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Ministry of Business, Innovation and Employment
WELLINGTON
By email SMCReview@mbie.govt.nz

1 November 2016

Dear Shane

RE: PROPOSED CHANGES TO THE SKILLED MIGRANT CATEGORY

Thank you for meeting with BusinessNZ to discuss the proposed changes to the Skilled Migrant Category (SMC).

BusinessNZ supports the Ministry of Business, Innovation and Employment's efforts to ensure residency targets migrants with the potential to make the greatest economic contribution to New Zealand. We believe the proposed changes take us towards this end.

Given the limited time for feedback we are not in a position to comment in detail on the proposed changes, particularly the proposed threshold levels, as we do not have the necessary data. We understand a number of the industries affected by these changes will be responding directly, including sharing with MBIE salary and wage information where this is readily available and current.

General comment

BusinessNZ recognises that immigration policies can substantially affect the New Zealand (NZ) community. We therefore believe they should be strongly informed and guided by evidence and data as to those effects.

Because the number of people able to enter the country for employment on a permanent basis is subject to an annual cap, BusinessNZ accepts the need for a mechanism to ration places. We believe economic need should be the main criterion for rationing and that skills and meeting employer demand for skilled labour are major components of economic need.

We have welcomed the increased focus on attracting higher-skilled migrants to New Zealand. In our view, the broad design of the SMC policy is sound. The proposed changes seem reasonable and are likely to lead to an improved applicant mix under

the policy. The current points system under SMC does not always prioritise higher-skilled, higher-paid employment, nor effectively recognise experience.

For proposal one, setting the threshold at the median level seems fair if the strategy is to target 'highly skilled workers'. Proposal two seems reasonable but an issue with both proposals one and two is the potential for misuse (see discussion below). Proposal three, minimum of three years' work experience, seems reasonable for 'highly skilled migrants' and for proposal four, there are specific comments below.

More generally, without modelling it is difficult to judge if the proposed settings will result in more highly-skilled people gaining residency via the SMC policy. We note that there are also likely to be potential costs:

- Reducing businesses' capacity to address skill shortages,
- Making NZ a less attractive destination for internationally mobile skilled workers,
- Reduce the size of the potential pool of applicants for permanent residency,
- Increased costs of more frequent visa renewals under Essential Skills policy, and
- Increased regulatory and compliance burden on businesses' with labour market testing.

We would be concerned if the proposed changes had the effect of shutting out genuinely needed skill sets. Skilled workers from overseas are already much in demand in NZ. We do recognise that immigration can only have positive outcomes if it is embedded in a system that is fair and transparent, and that produces benefits for NZ and for the immigrants themselves.

BusinessNZ recognises the SMC involves policy trade-offs. In many respects the nature of the SMC policy is partly at odds with the marketplace since it uses a government-led selection system (prioritising broadly desirable human capital characteristics) yet at the same time places a heavy weight on being driven by employers through job offers. Job offers are linked to immediate skill needs in real time and enhance a firm's competitiveness; the policy might therefore be short-sighted from the standpoint of the economy's and society's longer-term interests. We continue to support market forces remaining at the core of the selection process, although with provision made for thoughtful government controls.

In proposing changes, MBIE must take care not to throw the baby out with the bath water. The SMC points-based rationing system is viewed internationally, including by the OECD, as working relatively well. Its transparency, simplicity and adaptability are its key strengths. To be successful and relevant to changing demands, adjustments to the points-based system and cap must be based on a consistent and long-term evaluation of evidence.

Specific comment

Thresholds

We would be concerned if changes to the overall level of points, salary thresholds, and points available to be claimed on offer for the different elements of the SMC

points system were to act as a constraint on employing skilled migrants. Such an approach would exacerbate existing skill shortages.

It will be important for MBIE to link salary/wage thresholds to market rates, if not the threshold beyond the market rate for particular skills and experience could potentially increase skills shortages in an area significantly. Thresholds can also potentially increase the likelihood of offshoring, and disproportionate impacts might be experienced in some regions or by some firms (e.g. SMEs and start-ups).

Consideration could also be given to using alternative sources of pay data (e.g. sector-specific salary and/or remuneration surveys to supplement or replace Statistics NZ data. Such an approach might also provide more granularity around salary and wages for specific jobs, as well as by region.

MBIE should consider flexibility in threshold levels to reflect regional variations but were to go down this path it would also need to consider how to administer such an approach. For example, would a migrant employee in one region at a lower threshold be permitted to switch to a different region with a higher threshold and not receive the higher threshold rate? How would intercompany transfers work?

We recommend MBIE undertake further work on the threshold issue and evaluate its impact.

The problem with ANZSCO

BusinessNZ would like to acknowledge MBIE's recognition of the ANZSCO's limitations. While a full review of the ANZSCO is scheduled for 2018, we would ask MBIE to consider if there is a more effective way to define skilled positions than by using the ANZSCO. For many industries and occupations the ANZSCO is problematic as it lacks the necessary clarity in the classification of skill levels. This presents a problem where the tasks of a particular position legitimately correspond to more than one ANZSCO occupational category. It is widely acknowledged that ANZSCO classifications are indicative only and can also be generic. The relevance of the ANZSCO to all positions is questionable. This is in part due to the decreasing ability of ANZSCO to capture emerging occupations and accommodate roles with a multiskilling requirement. The proposed changes only partially deal with the ANZSCO's limitations and further work is required.

