



Accredited Employer Work Visa Employer Accreditation Policy

Facilitator guide



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Introduction

This guide gives you the information you need to run the **Employer Accreditation Policy** session.



Outcomes

- Provide an overview of the:
 - three stages of the Accredited Employer Work Visa
 - application process for Employer Accreditation
 - types of Employer Accreditation available
 - requirements for all employers
 - requirements for triangular employment arrangements
 - requirements for franchisee employers
 - requirements for Interim Employer Accreditation.
- Navigate the policy instructions to find answers to questions.
- Explain what post-decision RMR is and what it means for them.



Learners

- Immigration Officers
- Immigration Managers
- Verification Officers
- Verification Managers
- Technical Advisors
- Practice Leads
- Visa Operations Managers (optional)
- Head of Operations (optional)



Resources

- Employer Accreditation Policy PowerPoint
- [Employer Accreditation Instructions](#)
- [Employer Accreditation Standard Operating Procedures \(SOPs\)](#)
- Facilitator laptop and projector
- Learner laptops



Time

2 hours and 5 minutes

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Outline

Time	Topic
5 minutes	Welcome
30 minutes	About Employer Accreditation, including applying.
80 minutes	Requirements for all employers
30 minutes	Requirements for triangular employment arrangements
10 minutes	Requirements for franchisee employers
20 minutes	Treasure Hunt - Further policy concepts
5 minutes	Interim Employer Accreditation
30 minutes	Introduction to Accredited Employer Risk Management and Review (AERMR)
10 minutes	Close
3 hrs	TOTAL

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Welcome

Outcome: Learners can describe what they will learn in this session.

Resources

- Employer Accreditation Policy PowerPoint

Lesson plan

Time	Topic	Resource	Notes
5 mins	<p>Session outline and learning outcomes</p> <p><i>Explain</i></p> <p>By the end of this session, you'll be able to:</p> <ul style="list-style-type: none">• provide an overview of the:<ul style="list-style-type: none">– three stages of the Accredited Employer Work Visa policy– Employer Accreditation application process for employers– types of Employer Accreditation available– requirements for all Accredited Employer applicants– requirements for triangular employment arrangements– requirements for franchisee employers– process for Interim Employer Accreditation.• navigate the policy instructions to find answers to questions• explain what post-decision RMR is and what it means for them.	Slide 2	

About Employer Accreditation

Outcome: Learners can provide an overview of the:

- three stages of the Accredited Employer Work Visa policy
- Employer Accreditation application process for employers
- types of Employer Accreditation available.

Resources

- Employer Accreditation Policy PowerPoint

Lesson Plan

Time	Topic	Resource	Notes
30 mins	<p>The Accredited Employer Work Visa policy</p> <p><i>Explain</i></p> <p>There are three steps in the Accredited Employer Work Visa instructions: These are:</p> <ul style="list-style-type: none"> • Employer Accreditation - the employer must be granted employer accreditation (WA2); then • Job Check - the accredited employer must have a Job Check approved by INZ for any vacancy the employer needs to fill with a non-New Zealand citizen or resident worker (WA3), then • Work Visa - a non-New Zealand citizen or resident worker must be granted an Accredited Employer work visa (WA4). <p>Today we are looking at the first check, Employer Accreditation.</p> <p>The structure of the instructions</p> <p><i>Explain</i></p>	Slide 3	

Each instruction has an alpha-numeric code on the end of a heading. We will use these codes to navigate the instructions during this session.

Show the code on the next slide, that relates to the objective of the instructions.

The objective of Accredited Employer instructions (WA1.1)

Explain

The Accredited Employer instructions contribute to the overall objective of the 'Work instructions' by:

- **incentivising employers to employ more New Zealanders** to respond to skill and labour shortages over time; and
- **ensuring that employers only recruit non-New Zealand citizen or residents for genuine shortages**, while not displacing New Zealanders from employment opportunities or hindering improvements to wages or working conditions; and
- **reducing risks around business models and practices that might enable migrant exploitation**; and
- **ensuring that employers are compliant** with specific employment, immigration, and business standards, as set out in the instructions.

