

Mobility: Immigration alert

March 2024

Australia and New Zealand

2024: What to expect during another year of immigration reform in ANZ

Executive summary

The Australian and New Zealand governments are both continuing to reform their migration policies to achieve the common key priorities of attracting global talent while protecting migrant workers.

Measures underway in both jurisdictions are focused on:

- ▶ streamlining existing temporary and permanent skilled migration programs
- ▶ enhancing legislative and enforcement frameworks to improve employer compliance and prevent migrant worker exploitation

While changes to immigration policy are heading in the right direction, implementation is proceeding at a gradual pace creating ongoing uncertainty for employers across ANZ.

Australia

Migration Strategy

The rollout of the government's new *Migration Strategy* (the *Strategy*) released in December 2023 will continue during 2024. The *Strategy* intends to reshape Australia's immigration policy and ensure a more purpose driven migration program.

Changes introduced to date include:

- ▶ streamlined labour market testing for employer sponsored Temporary Skill Shortage (TSS) visas
- ▶ expanded pathways for employer sponsored permanent residence

Key changes employers can expect in 2024 include:

- ▶ increased penalties for non-compliance when the *Migration Amendment (Strengthening Employer Compliance) Bill 2023* takes effect on 1 July 2024
- ▶ better resourced sponsorship and post-arrival monitoring scheme including coordination with the Australian taxation system
- ▶ a three-tiered Skills in Demand visa to replace the TSS visa: *Tier 1 Specialist Skills* highly skilled migrants with an expected salary threshold of AUD135,000; *Tier 2 Core Skills* workers in a listed skilled occupation with salary threshold of at least AUD70,000; *Tier 3: Essential Skills* lower paid essential workers, may be limited to care and support roles
- ▶ further streamlining of labour market testing
- ▶ change to skilled occupation lists with a formal role for Jobs & Skills Australia in identifying skill shortages
- ▶ labour mobility allowing sponsored skilled workers six months to find new employer and a public register of approved sponsors
- ▶ better tailored regional visas with priority processing and enhanced Working Holiday Maker program to support regional Australia
- ▶ reform of the points test for skilled migrants
- ▶ replacement of the Global Talent and Business Investment and Innovation visa programs with a new Talent and Innovation visa
- ▶ indexation of salary thresholds and increase in government application charges on 1 July 2024

Details of these reforms are covered in our [earlier alert](#).

Non-employer sponsored visas

Bilateral arrangements with India and the United Kingdom provide new visa options for early career professionals. These schemes have limited places but may provide a pathway for individuals who are ineligible for a TSS visa. From 1 July 2024, UK citizen Working Holiday makers will also be eligible for a second and third Working Holiday visa without needing to work in regional Australia. A new Pacific Engagement visa will commence in 2024 providing 3,000 permanent visas to citizens of participating Pacific Island countries and Timor-Leste.

Other measures in the *Strategy* to reform non-employer sponsored visa programs will impact the available talent pool in Australia and reduce the number of alternatives to employer sponsorship. In particular, amendments to improve the integrity of the Student and Graduate visa programs are likely to significantly reduce the number of these visa holders in the context of debates on net migration and the need to address exploitation of temporary visa holders by creating clearer pathways to permanent residence. Proposed changes to be introduced in the coming year include:

- ▶ increasing English language requirements for student visa applicants
- ▶ applying greater scrutiny to student visa applications and a new 'genuine student' test
- ▶ reducing the age threshold for Graduate visas from 50 to 35 years of age
- ▶ reducing the visa length for Graduate visas by up to one year and limiting eligibility for a second Graduate visa
- ▶ adjusting the criteria for TSS visa and points tested skilled migration for Graduate visa holders to provide clear pathways to permanency

EY recommends employers seek advice regarding options for any holders of Student, Graduate or subclass 408 visas to ensure they continue to maintain visa status and work rights. With increased penalties for non-compliance from 1 July 2024, robust onboarding processes should include work rights checks using Visa Entitlement Verification Online (VEVO). Employers should also consider implementing periodic VEVO checks on their temporary visa holder population to mitigate risk.

