and that these short-term measures provide them with some lead-in time to plan their workforce and prepare for this.

22. We considered whether it would be beneficial to require a declaration from employers that temporary migrants' role was still in existence, and that they had not made any New Zealanders redundant in similar roles (to ensure that migrant workers are not unintentionally put at an advantage over New Zealand employees). However, we consider that this would be of limited benefit (being based solely on a declaration from employers at a point in time) and has significant resource implications for INZ. Given that the proposed extension is time-limited, we consider that these resource implications outweigh the limited benefits that may be gained by making the extension conditional.

We also recommend a short delay to the introduction of the stand-down period to align with visa extensions

23. In making a further extension to the expiry of employer-assisted work visas, you have the option to either maintain or delay the introduction of the stand-down period for low-skilled/paid Essential Skills visa holders (i.e. whether the visa extension outlined above should apply to those migrants who will be subject to the stand-down from August 2020).
24. Around 600 workers will be subject to the stand-down period between August 2020 and the end of December 2020². The largest occupation group affected by the stand-down in the next 12 months is dairy farm workers (113 workers affected in 2020), followed by retail supervisors and steel fixers. A significant proportion of affected workers (about 200) are in roles in the retail, hospitality and tourism sectors, where we believe there is now likely to be significantly reduced demand for migrant workers. Further data on the stand-down period is provided in Annex One.
25. We are proposing a time-limited delay to the introduction of the stand-down period to the start of January 2021 for migrants who are eligible for a visa extension as proposed in paragraphs 17-22. This would enable migrants who are subject to the stand-down between August 2020 and December 2020 to stay in New Zealand and work for their employer for up to a further six months before they are required to leave the country. Any migrant whose stand-down is scheduled to occur from February 2021 would apply as normal.
26. While migrants are unable to leave New Zealand, and employers are likely to experience some difficulty recruiting to replace stood down workers (while the borders are closed), implementation of the stand-down from August 2020 as planned could result in unintended consequences (such as migrants being stuck in New Zealand and vulnerable to exploitation, and the exacerbation of genuine skills gaps created by the border closure).
27. Given that there are relatively few migrants subject to the stand-down between August 2020 and January 2021, and while migrants subject to the stand-down are likely to struggle to leave New Zealand, we consider that a delay across all sectors is the most practical option and will enable clear communication about employers' preparedness for the eventual implementation of the policy. We do not consider that a short extension to the introduction of the stand-down period poses a significant risk to the policy's aim of preventing lower-skilled, lower-paid foreign workers from becoming well settled in New Zealand without a pathway to residence, and incentivising employers to pay migrants above the median wage if they want to retain them. Depending on the situation with regards to border restrictions at the end of 2020, it may be necessary to give further consideration to exemptions to the stand-down period, which could include consideration of sector-specific exemptions.

² This figure excludes essential health workers who have been granted a 12-month extension to the stand-down period to support the health response to COVID-19.

s 9(2)(f)(iv)

- [REDACTED]

- [REDACTED]

30. Current settings for Essential Skills visas allow MSD to take a streamlined approach to the SMR for particular occupations and regions where there is an established lack of available jobseekers. s 9(2)(f)(iv)

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

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- [REDACTED]

- [REDACTED]

³ Low-skilled Essential Skills applications are defined as applications for roles where the remuneration offered is less than \$21.68 per hour, regardless of the ANZSCO occupation; or the remuneration offered is less than \$38.25 per hour and the employment substantially matches the description for a skill level 4 or 5 occupation as set out in the ANZSCO.

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36. There are options to make policy decisions to tighten and relax settings on a sector-by-sector basis (including policy decisions about restricting the grant of new Essential Skills visas by sector, or further use of your discretionary powers to provide more open work rights by sector). We will monitor the implementation of the approach outlined above and report back to you if necessary.