Notes - A Job Check or Accredited Employer work visa application will not be approved if the employment specified is:

- *for self-employment; or*
- *to plant, maintain, harvest or pack crops in the horticulture or viticulture industries (in this case the employer must apply to become a Recognised Seasonal Employer-see WH1).*

There is a warning on Immigration Online that states:

- A Job Check or Accredited Employer Work Visa application will not be approved for self-employment.
- A Job Check or an Accredited Employer Work Visa will not be approved for jobs to plant, maintain, harvest or pack crops in the horticulture or viticulture industries. If you want to recruit migrants in these roles, you may need to apply to become a Recognised Seasonal Employer.

Slide 4

Applying

Reveal each of the points by clicking the slide.

Summarise:

- The application must use the Immigration online form.
- The employer must have a New Zealand Business Number, unless they are a foreign diplomatic or consular mission.
- Evidence must demonstrate the employer meets requirements.

Note – In many cases, the technology requires the employer (applicant) to declare that they will meet set requirements. They may not ever have to provide evidence of some aspects of the policy however, we may conduct site visits and desk check activities to ensure that they remain compliant at certain points of time after approval. This is quite a change from former assessment processes.

- To apply or upgrade a set fee must be paid.

Ask: What is a foreign diplomatic or consular mission?

Answer: It could be an Embassy, High Commission or Consulate. These aren't eligible for NZ Business numbers because they are based overseas.

Accreditation types

Accreditation type scenario

Explain using this scenario and the diagram. You may prefer to call a few people to the front of the room and give them the role of Cherry, Meri and Jerry and explain the scenario that way.

Cherry owns a residential renovation business and needs workers. She recruits and employs them herself, so her business needs to be accredited.

In the first two examples, she recruits up to 5, and **6 or more AEWV employees** respectively.

Cherry's twin sister, Meri, runs a landscaping company. In the third example column, a labour hire agency (the employer) helps Cherry and Meri with recruiting staff from overseas to work in

Slide 5

Slides 6-7

their separate businesses. As the employer, the agency is responsible for the workers, so it needs to be accredited. The sister's businesses are referred to as third-party organisations.

In the fourth example, Cherry sets up a franchise called Cherry Construction and sells franchise businesses to those who want to set up a home renovation franchise. A franchise is purchased and operated by her **brother Jerry**. Jerry's franchise of Cherry Renovations needs accreditation. Cherry Construction cannot get a single accreditation for all the franchises. Each franchise business needs their own accreditation.

In the final example, imagine **Jerry sets up three Cherry Construction franchises** in different parts of Auckland. While Cherry Renovations (the franchisor) cannot be accredited, an operator of multiple franchises can choose to apply for triangular accreditation to source workers for their multiple franchises. E.g. The owner of three Mc Donald's restaurants could set themselves up as a triangular franchisee employer to source workers for different restaurants, then place the workers as demand for staff dictates.

Accreditation type overview

Summarise:

There are two main types of accreditations: Standard and High Volume. High Volume has variations, as described below. Each variation has a set of different requirements.

- **Standard** - If employer wants to employ up to 5 people under the AEW Visa policy. Every employer needs to meet the generic instructions for all employers.
- **High volume** - If employer wants to employ more than 5 people under the AEW Visa policy. A simple High-Volume accreditation involves one employer recruiting 6 or more people. The following high-volume accreditation types involve different arrangements for recruiting 6 or more people.
 - **Triangular** - When an employer, third party business and migrant worker are involved. The employer (e.g. A Labour hire agency) applies for accreditation. They recruit and employ migrants who they place in the third-party organisation.
 - **Franchisee** - When a franchisee business, such as a Mc Donald's franchisee business, applies for accreditation. There are different rules associated with franchisee businesses, so we have another category for them. **Note** - A Franchisor (such as Mc

Slide 8

Donald's NZ) cannot apply for accreditation for all its franchises. Each franchisee needs to apply separately.

