



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

**Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi**

to the

Ministry of Business, Innovation and Employment

on the

**Suite of proposed changes to the Essential Skills visa –
discussion document**

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Summary of recommendations

1. We support the announced 'South Island Pathway' to residence and recommend that the criteria be extended to cover workers in similar circumstances in the North Island.
2. We recommend that development of Phase Two proposals on enhanced labour market testing and employer accreditation be advanced as a matter of urgency, in consultation with unions and employers.
3. We support the intent of Proposal 1 to complement ANZSCO categories with wage or salary information in setting skill level categories for Essential Skills visas. We recommend that:
 - a. The wage threshold for lower-skilled Essential Skills visas be set at least 50c above the minimum hourly wage.
 - b. A list of occupations by skill level, specific to immigration purposes, be developed and regularly reviewed in consultation with the CTU, Business NZ, and relevant unions.
 - c. A list of reference market wage rates for each occupation be developed and regularly reviewed in consultation with relevant unions and employers. Approval of applications of Essential Skills visas should require an offer of employment at or above the reference market rate.

- d. The requirement for employers to advertise with Work and Income and be issued with a Skills Match Report be retained and extended to all Essential Skills visas.
4. We recommend that consideration of Proposals 2, 3, and 4 be deferred until after Phase Two consultations. We suggest that restrictions on renewal of work visas and family accompaniment would be unnecessary if labour market testing was applied more robustly.
 5. We support Proposal 5 to clarify immigration instructions that Essential Skills visas will generally be issued for the duration of the relevant work, including for the relevant season in the case of seasonal work.

1. Introduction

- 1.1. This submission is made on behalf of the 30 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With 320,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 1.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 1.3. The CTU supports immigration under both the Skilled Migrant Category for permanent residence and the Essential Skills Visa category for temporary migration, as part of a strategy to address genuine skills shortages.
- 1.4. A useful distinction in terms of immigration policy can be made between skill shortages and labour shortages. A 2015 Briefing by Treasury and MBIE 'Improving the long-term contribution of immigration to the labour market' (0699 15-16) makes a useful distinction between skill shortages and labour shortages as follows:
 36. Firms resort to migrant labour when they are experiencing either a skill shortage or a labour shortage...
 37. A skill shortage is a situation where the demand for skills exceeds the available supply even when wages offered are persistently high. Skill shortages are generally more common for higher skilled and higher wage jobs, in more innovative and productive industries (e.g. ICT) or sectors such as the health sector.
 38. In lower skilled and lower wage occupations it is unlikely that firms are experiencing genuine skill shortages. It is more likely that firms find it difficult to meet their labour needs because of a labour shortage. This is a situation in which vacancies remain unfilled either because firms cannot find workers because of poor wage and employment conditions... and/or because there

are just not enough people in the local labour market – or willing to move to the location (e.g. lower wage or skilled dairy farm occupations in Southland).

39. Persistent skill shortages can have negative impacts on productivity, particularly when there are long lead times in supply from tertiary education. The immigration system has, therefore, a key role in supporting firms to fill areas of critical skill shortage.
 40. On the other hand, filling labour shortages through migrant labour can reduce incentives on firms to employ domestic workers, increase wages to attract domestic workers, and invest in training and/or capital (e.g. technology).
- 1.5. Immigration to address skill shortages, including temporary labour migration, should complement a long-term strategy of skill development based on investment in life-long learning.
 - 1.6. As part of our commitment to the goal of full employment in a high-wage, high-skill economy, we do not support temporary migration as a short-term fix for labour shortages in industries that are failing to offer decent work with sufficient rates of pay and conditions to attract workers. Labour shortages should generally be addressed through investment to improve productivity and by lifting low wages and offering more attractive conditions.
 - 1.7. The CTU calls for improvements in effective protection against exploitation for all migrant workers, including those on Essential Skills visas.

2. Phase Two consultations and sequencing

- 2.1. We welcome advice from MBIE that further consultations will be held on “Phase Two” changes described in the Cabinet Paper “Review of Temporary work visa settings” (March 2017, p2):

Phase two

Phase two focuses on changes to incentivise employer behaviour that will contribute to New Zealand achieving the government’s strategic objectives for the labour market. While the changes are not intended to prevent firms from accessing temporary migrants where there is a genuine skill or persistent labour shortage, they are intended to shift employer behaviour at the individual firm, industry or regional level.