Higher English language requirements

Generally, all primary applicants for temporary and permanent skilled immigration must satisfy English language requirements. While a level of English language proficiency is important, BusinessNZ is keen to see an element of flexibility around the language requirements.

The higher IELTS score is a hard rule and potentially excludes those highly skilled migrants who have a high standard of English yet fail an individual component of the test, such as writing. Many occupations require a different set of language skills and by allowing for an average score, flexibility could be introduced to English language

proficiency without sacrificing the provision that migrants require demonstrated proficiency in English.

MBIE should monitor the impact of the higher English language requirements especially if evaluation evidence shows that skills shortages can be addressed with the lowering of the English language standards to a level that is actually required in the workplace.

Realigning the points system

Potential for salary threshold and job offer misuse

It is unclear from the consultation document if allowances can be included in the minimum earnings thresholds, leading to concerns that the salary threshold, as a proxy test for skill, could be undermined. We recommend that MBIE examines the use of allowances to ensure a level playing field and to manage risks associated with potential misuse.

The issue of potential misuse also arises with the job offer requirement and salary thresholds. Once applicants have successfully gained residence, they might look for and find a different job at a lower salary. MBIE would need to undertake some independent checking of salary levels and the terms and conditions of the job offer, in situations where this is likely to be a risk. Cohort monitoring might be useful.

End the discrimination against trades' qualifications

The points system favours migrants who have level 7-8 qualifications and levels 9-10 qualifications over level 4-6 qualifications. BusinessNZ does not agree that level 7-10 qualifications should be given any special treatment, unless that level of qualification is absolutely vital to a particular industry or role. Consideration could be given to awarding bonus points for qualifications awarded from the world's top 200 universities.

Greater weighting /creating of a fast stream for very highly skilled individuals

We also support greater weighting, or creating a fast track stream for very highly-skilled and highly experienced individuals (e.g. those holding postgraduate qualifications from internationally respected universities or technical institutes, e.g. top 100, or with STEM qualifications or proven entrepreneurship experience).

Faster processing for highly -skilled and or experienced migrants

MBIE should consider faster processing for those highly-skilled and or experienced migrants where they have an existing job or job offer.

Potential for misuse of the large number of points on offer for outside of Auckland

With the lifting of the overall level of points required, the 30 points available for employment or job offers outside Auckland will become more critical and therefore susceptible to misuse. Cohort monitoring might be useful here as well.

Would a skilled migrant given residency based on 30 points for a job offer outside Auckland be permitted subsequently to change jobs and place of employment and relocate to Auckland? MBIE might also consider the issue of intercompany transfers.

End discrimination against Auckland

MBIE could end the discrimination against Auckland. The SMC policy awards 30 points for employment or a job offer outside of Auckland at a time when Auckland is a focal point for government (e.g. housing, infrastructure). The Auckland region also has an annual GDP growth rate of 6.9%, higher than the New Zealand average of 3.8%.

Better reward partner skills, employment, experience, and qualifications

MBIE should consider increasing, up to the maximum, the contributing points to a primary applicant based on the employment of, or a job offer to, or the work experience/qualifications of his or her partner (secondary applicant).

Removing points for politically determined 'future growth areas'

We support the removal of points for politically determined 'future growth areas'. Immigration policy should be based on the economy's needs and the ability of the community to absorb new migrants, not on politically-favoured sectors or industries.

SMC and relationship to Long-Term Skill Shortage List and its management

The SMC requires the Long-Term Skill Shortage list to work effectively but it can be difficult for a firm and/or industry to prove to Immigration NZ's satisfaction that there is a global shortage.

Reducing the points available for work in New Zealand

It is not clear from the consultation document what degree points would be reduced for someone with NZ work experience.

Prior work experience in NZ could help to predict a migrant's ability to integrate into the country. We believe it should be possible for highly-skilled NZ work experience, where relevant, to make a contribution towards points.

Other issues for consideration

The cap for the Residency Programme and SMC programme

How the cap for the NZ Residency and the SMC Programmes is set is of interest to BusinessNZ. We believe the process should be evidenced-based, open and transparent.

The SMC programme should complement other initiatives to better match the supply of and demand for skills in the economy

The SMC programme should complement other initiatives to address skill shortages, including the training of New Zealanders and upskilling or retraining the existing workforce. More work is needed to link education and training to the skill needs of the labour market. There is also a need to identify more effective measures to influence both elements of the supply of, and demand for, skills and employment.

Data and evidence base supporting monitoring and adjustments of the points-based system

MBIE should examine the economic and social outcomes of SMC immigrants based on the objectives of the SMC policy and the measures used to calibrate the points' framework. The points system was never intended to involve a 'set and forget' approach. Rather, work should be undertaken to improve overall outcomes, taking account of long-run impacts. MBIE should develop an evidence base and empirical approach for determining the allocation of points based on existing data on traits of the SMC stream and follow-up evidence on employment and other outcomes.

