

Is immigration New Zealand's key to winning the talent war?

Immigration has been chaotic over the past several years, and yet we need skilled workers now more than ever. Tash Rae discusses the biggest challenges in attracting migrants, and highlights what needs to change.

A **WORLDWIDE** labour shortage is sweeping the globe, and New Zealand is facing some tough competition for skilled workers. But with recent border closures, complicated visa requirements and constantly changing immigration rules, are we doing enough to attract migrants in the global war for talent?

As we emerge from the pandemic, no industry has been immune to the labour shortage. New Zealand desperately needs more healthcare workers, engineers, IT professionals and construction project managers. However, these occupations are in high demand across the globe. This means that New Zealand is competing with the likes of the UK, Canada and Australia for the same pool of migrants.

Anderson Lloyd senior associate and immigration expert [Tash Rae](#) says New Zealand's reputation as a migrant destination has "suffered" over the past few years. Prolonged border closures, split families and the suspension of the Skilled Migrant visa category left many migrants in limbo, and the introduction of a new employer accreditation scheme has also thrown up roadblocks. However, Rae says the most challenging issue has been the sheer volume of change to immigration policy in the last several years.

"The most common feedback I get from employers is just around all of the recent change," Rae says.

"I've been doing this for a long time now, and the rules were fairly stable for many years. But now, I can't predict the updates that will come through my inbox. At

times there have been several key updates within just a few weeks".

"It's difficult for employers, lawyers and advisers to get on top of, and I also feel for the immigration officers processing these applications. Just as we learn the rules, new ones come in, and we all have to start from scratch. It's challenging, and I think some stability would go a long way."

What are the biggest pain points?

One of the most significant developments in recent years has been the introduction of the Accredited Employer Work Visa (AEWV). This requires employers to become accredited and take the lead on the visa process. To qualify, employers need to demonstrate that their businesses are viable, have a good history of immigration compliance, and are committed to providing settlement support to migrants.

Rae says the new accreditation system has been "a real change" for some employers, particularly with regard to costs and compliance.

"In the past, employers could be really hands-off in the immigration process if they wanted to be" she explains.

"Under the new AEWV scheme, employers need to drive the process and cover much of the cost. As part of this process, they need to commit to all sorts of obligations. The key risk is that it's a simple initial application that requires declarations only. In practice, many employers are quickly forgetting the commitments made, with no plan to track compliance. I'm regularly having to remind employers of their post-accreditation obligations".

"A recent announcement automatically extending accreditation by 12 months may just delay employers becoming aware of compliance issues that could impact on their long-term ability to support migrants for work visas."

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Rae notes that new hourly threshold rates have also been difficult for employers. Many migrant workers will now need to be paid the new median wage of \$29.66 per hour – a “big jump” from what’s been required under previous schemes and well above market rate for some occupations.

When it comes to highly skilled workers, Rae says some strong policies have been implemented; however, the requirements are often still too narrow, thus excluding a lot of promising migrants from obtaining visas and residence.

“Since the borders have opened up, there have been several categories that have opened up to try and attract some of the talent that we really need,” Rae says.

“One of these is the Green List, which allows eligible migrants to go straight for residence, using a simple and quick online process. The downside is that it has strict qualification, experience and salary requirements which exclude many migrants in these in-demand occupation groups.”

As an example, a civil engineer who doesn't have a listed qualification but has been working at a reputable global engineering firm for many years won't be able to move 'Straight to Residence' and will only have the option of a two-year Work to Residence pathway if they earn double the median wage - now more than \$123,300 for a 40-hour week. If they don't meet this requirement, they will need to apply under the Skilled Migrant category.

“This is a pretty clunky, multi-step process, which is set to be overhauled in mid-2023,” Rae says.

“In my opinion, this type of migrant should be going straight to residence. If they can't, they may just go to our competitor jurisdictions, such as Canada, Australia or the UK.”

‘Decide on the rules, and stick to them’

If New Zealand wants to plug its talent gap, there's no way around it – it needs to make it easier to migrate and settle here, Rae points out. This means a simple immigration system with straightforward requirements, as well as a clear pathway to residence.

“Making immigration policy is challenging, but there are several things that could be done to increase stability,” she says.

“Deciding on some rules, sticking with them and trying not to change them so frequently would be very useful.”

Rae notes that the Straight to Residence category is a very good one, but it needs to be more flexible in its criteria. Broadening the requirements would allow this option to be used by more of the skilled workers that New Zealand desperately needs.

The restrictions on working rights for partners should also be reconsidered. From May 2023, partners of Essential Skills and AEWV holders will need to work for an accredited employer and in most cases earn at least the median wage (\$29.66 hourly) to take up employment in New Zealand.

“The new condition that a partner work for an accredited employer makes sense, because it aligns with the government's attempts to reduce migrant exploitation. What needs to be reconsidered is the median wage threshold. The reality is that many partners take up lower-paid employment to supplement a household income. With labour shortages across all industries, this should be allowed. While there are exceptions in place for Green List occupations and high-income earners, this doesn't cover all of the skilled workers that NZ needs.” she says.

“If partners can't find acceptable employment, the cost of living will make it very difficult for families to fund their household.”

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"In my experience, if the partner and the kids aren't happy, there's a risk that the family is going home," she adds.

"One of the key ways that partners can settle is by working, getting out in the community and meeting people. Making this more difficult for many partners is something that really needs to be reconsidered if New Zealand is to stay competitive."

The removal of working rights for partners should also be reconsidered, she says. From April 2023, partners of AEWV holders will no longer be able to apply for a partner work visa – a move that Rae says will make it incredibly difficult for skilled migrants to consider settling here.

"The ability of a partner to work in New Zealand is also going to be removed for many families, which will dissuade skilled workers from coming to New Zealand. While there are exceptions in place for Green List occupations and high-income earners, this doesn't cover all of the skilled workers that we need," she says.

"If partners can't work, the cost of living will make it very difficult for families to fund their households. In addition, one of the intentions of the employer accreditation is to combat migrant exploitation, but if partners can't work, there's an incentive to turn to 'under the table' work. That's where the exploitation is more likely to occur".

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Rae adds.

"One of the key ways that partners can settle is by working, getting out in the community and meeting people. Removing that ability for many partners is something that really needs to be reconsidered if New Zealand is to stay competitive."

Ultimately, Rae acknowledges how difficult the last three years have been for employers, migrants and immigration officers. The constant flurry of change has

also been challenging for lawyers and immigration advisers. However, she says there is no better time to seek out the expertise of someone who has worked in this field for a long time and knows the patterns of Immigration New Zealand's decision-making.

"One issue is that immigration officers have been delegated the discretion to make decisions outside of the rules in the temporary visa space, if they think it's justified," Rae says. "What the rules say and what happens in practice are often two different things".

"So you can imagine how difficult it is to predict how an application will be decided. This is where engaging an immigration lawyer really adds value. We do this every day and can see the patterns."

Want to know more?

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