The phase two proposals are more complex and earlier in the development phase. Officials have begun work on the following proposals and seek your feedback on them:

- (a) Adjusting the avenues available to access Essential Skills visas to incentivise more employers to become accredited, while also ensuring that the assessment of Accredited Employers is appropriately robust.
- (b) Exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages.
- (c) Expanding the existing Accredited Employer (Labour Hire) programme so that all labour hire firms nationwide are required to become accredited before they are able to employ Essential Skills migrants.
- (d) Strengthening the existing Essential Skills requirements to train and recruit local workers.
- (e) Reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists, as well as the non-immigration responses for an occupation on the lists.
- (f) Exploring whether further changes should be made to requirements of seasonal Essential Skills visa holders and their employers

- 2.2. It is unfortunate that the consultations have been organised in this order, since consideration of many of our preferred solutions to problems identified in the present consultation have been deferred to Phase Two.
- 2.3. The objectives identified in the “Suite of Proposed Change to the Essential Skills visa” discussion document, especially to “increase the attractiveness for employers of employing and training domestic workers before recruiting migrant labour,” are best addressed at their root causes by the Phase Two proposals, especially “(d) Strengthening the existing Essential Skills requirements to train and recruit local workers”.
- 2.4. The CTU is broadly supportive of the Phase Two proposals and we look forward to the opportunity to engage further with the Government on these proposals. In particular, we welcome the opportunity for further discussion on “ensuring that the assessment of Accredited Employers is appropriately robust”. Our recommendations in this area will include introducing more substantive requirements for employers to seek local workers and invest in training and skills development, regular audits to ensure compliance with employment conditions, and improved transparency and feedback in the consultation process with unions on hiring applications from Accredited Employers.
- 2.5. The issue of sequencing is reflected in our responses to Proposals 2, 3, and 4 below. These proposals are imperfect responses to problems with the system of temporary migration that are better dealt with by Phase Two proposals. It would be better to defer any consideration of restrictions on renewing work visas (Proposal 2) or rights of family accompaniment (Proposals 3 and 4) until after Phase Two changes have been developed, implemented, and allowed time to take effect.
- 2.6. We recommend that Phase Two proposals should be developed as a matter of urgency, in consultation with the CTU, Business NZ, unions and employers.

3. Extension of South Island Pathway

- 3.1. The CTU proposes the extension of the South Island Pathway to migrant workers in the North Island who meet the other criteria for residency under the South Island Pathway.

- 3.2. It is difficult to see the justification for unequal treatment. In our affiliate unions' consultations with migrant workers who will be affected by the proposed immigration changes, one of the most common issues raised by workers in the North Island has been the unfairness of the unequal treatment of workers in the North and South Islands.
- 3.3. There are many workers making long-term and essential contributions to the New Zealand economy while remaining on temporary Essential Skills visas for long periods in the North Island as well. The comments of three workers in this situation are provided below:

Case of a migrant worker living in Wellington for 8 years

I am a tradesman holding an essential skills work visa. There are very few New Zealanders who are qualified in my trade. But because I lack one of the essential requirements under the Work-to-Residence or other Skilled Migrant pathways, I am forced to apply for a new visa every year.

I know my employer likes me. The company supports my visa application every year through the Employer Supplementary form and the endorsement letter, which I ask for and receive upon application time. Beyond that though my employer can't do much because government requirements are strict. But if there were other ways to support me, I have no doubt they would do so.

I perform an essential function for the company, which by the way produces an essential food commodity for the entire Lower North Island region. I have been doing so since 2008. Unless it's made a little easier for people like me, I don't see much hope in my situation.

Case of dairy farm worker in Te Awamutu

I am a dairy farm worker for 10 years. I applied for permanent residency several times but no success. Albeit Immigration New Zealand declined my application for residency, I remained loyal and committed to work in the dairy farming industry.

My family is now worried ever since we heard news about the proposed immigration changes. We feel that we are undervalued despite of our commitment to work in the dairy farming industry for 10 years.

Case of dairy farm worker in Cambridge

I am a dairy farm worker since 2007. With the support of my employer, I always renew my visa every year.

My family will be devastated if we will be sent back home to the Philippines because of the proposed immigration changes.