We will continue to monitor the application of the LMT as these interim measures are implemented and work continues on the temporary work visa system reforms

37. As the proposed interim measures above are implemented, we will continue to monitor key indicators of system health, in particular those relating to the placement of New

s 9(2)(f)(iv)

Group	Percentage
All respondents	75%
Business	85%
Government	90%
Citizens	65%

Government	Percentage
Current government	85%
Previous government	15%

Government	Percentage
Current government	85%
Previous government	15%

Government	Percentage
Current government	85%
Previous government	15%

40. We will continue to build our understanding of the impacts of COVID-19 on the labour market and on the progress of different sectors in their recovery and workforce planning, and provide you with further advice if it appears that there is a case for further flexibility.
41. You have other options to provide some short term flexibility to sectors; in particular, we are aware that businesses have requested that you consider relaxation of the requirement for Essential Skills visa holders to work full time (defined as 30 hours per week) and an extension of the streamlined VOC process that was applied to Essential Services during the level 3 and 4 lock down period.
42. As New Zealand moves to less restrictive COVID-19 alert levels, there is likely a decreasing demand for these changes; and as such it is difficult to justify making these changes now when they may detract from progress towards overall objectives for the immigration system (particularly reducing reliance on low-skilled migrant labour and incentivising recruitment of New Zealand jobseekers).
43. The provisions that enabled workers to vary the conditions of their visas in essential services were designed specifically to respond to restrictions on employers' ability to recruit under lock down, which is now no longer a factor. In addition, there are significant exploitation risks associated with relaxing the requirement for employer-assisted visa holders to work full time, and this could incentivise migrants to stay in New Zealand where they may not be earning enough to support themselves, rather than making arrangements to leave if they are not able to secure a new job and a new visa.

44. The Immigration Amendment Act 2020 also allows you to use your discretion to grant targeted work rights to enable temporary migrants in New Zealand to work for any employer in a particular region or sector, which is an option to allow further flexibility for sectors than those proposed in this paper. Consideration could be given to the limits and conditions on the visas of migrants who take up more flexible work rights, and their employers, to mitigate displacement of New Zealanders. We do not currently consider that there is sufficient justification to apply this approach.

There are options to consider providing flexible work rights to support migrant welfare outcomes

45. The options above to provide some visa flexibility to respond to employers' workforce needs will also have positive impacts on the welfare of temporary migrants who are facing uncertainty around their visa status and their ability to support themselves. However, this will not address welfare issues for all temporary migrants, particularly those who have lost their jobs or have limited work rights (such as students or working holiday visa holders).
46. Work is underway to consider the provision of limited welfare support for temporary migrants who are unable to support themselves in New Zealand and who are not able to leave the country easily. We consider that the most effective way of ensuring migrant welfare is through the provision of direct support.
47. However, there are options to provide more flexible work rights to temporary migrants who are on-shore in New Zealand, to enable them to better support themselves (provided that they are able to find employment). This work would need to be undertaken in concert with work on repatriation of temporary migrants, compliance activity and the migrant exploitation review.
48. This would enable migrants to lawfully work to support themselves until they are able to leave New Zealand. However, options to achieve this carry significant risk of displacement of New Zealanders, facilitating employers' reliance on migrant labour and increasing the risk of migrant exploitation. As such we do not propose progressing work on options to provide flexible work rights at this stage, but will continue to monitor the situation (particularly with regards to work on the provision of direct support) and report back to you if necessary.

Next steps

49. Officials are available to discuss the proposals in this paper with you and will provide an overview of the proposals for discussion with the Education, Employment and Training Ministerial Group.
50. Subject to your agreement to the proposal to make conditional extensions to existing employer-assisted temporary work visas, officials will provide you with a Special Direction effecting this change. Should you agree with the proposal to allow a relaxation of the stand-down period for those visa holders who are eligible for a visa extension, there are no further decisions required to implement this (as the stand-down is only applied when a temporary migrant seeks to apply for a new work visa, and is not part of Immigration Instructions).
51. You are able to certify a change in Immigration Instructions to reduce the maximum duration of new Essential Skills visas from 12 to 6 months (for a time-limited period). Subject to your agreement, officials will provide you with Immigration Instructions for certification.