New Zealand

Since New Zealand lifted some the world's toughest pandemic border closures in 2022, the skilled migration temporary and permanent program has undergone continual adjustment. Recent changes include:

- ▶ New Zealand Skilled Residency framework adjustments: A new simplified points system was introduced for the Skilled Migrant Category (SMC) Resident Visa on 9 October 2023. The new 6 points approach provides a faster route to residence for people in high skilled roles and others will have a clear route to residence if they work for a period in New Zealand
- ▶ Accredited Employer Work Visa program (AEWV): From November 2023, the maximum length of an AEWV has been extended from three to five years. A 'stand down period' was also introduced which means that AEWV visa holders who do not have a pathway to residency must leave New Zealand for at least 12 months after five years in New Zealand as a holder of an AEWV
- ▶ A program of post-accreditation compliance checks have commenced in response to reports of misuse of the AEWV. Immigration New Zealand (INZ) aims to routinely check 16% of accredited employers each year. INZ and associated enforcement agencies have new powers to access employment records

The current New Zealand government, in power since late 2023, is yet to release a comprehensive immigration policy. The Minister of Immigration plans to tighten up on low-skilled work visas and devise a long-term population plan to guide future policy settings. These changes aim to balance the need for more highly skilled workers in New Zealand against the need to support them with adequate infrastructure.

The direction of New Zealand's new immigration policy in 2024 will also be steered by the recommendations of the significant review of the AEWV program recently released. The Minister of Immigration has announced that immediate changes to the AEWV will be taken to Cabinet in 'the next couple of weeks.' Proposed immediate changes could include more stringent labour market checks, requiring employers to prove they have been unable to fill positions from the local labour pool. The planned increase to the median wage threshold for AEWV applications in 2024 has been paused. This will allow time for consideration of alternatives to this mechanism. Employers can look forward to more certainty regarding the direction of immigration policy as well as operational details of the AEWV in the near future.

Accreditation renewal

Employers will need to apply to renew their accreditation under the AEWV for the first time in 2024. INZ is yet to publish detailed guidelines on the renewal process. EY has lobbied for these to be released as soon as possible as well as confirmation that employers may be granted interim status to continue to sponsor skilled workers while a renewal application is under consideration. Based on our engagement with INZ, EY expects that the employer accreditation will be both evidence and declaration based. Evidence expected from employers could include:

- ▶ Financial statements showing their business is financially viable
- ▶ Goods and service tax (GST) or pay as you earn (PAYE) records showing their business' tax identification number (IRD number) issued by Inland Revenue.

EY strongly recommends that New Zealand employers ensure they have records of compliance with all immigration and workforce laws now in anticipation of submitting renewal applications and a possible post-accreditation compliance check.

International Remote Work

EY recently published the report of our [2024 Asia-Pacific International Remote Work \(IRW\) survey](#).

IRW is widely offered by employers but comes with complexity, and employers must consider all elements of their mobility programs including immigration, talent and employee value proposition, as well as employment and corporate taxes in addition to personal tax. Compliance risks are also increased. Increased global coordination by tax and immigration authorities requires robust processes and approvals for internationally mobile workers.

Changes to Australia's tax residency rules

Adding to the legislative reform impacting employers of a globally mobile workforce, in July 2023 the Australian Government issued a consultation paper proposing a new, modernised individual tax residency framework. The proposed framework includes a "bright-line" 183-day test as the primary test to determine residency, with secondary tests based on a threshold of 45-days with other objective factors to assess the point of commencing and ceasing tax residency.

EY contributed to the consultation process which closed in September 2023. The Government has not made any announcements on next steps, and so it's unclear if this will be a priority in 2024. It is clear however that considerable deliberation and debate will ensue as the legislation is drafted and consulted upon.

Strong collaboration between the Australian Taxation Office and Department of Home Affairs will continue in 2024, with stated intentions to strengthen compliance with pay and conditions for temporary migrants via monitoring payments through the Australian tax system, including through the use of Tax File Numbers and Single Touch Payroll.

Key steps

EY will continue to monitor these developments and keep you informed. We will also continue our constructive engagement with immigration authorities to ensure the views of business are considered.

Contact your EY advisor to discuss any issues raised in this alert, including support with your mobility, immigration and IRW policies to enable talent attraction and retention, while managing compliance risk.

Linda Rowe
APAC Global Immigration Leader
+61 2 9248 4748
Linda.Rowe@au.ey.com

Maroun Elias
+61 2 9248 4375
Maroun.Elias@au.ey.com

Elizabeth Le
+61 7 3243 3658
Elizabeth.Le@au.ey.com

Alex Speckmann-McCulloch
Australian MARN 1467298
NZ Immigration Advisor No. 201800079
+61 2 8295 6518
Alex.Speckmann-McCulloch@au.ey.com

Merryn Rider
MARN 0214531
+61 3 9288 8208
Merryn.Rider@au.ey.com

Alice Chen
+61 8 9217 1171
Alice.Chen@au.ey.com

James Barlow
+64 9 348 8211
James.Barlow@nz.ey.com

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