- 3.4. We understand that the decision to restrict the residence pathway to workers in the South Island was originally made on the basis of lower unemployment rates in the South Island. However, in the first quarter of 2017, the unemployment rate for Canterbury was 4.0% (up from 2.7% in the first quarter of 2016), compared to 5.1% in Wellington (down from 5.9% in the first quarter of 2016) and 5.0% in Auckland (down from 6.1% in the first quarter of 2016)¹. Considering this convergent trend in

¹ Data from Statistics NZ, by Regional Council boundaries.

unemployment rates, the argument for restricting the pathway to residence to the South Island is diminished.

- 3.5. If the South Island Pathway were extended to workers in similar circumstances in the North Island, the number of workers covered would be similar in both Islands. The Cabinet Paper 'A Pathway to residence for long-term temporary migrant workers in the South Island' (March 2017) states:

13 There is now a pool of long-term temporary migrants in lower-skilled occupations (around 3,200 migrants plus their families across New Zealand). More than half of these workers are in the South Island...'

- 3.6. In estimating the total number of applicants when family members are included, the Cabinet Paper further states:

32 The Ministry of Business, Innovation and Employment (the Ministry) estimates that between 3,200 and 4,000 total people (principal applicants and their family members) could be eligible for the pathway policy. There are around 1,600 temporary workers (at all skill levels) in the South Island who have been on an Essential Skills visa for five years or more. Based on other residence categories we estimate that there is likely to be on average between one and one and a half dependants for each of these migrants. However, it is unlikely that all of these temporary migrants would qualify, or choose to apply, so the final number is likely to be slightly lower (for example, there may be character or health issues and some migrants may be older than 55).

- 3.7. The extension we recommend can therefore be estimated to increase the number of workers covered by the one-off pathway to 3200 primary applicants, for a total number of 6400 to 8000 applicants including family members. This is a manageable and proportionate increase, which would help to ameliorate negative impacts of other proposed changes on established migrant populations and would contribute positively to community perceptions of the fairness of the migration system.

4. Using wage or salary information to help determine skill level (Proposal 1)

- 4.1. We support the intent of this measure to complement ANZSCO categories with additional information on remuneration to more accurately assess skill levels for Essential Skills visas.
- 4.2. We support the principle that skills and remuneration thresholds for Essential Skills visas should be consistently aligned with those used in assessing applications for residency under the Skilled Migrant Category.
- 4.3. In general, we support the proposal for minimum salary thresholds for Essential Skills visas. However, as stated in our submission on proposed changes to the Skilled Migrant Category, we remain concerned that both the ANZSCO Skill Level

classification and the proposed remuneration thresholds are blunt instruments and need to be refined.

- 4.4. ANZSCO was developed as a statistical tool. The bilateral governance of the standard, and the need to ensure consistency across statistical datasets, means that there is reluctance to make changes to skill classifications of occupations once they are established. However, this means that ANZSCO is not responsive to changes in industry conditions in the ways that are needed for a classification of skill levels for immigration purposes.
- 4.5. We recommend that further work be undertaken on a tripartite basis between government, employers and unions to develop a categorisation of skill levels specific to immigration, adapted from the ANZSCO list. The list should be subject to regular review in consultation with the CTU and Business NZ.
- 4.6. We recommend that the remuneration threshold for lower-skilled Essential Skills visas be set at least 50 cents above the hourly minimum wage and subject to review. The employment of lower-skilled migrant workers should not be used as an alternative to offering decent work and rates of pay that will attract workers. Progressively raising the minimum floor of wage rates for Essential Skills visas will benefit migrant workers and avoid undermining wages for other workers in lower-skilled occupations.
- 4.7. We recommend that the requirement for employers to advertise positions with Work and Income and be issued with a Skills Match Report be retained and extended to all categories of Essential Skills visas.
- 4.8. We recommend that assessment of applications to employ migrants on Essential Skills visas additionally require comparison with a rigorous and defensible market rate set for each occupation. Applications for Essential Skills visas should only be approved where there is an offer of employment at or above the reference market rate for the relevant occupation. The setting of reference market rates should be undertaken on a tripartite basis between the Government, employers and unions in each sector. Setting of applicable market rates should include reference to relevant collective agreements, such as the DHB MECA for nursing professions.