52. s 9(2)(f)(iv)

53. An indicative timeframe is provided below:

Steps	Timing
Discussion with EET Ministers	18 or 25 June
Immigration Instructions to shorten maximum duration of new Essential Skills visas certified	By 9 July (when visas not covered by the EMN will start to expire)
Special direction to extend existing employer-assisted temporary work visas	
s 9(2)(f)(iv)	

54. Subject to your agreement to the changes, officials will prepare a communications plan and discuss this with your office.

Annexes

Annex One: Additional data on on-shore and off-shore visa holders and applications and visa expiries

Annex Two: Overview of proposed changes over the next 6-12 months

Annex One: Additional data on on-shore and off-shore visa holders and applications and visa expiries

Impacts of stand-down period in 2020

Excluding health-care workers who have had the stand-down period extended by one year, approximately 600 Essential Skills visa holders will become liable to the stand-down period between August and December 2020. This figure will continue to increase through to a seasonal peak in mid-2021.

The table below shows the estimated number of workers in the top 10 occupations that will be affected by the stand-down period for the remainder of 2020.

Occupation	Number of people subject to the stand-down for the remainder of 2020				
	Sep-20	Oct-20	Nov-20	Dec-20	Total
Dairy Cattle Farm Worker	3	21	37	52	113
Retail Supervisor	1	11	21	34	67
Steel Fixer	3	10	14	18	45
Commercial Housekeeper	1	7	6	11	25
Personal Care Assistant		6	5	11	22
Aged or Disabled Carer		3	8	10	21
Sales Assistant (General)		7	8	6	21
Waiter	1	2	5	9	17
Meat Process Worker		2	2	9	13
Concreter	2	3	2	6	13

Visas expiring by month for onshore employer-assisted migrant workers

Visas for migrant workers onshore on employer-assisted temporary work visas largely begin expiring from July. A significant proportion of these expire in September – those whose visas were extended to 25 September by the Epidemic Management Notice.

Visa type	Number of visas expiring per month						
	2020-06	2020-07	2020-08	2020-09	2020-10	2020-11	2020-12
Essential Skills	14	1342	2060	5606	2135	1842	1590
Work to Residence	0	160	218	688	257	359	271

Top ten occupations for Essential skills visas where the visa holder is currently offshore

As at 3 June, there were approximately 2,900 Essential Skills visa holders and approximately 2,500 other work visa holders (including Work to Residence) offshore who may be considered

ordinarily resident⁴ in New Zealand. The following table shows an occupation breakdown for all⁵ offshore Essential Skills visa holders (dated 15 May), which gives an initial indication of key areas where skill gaps might occur, noting that some of these jobs may not be sustainable longer-term (particularly in the retail and hospitality sectors).

Occupation	Count
Chef	377
Carpenter	231
Retail Supervisor	223
Dairy Cattle Farm Worker	215
Cafe or Restaurant Manager	182
Cook	161
Retail Manager (General)	142
Resident Medical Officer	116
Dairy Cattle Farmer	71
Marketing Specialist	57
Other occupations	3525
Total	5,300

⁴ “Ordinarily resident in New Zealand” is defined as having been lawfully present in New Zealand for more than 183 days in the last 12 months. Out of scope are work visa holders who have yet to enter New Zealand for the first time, and work visa holders who had left New Zealand before 30 November 2019 prior to any restrictions on travel due to COVID-19.

⁵ Note that the occupation breakdown includes all offshore Essential Skills visas, including those who may not intend to return or have visas expiring imminently.

Annex two: Overview of proposed package of changes

2020						2021					
July	August	September	October	November	December	January	February	March	April	May	June
6 month extension applied to expiring visas on a rolling basis (including where migrants are subject to the stand down period)						Extended visas expire between January and June 2021; roles must be re-advertised					
Workers subject to the stand down period eligible for visa extension (provided they are working in the same role)						Low-skilled visa holders subject to the stand down as their visas expire (both those newly expiring and those extended in 2020)					
New lower-skilled Essential Skills visas granted for six months only						Low-skilled Essential Skills visas granted from July-December 2020 expire					
s 9(2)(f)(iv)						New lower-skilled Essential Skills visas granted for up to 12 months					