BusinessNZ recommends MBIE invest in developing the evidence base, monitoring, and enforcement for both temporary and permanent migration. Investment would facilitate policy development and enhanced gains over time. MBIE should also develop an approach and evidence base for determining the allocation of points and acquiring follow-up evidence on employment and other outcomes.

A well-designed immigration system should, where possible, be predictable, transparent, and robust

BusinessNZ would be concerned if the recent changes to the NZ Residency Programme and the SMC represented a new phase of constant tinkering with immigration settings. Such an approach to permanent and temporary migration would be suboptimal as it creates business uncertainty and lags in data and requires rushed consultation liable to precipitate policy errors.

Consider establishing an independent migration advisory committee to oversee migration

The UK Home Office has established a Migration Advisory Committee made up of experts who provide transparent, independent and evidence based advice to the government on matters relating to migration. Such an approach would reduce the risk of arbitrary, knee jerk decision-making and instead promote decision-making based on proper evidence. The Committee uses an economic framework, and places much emphasis on analysing data. It takes into account issues such as integration and social cohesion while giving consideration to social impacts using economic tools. The majority of its work is focused on the UK labour market.

Growing NZ's reputation as a top destination for highly skilled migrants

Making the case for growing NZ's reputation as a top destination for highly skilled migrants should be a priority for government. But above all, when making changes to the SMC, the case for economic migration must also be made to the general public.

Promote better community understanding of the value of skilled migration

Government and business both have a role in better communicating the benefits of migration to the wider community.

Improved all of government labour market analysis, insights and evidence

Labour market analysis, expertise and resources are spread across a range of government departments and agencies and as well, specific workforce planning is undertaken by industry groups, industry training organisations, regional economic development agencies, and consortia of education organisations and industry. A

more coordinated approach, which would yield better outcomes and a more informed market, is recommended.

The importance of Essential Skills

The Essential Skills Policy for temporary skilled work provides benefits across the economy, giving businesses the flexibility to respond to economic needs through the ability to source scarce skills and labour.

We note the proposed changes will likely result in increased demand under the policy, especially for renewals. Immigration NZ will need to be resourced appropriately to ensure efficiency in this respect. The management of the Skills Shortage Lists, taking a pragmatic approach to labour market testing and prioritising processing for visa renewals are important.

There is also a need to significantly improve the assessment of labour market shortages. MBIE should work with industry and business to improve the identification of occupations and skills in short supply, and to better align the Immediate Skills Shortage List and Long Term Skills Shortage List to industry needs (and even those occupations that are in significant over supply).

The continued need for labour market testing under Essential Skills policy could be reduced in the light of how successful the better processes are in assessing skills shortages.

We would also ask that Immigration NZ speed up its work to streamline the Accredited Employer Scheme making this more accessible to SMEs.

Exploitation faced by temporary migrant workers

The risk of exploitation faced by temporary migrant workers is a serious issue that has the potential to adversely affect the future success and credibility of temporary migration programmes. For temporary work programmes with work rights, resources dedicated to monitoring threats to the integrity of these programmes have not kept pace with increased numbers of visa holders with work rights, and should be increased.

Evaluate the impact of the changes

While BusinessNZ supports the proposed changes, it is difficult to tell if they will be effective in lifting the skills mix of SMC applicants. MBIE should therefore evaluate their effectiveness once there has been sufficient time for the changes to take effect. In particular, the assessment should examine whether a single salary/wage threshold should apply to all circumstances (e.g. should it be affected by the specific occupation, location of the position) and if the threshold should vary according to circumstances, how the variations should apply. The extent to which the proposed changes, once introduced, might (or might not) be impairing industry's ability to employ skilled overseas workers (including in regional areas and/or high growth industries) should also be evaluated.

Conclusion

We are in a global market place for people and their skills just as we are in global market for investment, goods and services.

This submission focuses on a number of points, the primary one being that while the proposed changes seem reasonable, careful monitoring will be required to minimise misuse, ensure the highly skilled are prioritised, and that as New Zealand still has skill shortages, there are both temporary and permanent migrants to fill the skills gaps – now and for the foreseeable future.

We have also stressed that training and upskilling our own workforce should be of paramount importance for both government and businesses. Yet we do not have the right people, with the right skills in the right places to do the jobs that industry needs. An improved approach to government labour market analysis will significantly improve decision-making based on labour market demand, labour market outcomes, and emerging demand. The SMC has flexibility and responsiveness built into it and points can be adjusted as labour market conditions change.

BusinessNZ encourages MBIE to continue to engage with industries with occupations particularly affected by the proposed changes in order to discuss possibilities arising from a raised points threshold and the revised Expression of Interest ranking system. There is also likely to be increased demand under the Essential Skills policy. Immigration NZ should be adequately resourced to manage the likely increase in visa renewals under this policy.

Thank you again for meeting with us to discuss the changes and for the opportunity to make this submission. We are happy to meet with you to discuss our submission further or to provide clarification.

Yours sincerely



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