5. The temporary nature of Essential Skills visas (Proposal 2)

- 5.1. We share the concern identified in the discussion document with the long-term use of temporary migrant labour. However, we do not agree with the characterisation of the problem as migrant workers becoming too “well-settled”.
- 5.2. We suggest that avoidance of ongoing and long-term employment of temporary lower-skilled migrant labour is better achieved through strengthened labour market testing and more robust processes of employer accreditation. We look forward to the opportunity to further discuss these issues as part of Phase Two consultations.
- 5.3. In our comments on Proposal 2a, to limit Essential Skills visas to a cumulative duration of three years, and Proposal 2b, to impose a one year stand-down period, we focus on the unintended negative impacts we foresee if these proposals are introduced in the current environment.
- 5.4. Part of the effect of further entrenching the temporary and high-turnover nature of lower-skilled migrant work will be to make this category of workers more insecure and vulnerable. Insecure work is associated with a range of negative outcomes for the welfare, health and safety, remuneration, conditions, awareness of rights, and bargaining power of workers. As discussed in the CTU report *Under Pressure: Insecure Work in New Zealand*, migrant workers are one of the groups who are especially vulnerable to insecure work and associated negative outcomes:

Migrants are particularly vulnerable to insecure work and exploitative work practices, as they search for employment in unfamiliar environments and in an unfamiliar country. The Commission on Vulnerable Employment in Britain established by the Trades Union Congress looked at the causes of and solutions to vulnerable employment in the United Kingdom. It found that migrants were more at risk of vulnerable employment. Migrants are more commonly found in various forms of insecure work as they search for an entry point to the labour market (McLaren, Firkin, Spoonley, de Bruin, Dupuis & Inkson, 2004). The Unite union reports that migrants “often feel unable to stand up for legal rights such as taking breaks, joining a union and ensuring they are paid for all the hours that they work” (Unite, 2013).²

- 5.5. Where there is a high turnover of temporary migrants, workers are less likely to be aware of their minimum employment rights or to have the confidence and knowledge to make complaints of exploitation. A September 2016 report from Caritas based on interviews with migrant workers found that the first year in New Zealand is a period of heightened vulnerability to abuse and exploitation:

1.2.4 Migrant workers are especially vulnerable in their first year in New Zealand

Migrant workers said they needed the most help in their first year in New Zealand. A migrant worker will have fewer connections, poor English and no New Zealand work experience when

² NZCTU. 2013. *Under Pressure: Insecure Work in New Zealand*. <http://www.union.org.nz/wp-content/uploads/2016/12/CTU-Under-Pressure-Detailed-Report-2.pdf>, p26.

they are new to the country. Some of these vulnerabilities will reduce with time, but this may vary from worker to worker.³

5.6. Exploitation of migrant workers is common, especially for temporary migrant workers. A recent report by Dr Christina Stringer⁴ found:

Forms of exploitation

The types of exploitation experienced by workers, and in particular temporary migrant workers, are experiencing in New Zealand are varied and include:

- Excessive working hours without breaks. One interviewee reported working 18 hour shifts, another 12 hours shifts;
- Non-payment or underpayment of wages with temporary migrants not being paid for hours worked or earning as little as \$4 to \$5 an hour. Temporary migrants are often controlled by threats of being reported to Immigration New Zealand if they complain;
- Deduction of income taxes from wages but the taxes not being paid to the Inland Revenue. Some interviewees had been employed using another person's IRD numbers;
- Non-payment of holiday pay;
- No formal employment contracts, which allowed employers to take advantage of workers;
- Degrading treatment: workers were subject to degrading language; denied bathroom breaks; subject to verbal and physical abuse or threats thereof; restriction of movement.

5.7. Research by MBIE shows that exploitation of migrant workers is widespread in certain industries. Visits by the Labour Inspectorate to dairy farms across New Zealand between December 2013 and 2014 found breaches of legal minimum employment rights in 33 out of 44 cases.⁵ Research published by MBIE in 2015 found widespread exploitation of migrant workers in the hospitality industry across New Zealand and in the construction industry in Canterbury.⁶

5.8. As discussed in a 2014 review of literature commissioned by MBIE⁷, precariousness of work and precariousness of migration status are interrelated:

Goldring and Landolt (2012) explored the relationship between “precarious employment” and “precarious migrant status” and concluded that precarious migrant status has a long-lasting negative effect on job precariousness. The notion of precarious migrant status captures the multiple and variable forms of “less than full status”, including temporary workers, international students and refugee claimants. Such a status is marked by any of the following: no permanent residence authorisation, lack of permanent work authorisation, dependence on a third party for residence or employment rights, restricted or no access to public services and protections available to permanent residents, and deportability.