- **Triangular Franchisee.** When the owner of multiple franchisee businesses applies to become an accredited employer so they can place the migrant employees into one of any of those third-party franchisee businesses. E.g. An owner of three McDonald's restaurants applies to employ many migrant employees to work in one of their various restaurants.

Triangular employment arrangements

Explain these further details:

- A triangular employment arrangement is where AEWV visa holders are **employed by an employer (e.g. a labour hire agency)** and placed with a controlling third party. The employer could also be an employer who wants to place an employee on a secondment in a different business, or an employer who want to place their workers across their different legal entities.
- A 'third party' is a **separate legal entity** to the labour hire agency. The third party may have an arrangement or contract with the agency, allowing the agency 'employees' to perform work for the benefit of the third party.
- The **third party may assign work and direct the employees** placed with them, similar to the control they would have if they were the direct employer.
- Examples of the employer in triangular employment arrangements include:
 - Labour hire agencies
 - Labour-for-hire and contingent labour employers
 - Employers who send migrant employees on secondments
 - Parent companies who place their migrant employees with subsidiary companies that are separate legal entities.
- In the first example, the labour hire agency, as the employer, has all the rights and responsibilities of an employer.

Simplified overview of requirements

Reveal the requirement/fees/upgrades graphic and explain:

Each accreditation type has different requirements. You can see how these are additive in the slide. We will discuss each set of requirements in detail later in this session.

Fees

Explain

Different fees are associated with each accreditation type. The fee structure is designed to reflect the amount of work required to process each type of accreditation.

Reveal the Fees graphic

Explain how higher levels of processing and risk management activities result in higher accreditation fees.

Upgrades

Reveal the Upgrades graphic and explain:

There will be an upgrade option (not available for day 1) for those that hold Standard Accreditation and want to apply for High Volume. The duration of their accreditation won't change, just the type they hold. Upgrade fees apply.

Note - *If an accreditation application is approved for Franchisee or Triangular employment arrangements, they will be automatically granted High Volume Accreditation, because they will usually want to employ over 5 people.*

Complex recruitment structures

Explain

It is possible that various relationships may be formed, between industry groups that need labour, the businesses in those industry groups and labour hire agencies. However, INZ only offer these accreditation types. Many complex arrangements for sourcing labour will come under the rules for the Triangular accreditation type.

Accreditation terms and renewing accreditation

Slide 9

Explain

- For any accreditation type, an employer can apply for accreditation in advance of their need for staff. e.g.- seasonal work such as ski field operators.
- **Standard** and **High-Volume initial** accreditations are valid for 12 months. When these accreditations are renewed, they are granted an accreditation period of 24 months.
- **All other types** are valid for 12 months, with 12-month renewal periods.
- The way an accreditation application is processed in ADEPT is mostly the same for first year applications and renewals.

Data integrations

Slide 10

Explain

- Each employer that applies for accreditation must have a NZ Business number. The employer will get their own user profile in ADEPT based on the NZBN. We will ask employers to manage their business contact details on the NZBN portal. Every time they update their details there, our system will be updated.
- ADEPT integrates with the Companies Office to check the 'Banned Directors' list.
- A data integration with ADEPT checks with NZBN to make sure an entity is not insolvent, in liquidation or in receivership. If the employer is showing as any of these on the NZBN, a risk indicator would be raised, and we will manually assess if they are a viable and ongoing business.
- For sole traders or general partnerships, the individuals cannot be bankrupt or subject to a No Asset Procedure. We have a data integration with ADEPT and the Insolvency and Trustee Office to check this.
- INZ use the Labour Inspectorate stand-down table to see if key people are included on the list of non-compliant employers.

Requirements for all employers

Outcome: Learners can provide an overview of the policy requirements for all Accredited Employer applicants.

