



Answer to question:

## PARLIAMENTARY JOINT STANDING COMMITTEE ON MIGRATION

### MIGRATION, PATHWAY TO NATION BUILDING INQUIRY

#### QUESTION:

**CHAIR:** Where the migrants are coming from.

**Mr Grewal:** By and large, and Richard will have more information on this, as I understand it, they're coming from South-East Asia and East Asia. There are high flows of migrant labour coming through other channels from other parts of the world. But our historical reliance over the last particularly 15 to 20 years has been on East Asia, and that continues to be the case. Richard might have the numbers. I don't have them off the top of my head.

**CHAIR:** Do you want to tell us a little bit more about that particular part of the temporary migrant visas?

**Mr Owen:** I'm happy to. *I haven't got the numbers in front of me, but we can certainly help you out and send those through to you.*

#### ANSWER:

As at 15 August 2023, the top 10 nationalities of applicants who came to New Zealand under temporary work visas since 01 August 2022 are:

Nationality	Total Applicants
India	16,635
China	15,408
Philippines	14,765
Great Britain	8,809
Vanuatu	6,975
Fiji	6,729
France	5,845
Germany	5,790
South Africa	4,886
United States of America	4,611

As at 15 August 2023, the top 10 industries of applicants who came to New Zealand under temporary work visas since 01 August 2022 are:

Industry	Total Applicants
Construction	24,148
Hospitality	8,934
Primary Industry	5,684
Transportation and Logistics	5,290
Retail	4,480
Other	4,479
Health	3,034
ICT	1,525
Education	913
Tourism	397

#### QUESTION:

**Mr Owen:** ... Do you want to hear a little bit about migrant exploitation and what we're doing around that in New Zealand?

**CHAIR:** Yes.

**Mr Owen:** ... We've talked about there being three parts to accreditation: accreditation itself for the employer; job checks, which are around, hopefully, New Zealanders being considered for those roles and the jobs advertised; and the actual work visa itself. We then have the ability—we have some of this that we're looking at, at the moment—to either revoke or suspend that accreditation if it comes to light that those employers are not doing something they should be doing.

**We're very happy to share this offline with your coordinators and the team there.** I have in front of me our migrant exploitation approach, which has three components: prevent, protect and enforce.

...

**CHAIR:** Thank you. We would really appreciate that.

#### ANSWER:

MBIE defines migrant exploitation as a breach of minimum employment standards (set in legislation) and conduct under the *Immigration Act 2009* which causes or increases the risk of harm to the economic, social and physical well-being of the worker. It also includes situations where migrants are deceived or coerced into paying above market rates for goods and services, such as food and accommodation, or forced to live in substandard accommodation.

Exploitation exists on a spectrum and takes many forms. This includes (but is not limited to) requiring workers to pay for their job; denying leave; requiring excessive work hours; under- or non-

payment of agreed wages; failing to provide an employment agreement; retaining or withholding passports; controlling living conditions, movement and communications; and making threats and using intimidation. The New Zealand Government is undertaking work to address serious forms of exploitation includes forced labour, people trafficking and slavery.

Migrant workers tend to be more at risk of workplace exploitation for a variety of reasons. According to research commissioned by MBIE in 2019, exploitation occurs most frequently where workers hold student visas or employer-assisted visas. Migrants most vulnerable to exploitation include:

- migrants from low-income source countries or who have a low level of English proficiency, in low skilled employment, or who lack independent means to support themselves, or are in debt;
- migrants working outside of their visa conditions (for example, over-stayers or people on visitor visas);
- migrants who need to hold jobs to remain in the country, and potentially to gain residence.

In 2019 MBIE led an in-depth policy review into temporary migrant worker exploitation. To support the Review, MBIE has published independent and wide-ranging research on the nature of such exploitation. It has also convened a consultation group representing migrants, businesses, unions, and international students. In March 2020, Cabinet agreed to implement nine proposals to reduce migrant exploitation in New Zealand. These are:

Prevent	Protect	Enforce
<ul style="list-style-type: none"> <li>• Introduce a duty on third parties with significant control or influence over an employer to take reasonable steps to prevent a breach of employment standards from occurring.</li> <li>• Require franchisees to meet higher accreditation standards under the Accredited Employer Work Visa.</li> <li>• Disqualify people convicted of migrant exploitation and people trafficking from managing or directing a company.</li> </ul>	<ul style="list-style-type: none"> <li>• Establish a dedicated migrant exploitation 0800 phone line and online reporting, and establish a specialised migrant worker exploitation-focused reporting and triaging function.</li> <li>• Create a new visa to enable temporary migrant workers to leave exploitative employment situations.</li> </ul>	<ul style="list-style-type: none"> <li>• Establish three new immigration infringement offences targeting non-compliant employer behaviour.</li> <li>• Allow the Labour Inspectorate to issue an infringement notice where employers fail to provide requested documents in a reasonable timeframe.</li> <li>• Expand the stand down list to cover existing Immigration Act offences. Ensure employers with serious immigration convictions cannot support applications for migrant workers.</li> <li>• Notify impacted migrant workers that their employer has been stood-down.</li> </ul>

In August 2020 \$50 million was invested in supporting these changes for four years. A large part of this funding has supported a substantial increase in funding for compliance and enforcement through the Labour Inspectorate and INZ.

On 1 July 2021, the first of the new changes from the Review – the dedicated 0800 phone line and the Migrant Exploitation Protection Visa (MEPV) – came into force. Between 1 July 2021 and 1 April 2022, 855 complaints of migrant exploitation were received via the online form, 0800 number, Crime Stoppers and other channels and as of April 2022, 88 MEPVs have been granted.

The remaining changes from the Review required legislation to be implemented. This resulted in the Worker Protection (Migrant and Other Employees) Act 2023 (the Act), which amends the Companies Act 1993, Employment Relations Act 2000 and Immigration Act 2009 to:

- disqualify people convicted of migrant exploitation and people trafficking from managing or directing a company;
- establish new immigration infringement offences targeting non-compliant employer behaviour;
- allow Labour Inspectors to issue an infringement notice where employers fail to provide requested documents in a reasonable timeframe; and
- expand the stand-down list to cover existing Immigration Act offences.

The Act gained Royal Assent on 6 July 2023 and will come into force on 6 January 2024.

#### QUESTION:

**Dr WEBSTER:** Yes, you can take this on notice. When you say 'dodgy overseas accredited employers', have you thought about making New Zealand permanent residents the only ones who are able to be accredited employers? We have some—not all—dodgy labour hire contractors who are in that space who actually manage that migration process and we hear the same stories.

**Mr Grewal:** I think the issue with dodgy offshore agents is not so much about the accreditation. Most, if not all, accredited employers have to have, I'm pretty sure—I *can double-check this*—a New Zealand presence and a New Zealand official residence. The issue Richard was talking about was largely about agents offshore rather than accredited employers offshore.

**CHAIR:** Thank you. *Richard, we look forward to your sharing with us some of that material.*

#### ANSWER:

Companies applying for accreditation must be registered in New Zealand and genuinely operating here, and the key people must not have breached employment or immigration law in any previous companies, and must also hold a valid visa that allows them to operate a business. The requirements are set out in immigration instructions: <https://www.immigration.govt.nz/opsmanual/#77102.htm>