

ACCREDITED EMPLOYER WORK VISAS THE JOB CHECK

OVERVIEW

An employer who has obtained Employer Accreditation cannot support migrant workers to apply for an Accredited Employer Work Visa (“AEWV”) until they get a Job Check application approved for the role. This requires the company to show that:

- ◇ it meets the requirements of the “labour market test”, or the labour market test is not required; and
- ◇ it is making an acceptable offer of employment.

If the Job Check is approved, Immigration New Zealand (“INZ”) issues a Job Token for each position which the employer can fill with a suitable migrant worker. The employer provides the Job Token to the migrant so that they can then apply for an AEWV.

The Job Check is valid for 6 months, which means that an employer should not apply for one if it does not intend to employ someone from overseas in the near future. Once it expires, a new Job Check application must be made if positions still need to be filled.

Employers with Standard Accreditation can get Job Tokens for up to 5 positions at any one time. High Volume Accredited Employers (including Franchise and Triangular Arrangement firms) can get more. In some cases it may make sense to ask for more Job Tokens than the company needs right away. This is because the application fee is the same no matter how many positions are applied for; and if the employer’s needs expand then it avoids the need to pay for another Job Check application.

Each Job Check application can only relate to one type of job. For example, if a restaurant requires 3 Chefs and 1 Restaurant Manager, it must make 2 separate applications.

LABOUR MARKET TEST

The labour market test is not required if the job is:

- ◇ “highly paid” – that is, paid twice the national median wage. If the job pays an annual salary, the equivalent hourly rate is calculated on a 40-hour week; or
- ◇ on the [Green List](#), and meets the requirements on the List for that job such as minimum qualifications, NZ occupational registration, past years of work experience, or hourly pay rate; or

For other jobs, the labour market test is met if the position has been advertised for at least 14 days on a generally available site (such as Seek, TradeMe Jobs or others) before applying for the Job Check. Some jobs could be advertised on an industry-specific site such as a job board for IT positions.

The job advertisement must line up with the job that will actually be offered to a migrant worker in a later AEWV application. Failure to do so could result in Work Visa applications being declined, and the employer would have to file a new, more accurate Job Check application. We spend time with employers at the outset to ensure that their advertising is fit for purpose.

The job advertising must include a job description and:

- ◇ the minimum rate of pay or salary, and maximum rate of pay (if applicable);
- ◇ estimated actual earnings where much of the pay is not guaranteed (e.g., made up of commission or bonuses);
- ◇ minimum guaranteed hours of work, and must be more than 30 hours per week, so that “zero-hour contracts” are to be avoided;
- ◇ location of the job, which is important if the employee is to work in more than one distinct area for a significant part of their work. Locations are defined as:
 - i. cities - e.g., in the area within the Auckland City Council boundary);
 - ii. regions – e.g., in the area within the Northland Regional Council boundary);
- ◇ minimum qualifications, work experience, skills or other specifications that are necessary to do the job. The Job Check application can be declined if these are set too high, because this would be seen as putting an artificial barrier against local workers applying;
- ◇ number of positions if you have multiple places for the same job.

The employer needs to document the outcome of advertising, such as the stats from the job site about numbers of enquiries and applications, notes about actual candidates (if any), and why they were not suitable. This then goes to show that local people could not be found.

ACCEPTABLE OFFER OF EMPLOYMENT

All jobs must pay at least the median wage (currently \$29.66 per hour) unless the job is on a negotiated lower rate for [certain sectors](#) such as tourism and transport.

A Job Check application must include a sample of the employment agreement that will be given to a migrant worker if they get the AEWV based on that Job Check. Apart from containing the usual terms, these contracts must also specify:

- ◇ The maximum hours an employee may be asked to work before being paid overtime, and what the overtime rate is;
- ◇ The maximum total hours an employee may be asked to work, including those paid at overtime rate.

Careful calculation is required for jobs paid on a monthly or annual salary to ensure that, if someone might end up working more hours without overtime, their equivalent hourly rate of pay does not fall below the median wage or the rate applicable to that job (such as some IT roles on the Green List).

OUR SERVICE

As your immigration professionals, our job is to ensure that all criteria are met and that all documentation provided in support of your application is in the form required by INZ, that it assists your application, and it does not create confusion or difficulty.

We keep in contact with INZ to ensure that each application is processed promptly and in a manner that is fair and in accord with natural justice.