

Employer Immigration Update – 18 August 2021

At Pathways we know just how many changes are now happening in the immigration space. We are even having difficulty keeping up to date, so this must be even more frustrating and confusing for employers and comes at a time when employers have many other significant pressures on their businesses. More than ever, employers need clear and simple messaging so they can understand what all the immigration changes actually mean for their businesses and their migrant employees.

Pathways will now be posting regular Employer Immigration Updates focusing on the immigration information that employers need to know.

What employers need to know now:

- The median pay rate was increased to \$27.00 ph from 19 July – this means that:
 - Essential skills work visa (ESWV) applicants who are paid at or above the median pay rate can be issued 3-year work visas. Applicants paid below the median pay rate will be issued 2 year “low-skilled” work visas
 - Applicants who have lodged an Expression of Interest (EOI) under the Skilled Migrant Residence category must be paid at the new median pay rate in order for their employment to be awarded points for skilled employment
- For applicants holding ANY type of work visa (& some others), and who are applying for an Essential skills work visa to continue working in the exact same employment then:
 - They are not required to provide updated police and medical reports if these were previously provided with any visa application, and
 - No job advertising/labour market test is required, and
 - No employment agreement is required to be submitted with the application, and
 - Paper applications (new forms) must be made until the lodgement process returns to the online regime in September
 - Applicants who are holding Work-to-residence work visas should NOT change to an ESWV as this can prejudice their residence pathway
- Care is required for visa applications where there are accompanying family members:
 - As a person on a low-skilled work visa (i.e.: being paid below the median pay rate) cannot normally support their partner for a partnership work visa (with a few historical exceptions)
 - However, the partner, if holding any work visa (including a partnership work visa), can directly apply for their own ESWV if this is to continue to work in the exact same employment role
 - Dependent children are eligible for student visas to study as domestic students up until completion of secondary school providing one parent, or both parents in combination, who are holding ESWVs, are earning at least \$43,322.76 gross per annum
- The mandatory employer accreditation which was scheduled to be introduced on 1 November 2021 has been deferred, possibly to mid-2022, so employers should simply forget about this for the time being
- Matters relating to existing INZ Accredited Employers:
 - Applications for accreditation, and for the renewal of existing employer accreditation, ceased as from 30 June 2021. It is possible the ability to renew an employer’s existing accreditation may now be revisited given the deferral of the introduction of mandatory accreditation regime, but the Government has not given any indication of this happening as yet.
 - Consequently, employers should be proactive in transitioning eligible employees (i.e., those who are paid at least \$79,560 pa for a 40-hour work week) onto Talent/Accredited Employer work-to-residence work visas BEFORE their existing accreditation expires – and before 31 October 2021 which is the date the Government previously set for the final date for such applications to be lodged (and which also may, or may not, be changed)
 - Even if an employer’s accreditation has expired, employees who are holding work-to-residence work visas can still continue to lodge a residence-from-work residence application and should do so as soon as they are eligible (i.e., when they have completed 2 years of employment holding a WTR work visa)

- Skilled Migrant residence category/Expressions of Interest
 - INZ is presently processing SMC residence applications which were originally lodged towards the end of October 2019 so employees who have residence applications lodged around this time should be hearing from INZ soon
 - Selections of EOIs pursuant to the SMC residence category have been suspended since April 2020 and there are strong indications the Government will make an announcement in the very near future about its plans to resume EOI selections, most likely with revised selection criteria
- Border entry exceptions
 - There are two types of border entry exceptions possible for employees to enter New Zealand:
 - Critical health workers
 - Other critical workers
 - The requirement for critical health workers is relatively straight forward and we have not encountered too many problems in enabling the entry of these workers
 - However, the requirements for “other critical workers” can be particularly challenging, and while an employer can make a compelling case for the need for the worker’s skills the policy settings are very targeted, and every box needs to be ticked for the entry exception to be granted
 - Every person who is granted border entry and is issued a visa (called a Critical Purpose Visitor Visa) must still secure their MIQ spot before they can travel. While Immigration New Zealand has approved various cohorts for border exception occupations (e.g., teachers, dairy farm managers etc) most of these approved exceptions are unable to actually enter New Zealand as they have not yet been able to secure a MIQ place.
- Retention of migrant employees
 - Nearly all employers are experiencing staff/skills shortages at present, and we are seeing an increasing incidence of migrant employees changing their employment, motivated by improved conditions and the prospect of long-term immigration security. The process for migrant employees to change their employment is relatively straightforward and it can be beneficial for employers wishing to retain these workers to work closely with them to understand their personal motivations and do what is possible to appease these.

It is important to understand that this is a generalised update to provide employers with a heads-up about relevant and current immigration matters. As each employer’s and employee’s circumstances differ, we strongly recommend that professional advice be sought to clarify the application of immigration policy for each situation. For such clarification, and advice on any immigration matter, please do not hesitate to contact a Pathways Licenced Immigration Adviser.

Watch out for our next Employer Immigration Update!

About Pathways

Pathways to New Zealand is one of the longest established (since 1992), most successful and reputable professional providers of New Zealand immigration and visa services in New Zealand. Our Licensed Immigration Advisers have assisted more than 20,000 people from over 110 different countries to achieve their New Zealand immigration requirements. Pathways acts for a number of multi-national, national and local corporates, and many SMEs, with their NZ immigration matters. Our team, which includes four qualified lawyers, is also fluent in ten languages.

