

Immigration updates:

Off and onshore Reference checks

Changes to Police Certificate process

Maximum continuous stay

Why Offshore and Onshore Reference Checks Matter

Some employers are hiring employees from off and onshore who do not have the skills required to do the job they have been employed for.

In many cases, employers are also not carrying out any first-hand reference checks with the trainers or employers these employees have worked for.

- **Apart from being an essential part of being a good employer, reference checking with offshore employers is vital because it verifies the employee's work history, skills, and suitability for the role**

What is required by Immigration NZ?

- **Immigration NZ requires proof that a migrant's claimed experience is genuine.**
- **Offshore checks reduce the risk of fraudulent applications, such as falsified CVs or fake job offers.**
- **Immigration NZ must be confident that the migrant's background is legitimate before granting a visa.**

Employer Accreditation Compliance

- **Accredited employers hiring offshore workers must meet strict standards, including fair treatment and compliance with NZ employment law.**
- **Reference checks help demonstrate that the migrant is genuinely qualified and that the employer is following due diligence**

What are the Risks if Reference Checks Are Skipped?

- **Visa being declined:** Immigration NZ may decline the visa if employment history cannot be verified.
- **Legal Consequences:** Employers risk breaching the Immigration Act 2009 if they hire migrants without proper checks.
- **Reputation Damage:** to both employers, the industry and migrants if false information is discovered later

There are also some employers in the Sector who are failing to check a migrant's right to work.

- Employers who fail to check a migrant's right to work risk fines, imprisonment, and loss of Employer accreditation under the Immigration Act 2009.
- The law makes it clear that “reasonable precautions and due diligence” are required — ignorance is not a defence.

Summary

- **Reference checks are not optional**
 - they are a safeguard that protects New Zealand's labour market
 - ensures migrants are genuinely qualified
 - upholds the credibility of the visa system
 - If you need information on how to carry out a Reference check, please contact karen@LRINZ.co.nz
- **Employer Penalties – Immigration Act 2009**
 - Employers must exercise due diligence when hiring migrants.
 - The Immigration Act 2009 makes it clear that ignorance is not a defence — employers must actively prove compliance.

The following outlines the penalties

Type of Breach	Penalty	Details
Civil Infringement	Up to NZD \$10,000 per employee	Issued via infringement notices for less serious breaches (e.g., failing to check visa conditions properly).
Criminal Liability – Individuals	Fine up to NZD \$50,000	For knowingly or recklessly employing someone not entitled to work.
Criminal Liability – Companies	Fine up to NZD \$100,000	Applies to businesses that breach obligations when hiring migrants.
Imprisonment	Up to 7 years	For deliberate, repeated, or serious offending under the Act.
Loss of Accreditation	Immediate revocation	Employer loses Accredited Employer status, preventing future migrant hires.
Reputational Damage	Public exposure	Breaches are often publicised, damaging trust with both local and migrant workers.

Police certificate changes from 8 December 2025

Immigration have previously permitted migrants to show evidence that they have applied for a Police certificate and apply for a Visa before the that police certificate arrives.

- From 8 December Immigration will no longer issue requests for information for police certificates missing from Accredited Employer Work Visa (AEWV) applications.
- Receipts showing a request for a police certificate will no longer be accepted, and references to uploading a receipt will be removed from the application form.
- Exceptions will apply for Fiji, Hong Kong and Israel, because their authorities send certificates directly to Immigration NZ. In these cases, applicants can upload the proof they have requested one
- If an application does not include a police certificate, it may be declined or a visa may be granted for a shorter period of up to 24 months.
- Potentially prejudicial information letters may be issued to onshore applicants, but with firm deadlines to respond.

Plan ahead: AEWV maximum continuous stays take effect

- We are reminding Accredited Employer Work Visa (AEWV) holders and their employers to plan ahead if they are approaching their maximum continuous stay (MCS).
- The MCS is the total amount of time someone can stay in New Zealand on 1 or more AEWVs.
- Once a migrant reaches their maximum stay, they must spend 12 months outside of New Zealand before they can be granted another AEWV.
- Employers cannot continue to employ AEWV holders after they reach their maximum stay.
- The AEWV is a temporary visa and the maximum stay rule ensures that employers test the labour market every 3 to 5 years so that jobs go to New Zealanders first.
- When the AEWV launched in 2022, AEWV holders in skill level 4 and 5 roles had a maximum stay of 3 years.
- Those in skill level 1 to 3 roles can apply to stay for a further 2 years, giving them a total maximum stay of 5 years.
- Since July 2025, some AEWV holders of visas granted between 2022 to 2023 have begun reaching their maximum stay.
- These visa holders will need to plan to leave New Zealand or apply for a different visa, if they are eligible.

Please call Karen Russell on 027 2316662 or email karen@LRINZ.co.nz to discuss any of the above or any other HR or Immigration matter.

Kind Regards

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