

What the proposed Work Visa changes mean for New Zealand Racing

“The Ministry of Business, Innovation and Employment (MBIE) is consulting on proposed changes to temporary work visa settings, through the Essential Skills visa policy. The changes aim to ensure that settlement expectations are clear for temporary labour migrants and that the settings enable access to migrant labour where there is genuine need.”

We are consulting on the following proposals:

- *Using wage or salary information to help determine the skill level and visa conditions of Essential Skills migrants.*
- *Reinforcing the temporary nature of the visa and managing the settlement expectations of Essential Skills migrants where they have no pathway to residence.*
- *Reinforcing that Essential Skills visas may only be granted for the period for which the employment is offered.”*

The Government has proposed changes to Essentials Skills work visas which can be viewed at - <http://www.mbie.govt.nz/info-services/immigration/consultations/proposed-changes-to-immigration-policy-settings-suite-of-proposed-changes-essential-skills-visa/discussion-document.pdf>

MBIE is seeking submissions on the proposed changes and these must be received by 5.00pm on 21 May 2017.

In summary the Government proposes to use wage or salary information to help determine the skill level, visa eligibility and conditions of Essential Skills work visa applicants.

Apprentice jockey work visas are not impacted on by the proposed changes as these visas are not processed under Essential Skills work visa instructions.

However work visas issued for trackwork riders, jockeys, horse trainers, stable hands, stud grooms and any other stable staff are likely to be caught by the proposed changes.

Cabinet has agreed, in principle, to introduce pay levels to categorise employment into the three skill levels (lower, mid and higher) and it will be these pay levels which will determine visa eligibility, the visa term and visa entitlements in the future.

Proposed Essential Skills skill levels and associated visa conditions					
Skill level	Remuneration thresholds		ANZSCO	Visa length	Children & partner
Higher-skilled	\$35.24+ per hour	And	1/2/3/4/5	Up to 5 years	Yes
Mid-skilled	\$23.49 - \$35.24 per hour	And	1/2/3	Up to 3 years	Yes
Lower-skilled	\$15.75 - \$23.49 per hour	And	1/2/3	Up to 1 year	No
	\$15.75 - \$35.24 per hour	And	1/2/3		

The key issue is that any work visa applicant whose pay rate is below \$23.49 per hour would be considered to be “lower skilled” and will only be issued a work visa for 1 year. Assuming the situation remains that no New Zealanders are available to fill, or to be readily trained for the role, then the work visa can continue to be renewed every year to a maximum of 3 years.

Once a “lower-skilled” worker has reached the maximum duration of time (3 years) allowed on a “lower-skilled” Essential Skills work visa, there would be a stand-down period where they must spend **one year outside of New Zealand** before they are able to apply for another “lower-skilled” Essential Skills work visa. However they are able to apply for another type of work visa such as a partnership or student visa, or a “mid-skilled” work visa if their pay is \$23.49 per hour or higher and thereby they can continue to remain in New Zealand. The 3 years will begin from the date any new “lower skilled” work visa is issued after the introduction of the new policy and any previous time on a work visa is not counted as part of the 3 years.

The reference to ANZSCO (Australia & New Zealand Standard Classification of Occupations) in the above table is a potentially significant issue. The skill level an occupation has in ANZSCO (1-4) is a key determinant of the work visa outcome. In fact trackwork riders, stable hands and stud grooms are all classified in ANZSCO as Skill level 5 occupations which would currently mean they can only be considered (under the proposed changes) if their pay rate is \$35.24 per hour or higher!

Trackwork riders, jockeys, Stallion Masters and Stud Grooms are all roles (with some geographical limitations) on the current Immigration New Zealand Immediate Skill Shortage List (ISSL). This means that these roles are accepted as being a skill shortage and the roles do not need to be advertised. The fact that trackwork riders and stud grooms are currently shown on the ISSL as being classified as “jockey” and “horse trainer” (skill level 3 roles) is misleading and designed to suit the purposes of the current policy settings. This matter will need to be addressed if trackwork riders in particular are to remain eligible for even “lower skilled” work visas.

Additionally industry employers need to be particularly aware of the importance of keeping time and wage records and that these must accurately record their employee’s work hours. This is because of the nature and irregularity of work hours in the industry and the increased focus Immigration New Zealand now has on ensuring migrant workers are paid correctly. Because many horse industry employees are paid a set wage each week and which is at, or close to, the legal minimum wage (currently \$15.75 per hour) any additional hours worked can very easily result in the hourly rate falling below the legal minimum wage - which will lead to problems with the visa application and for the employer involved.

There are additional implications for the family members of “lower skilled” work visa holders. Currently the partners of work visa holders can obtain partnership work visas and their children can be issued student visas to allow study as domestic students up to completion of secondary school. Under the proposed changes the family members of “lower skilled” work visa holders will need to obtain a visa in their own right and not as the partner/child of a work visa holder. This is a major change which will significantly impact on work visa holders who have their family with them in New Zealand, or are anticipating their family members joining them in the future.

It is important that work visa holders who have visas expiring over the next 12 months consider applying for new work visas before the policy changes are due to take effect in mid August in order to get the maximum time allowed under the current policy settings. It is similarly important that any family members now in New Zealand holding visas issued on the basis of the family relationship also extend their visas as long as possible under the current policies.

It is important the racing industry considers these work visa changes and how they will impact on the industry and its ability to attract and retain its key workers and makes any submission to MBIE before the 21 May closing date.

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