³ Caritas Aotearoa New Zealand. 2016. *Stand up for what's right: Supporting migrant workers*.

http://www.caritas.org.nz/system/files/SJW%20research%20paper_web.pdf

⁴ Christina Stringer. 2016. *Worker Exploitation in New Zealand: A Troubling Landscape*. The Human Trafficking Research Coalition. https://media.wix.com/ugd/2ffdf5_28e9975b6be2454f8f823c60d1bfdba0.pdf

⁵ Ministry of Business, Innovation and Employment. 2014. 'Dairy farm visits show majority of farmers breaching employment laws'. <http://www.mbie.govt.nz/about/whats-happening/news/2014/dairy-farm-visits-show-majority-of-farmers-breaching-employment-laws/>

⁶ Wendy Searle, Keith McLeod & Christopher Stichbury. 2015. *Vulnerable Temporary Migrant Workers: Hospitality Industry*. Ministry of Business, Innovation and Employment. <http://www.mbie.govt.nz/publications-research/research/migrants---settlement/vulnerable-temporary-migrant-workers-hospitality-industry-2015.pdf>; Wendy Searle, Keith McLeod & Natalie Ellen-Eliza. 2015. *Vulnerable Temporary Migrant Workers: Canterbury Construction Industry*. Ministry of Business, Innovation and Employment. <http://www.mbie.govt.nz/publications-research/research/migrants---settlement/vulnerable-temporary-migrant-workers-canterbury-construction.pdf>

⁷ Sylvia Yuan, Trudie Cain and Paul Spoonley. 2014. *Temporary Migrants as Vulnerable Workers: A literature review*. Ministry of Business, Innovation and Employment. <http://www.massey.ac.nz/massey/fms/Research/ntom/Yuan%20Cain%20and%20Spoonley%202014.pdf?23A2F083283EE192CA49A530EA4B72F8>. p47.

- 5.9. Discussions with employers have also revealed that Proposal 2a and 2b are likely to lead to a greater reliance on arrangements with labour-hire firms to provide continued availability of a pool of temporary migrant workers, with a higher turnover of workers. This would be an unintended negative effect of the proposed changes, which would tend to exacerbate trends toward insecure work for migrant workers, and would complicate existing efforts to ensure employer compliance with minimum standards.
- 5.10. Our recommendation is that once appropriate immigration settings have been established for Essential Skills visas, including through more robust labour market testing and other matters to be discussed in Phase Two consultations, migrant workers should have the ability to reapply and be granted extensions of their visas without a stand-down period.
- 5.11. We are particularly concerned about the impact of Proposal 2 on migrant workers who are currently in NZ on Essential Skills visas, many for some time. Our concerns would be partially addressed by the extension of the South Island Pathway to workers in the North Island.

6. Family accompaniment (Proposals 3 and 4)

- 6.1. Proposals 3 and 4, to require the partners and children of lower-skilled Essential Skills visa holders to meet the requirements for a visa in their own right, would negatively affect many migrant workers and their families. Families of lower-skilled migrant workers would be more likely to be separated under the proposed change.
- 6.2. Given the negative effects of proposals 3 and 4 on the unity of the families of migrant workers, these measures are in breach of New Zealand's obligations under Articles 9, 10, and 18 of the International Convention on the Rights of the Child⁸ :

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

...

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious

⁸ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

...

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

- 6.3. Where migrant workers have school-age children and seek to have their children accompany them on a short-term visitor visa, as suggested by the discussion document, Proposal 4 could have the effect of placing restrictions on the access of children to education. This is because children on visitor visas would not be eligible to enrol in school as domestic students and the financial barrier to enrolling children as international students could be prohibitive, especially for the lower-skilled migrant workers who will be affected by this proposal. If children accompanying migrant workers are unable to enrol in New Zealand schools as a result of Proposal 4, this would be a breach of Article 28 of the Convention on the Rights of the Child:

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

- 6.4. From our discussions with migrant workers and their families, we know that the effect of family separation can be devastating for workers, their partners, and their children. Family separation leads to feelings of abandonment and trauma for children, and higher rates of divorce and marriage annulment for migrant workers and their partners. Our discussions with embassy representatives and members of immigrant communities have shown us that migrant workers' ability to bring their

partner and children to New Zealand has significantly reduced family separation, divorce or abandonment of children.

- 6.5. The negative experiences of family separation reported to us by migrant workers are backed by research documenting the harm caused to family members left at home. For instance, a 2015 study surveyed migrant workers' partners who remained at home in Southeast Asia and found higher rates of mental health problems, especially among mothers caring for children.⁹
- 6.6. Our recommendation is that once appropriate immigration settings have been established for Essential Skills visas, including through more robust labour market testing and other matters to be discussed in Phase Two consultations, all migrant workers accepted under these provisions should have the right to be accompanied by their families.