Resources

- Employer Accreditation Policy PowerPoint
- [Employer Accreditation Instructions](#)
- [Employer Accreditation Standard Operating Procedures \(SOPs\)](#) - All Employers:
 - Assess viable and genuinely operating business/organisation
 - Assess Settlement activities
 - Assess Employer compliance

Lesson Plan

Time	Topic	Resource	Notes
10 mins	<p><i>Explain</i></p> <p>We briefly talked about how every Accredited Employer application must meet a standard set of requirements, and some types must meet additional requirements. In this topic we will cover the detail of the Standard requirements.</p> <p>Requirements for all employers</p> <p><i>Summarise using the slide graphics</i></p> <ul style="list-style-type: none"> • For an application for employer accreditation to be approved, the employer must: • be a genuinely operating business or organisation, and • complete settlement support activities, and • be compliant with the specific immigration, employment, and business standards. • If the employer is a sole trader, a partnership or a trust, New Zealand must be the primary place of established residence for the sole trader, or at least one partner or trustee. <p><i>Explain the following and show the link if required:</i></p>	Slide 11	

	<ul style="list-style-type: none"> The generic work visa requirements set out at W2.10 do not apply to applications for employer accreditation made under these instructions. To summarise, the old 'generic' instructions have been superseded by these new ones. <p>Note - The titles of each of the four requirements shown on the slide have been simplified to help you remember.</p> <p>Activity</p> <p><i>Explain</i></p> <p>I will call out a few requirements and see if you can locate them under the correct topic. Once we have had a go at guessing the correct topic, we will look at the details.</p> <ul style="list-style-type: none"> The employer must not have provided false or misleading information to INZ. (Topic - Compliance with specific standards) In the employee's first month, the employer must provide information about accommodation options. (Topic - Settlement Support) The employer must be registered as an employer with IRD. (Topic - Viable and Genuine) <p><i>If available, provide small prizes/chocolates for a correct answer or willing guess.</i></p>		
8 mins	<p>Viable and genuine business (WA2.10.1)</p> <p><i>Explain</i></p> <p>If a business is older than 12 months and shows no risk factors as part of the automated checks that ADEPT runs in the early stages of processing an application, a manual activity for this requirement will not be generated. There will be a future increase in post-decision verification/risk management activities to ensure employers meet the standards after they gain accreditation. This change from providing evidence as part of the application process, to accepting a declaration from a business, is a change in mindset. This 'declaration' approach applies for some of the other requirements as well.</p> <p>Now let's look at the <i>Viable and genuine business</i> requirements. The employer must:</p> <ul style="list-style-type: none"> be registered as an employer with IRD; <i>and</i> 	Slide 12	

- have no sole traders, or general partners* who are **bankrupt or subject to a No Asset Procedure**.

* A general partner is defined in section 19 of the Limited Partnerships Act 2008.

Explain the basic difference between partners of a partnership and general partners of a limited partnership.

A general partner in a limited partnership is liable for all the debts and liabilities of the partnership, where limited partners are only liable to the extent of their capital contribution.

Note - A limited partner in a limited partnership is not taken into account based on the definition in instructions, only the general partner is assessed

The employer must also have:

- **not made a loss** (before depreciation and tax) over the last 24 months; **or**
- **a positive cash flow** for each of the last 6 months; **or**
- **sufficient capital and/or external investment** (e.g. funding from founder, parent company or trust) to ensure the business remains viable and ongoing; **or**
- **a credible, minimum two-year plan** (e.g. work contracts) to ensure the employer's business remains 'viable and ongoing'. *

***'Viable and ongoing'** includes being able to meet financial obligations e.g. pay for wages, salaries, all operating costs, and inventory (if relevant)

Evidence

Ask: What evidence might be used to prove Viable and Ongoing?

Answer: **Evidence** of meeting the requirements set out at (a) to (c) above may include, but is not limited to:

- financial statements such as an annual report and profit and loss statements;
- evidence of start-up capital and/or funding;
- a cash-flow statement and/or credible revenue forecast;
- contracts for work;
- GST returns;

- income tax returns;
- PAYE returns;
- bank statements;
- stock lists/orders;
- lease agreements for business premises or space.

Emphasise

This broad detail is in the policy, but there is also a set of SOPs you can refer to, for specifics.

Open the link to the SOP - