

## Onus on employer in work visa system compliance

### In July 2022, Immigration New Zealand (INZ) overhauled its work visa system and created a new Accredited Employer Work Visa (AEWV).

This category replaced several visas and turned what used to be one application into three separate processes.

The AEWV system has shifted a lot of the work to employers, who are now responsible for driving the work visa process and covering most of the cost. This is a big change for employers, particularly in terms of compliance.

The AEWV scheme requires all employers to be accredited to support a work visa application. Accreditation is granted to businesses that are genuinely operating, have a history of immigration and employment law compliance, and that commit to completing various settlement support activities. Compliance with these commitments is critical to accreditation being maintained and renewed.

There are significant compliance risks with the way this new system has been set up. Initial accreditation applications require no supporting evidence and involve a company representative completing a simple online application form.

This includes various compliance declarations and an agreement to complete post-accreditation commitments. It was set up like this so that INZ could process a high volume of applications quickly.

While employers are typically finding the application process straight-forward, many are quickly forgetting the commitments made when ticking through the form.

We expect the difficulty will come at renewal stage, when documentation will be requested to evidence compliance throughout the accreditation period.

At the end of 2022, INZ announced that all employers who applied for accreditation before July 4, 2023 would be automatically extended for a further 12 months.

This was to provide employers with certainty they can continue to hire migrants in the near-future. While this was a welcome relief for employers in terms of cost, time and administrative burden, it may just delay businesses becoming aware of potential compliance issues, which could impact on the longer-term ability to support AEWVs.

Last week INZ announced that it will shortly begin compliance checks on a selection of accredited organisations. This will involve verifying the information provided in the initial accreditation application form and ensuring that all commitments have been implemented. Approximately 15% of accredited employers will be selected for a compliance check, which could involve asking for evidence of:

- The key people involved in the business.
- Payments made to offshore recruitment agents.
- Financial viability e.g. financial statements.
- PAYE documentation for migrant workers.
- Start dates for migrant workers.
- Settlement support information being provided.
- Hours worked by migrant workers.

We expect that most of this verification will be desk-based, but could include site visits in some cases.

If INZ is not satisfied that a business is meeting its post-accreditation obligations, a formal letter of concern will be sent to the employer. This will give an opportunity to provide feedback and additional evidence to mitigate INZ's concerns.

While minor issues may result in recommendations for improvement only, major concerns could lead to a

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stand-down, fine or permanent ban from supporting migrant workers.

We expect frequent concerns to be raised as a result of these checks.

To prepare for a potential compliance check and upcoming renewals employers need a plan in place. This should include a dedicated person or team to track post-accreditation compliance. Without this, businesses may struggle to get through an INZ compliance check or renew accreditation.

If your business is selected for a compliance check then we recommend you seek immigration law advice to respond to this, particularly if a letter of concern is received.

### Want to know more?

If you have any questions about this article, please contact [Tash Rae](#).