7. Period of employment (Proposal 5)

- 7.1. We support Proposal 5 to clarify immigration instructions that where Essential Skills visas are issued for seasonal work, the period of the visa shall be for the applicable season. We also support the provision for flexibility and discretion in the application of these instructions, so that the period of the visa is reasonable in the circumstances for both workers and employers.
- 7.2. We note that part of the justification for Proposal 5 acknowledges that labour market testing is not currently taking place in a robust fashion. In the description of the issue, the discussion document states:

'Some employers in seasonal industries have been offering periods of employment for a full year in order to avoid the need for workers to leave New Zealand or obtain a different visa in the off-season. This can mean that local workers work the high season only, and migrant workers are offered full-year work to avoid having to apply for visas more frequently.'

- 7.3. We share this concern, but suggest that the problem will not be solved by limiting the term of Essential Skills visas for seasonal work. Instead, enhanced and robust

⁹ Elspeth Graham, Lucy P. Jordan, and Brenda S.A. Yeoh. 2015. 'Parental migration and the mental health of those who stay behind to care for children in South-East Asia'. *Social Science & Medicine* 132: 225-235. Similar negative effects on the mental health and wellbeing of family members of unaccompanied migrant workers have been widely reported, including in: Alexis Silver. 2014. 'Families Across Borders: The Emotional Impacts of Migration on Origin Families'. *International Migration* 52: 194-220; and Chesmal Siriwardhana, Kolitha Wickramage, Kaushalya Jayaweera, et al. 'Impact of Economic Labour Migration: A Qualitative Exploration of Left-Behind Family Member Perspectives in Sri Lanka'. *Journal of Immigrant Minority Health* 17: 885-894.

labour market testing is required to ensure that Essential Skills visas are issued in response to genuine skills shortages.

8. Effective Protections

- 8.1. We remain highly concerned at the extreme levels of exploitation of migrant workers in New Zealand, including those on Essential Skills visas, international student visas, and working holiday visas.
- 8.2. Migrants making a complaint of exploitation must be given secure immigration status while their claims are investigated and settled. Criteria for issuing extended visas with work rights to migrants making complaints of exploitation should be codified in immigration instructions and applied consistently. This is important so that advocates and advisers, including union staff, can assure migrant workers that they will not be disadvantaged by taking a claim for their employment entitlements.
- 8.3. The CTU recommends the number of Labour inspectors be substantially increased. The number of Labour Inspectors per capita is less than half of their Australian equivalent and we are aware that many migrants are working in sectors which routinely breach employment law such as dairying, horticulture (excluding RSE), hospitality and labour hire. Labour Inspectorate investigations routinely find well under half of employers in these sectors are complying with the law.
- 8.4. The Labour Inspectorate must be adequately staffed to respond to all complaints in a timely manner, including investigating allegations of exploitation of migrant workers. The inspectorate must also have the capacity to continue and expand regular pro-active auditing of employers of migrant workers to ensure compliance with minimum standards.

9. Conclusion

- 9.1. We support the announced South Island Pathway to residence and recommend the criteria be extended to include workers in similar circumstances in the North Island.
- 9.2. We support Proposal 1 to complement ANZSCO categories with additional information on remuneration to more accurately assess skill levels for Essential Skills visas. Additionally, we recommend further tripartite consultation to develop a skills classification specifically suited to immigration purposes, based on the ANZSCO list, in addition to reference market wage and salary rates for each occupation.

- 9.3. We welcome the intent of the Suite of Proposed Changes to the Essential Skills visa to address serious problems with New Zealand's system of temporary labour migration. However, we suggest that overall the problems raised in the discussion document will be better resolved by proposals covered in "Phase Two", including enhanced labour market testing and employer accreditation. Therefore, we recommend that consideration of any restrictions on applications for visa renewals (Proposal 2) or family accompaniment (Proposals 3 and 4) be deferred until after Phase Two proposals have been developed, consulted on, and implemented.
- 9.4. We support Proposal 5 to clarify that Essential Skills visas are to be issued for the period of work offered, including in the case of seasonal work.
- 9.5. We call for urgent action to protect migrant workers from exploitation, including by increasing the capacity of the Labour inspectorate.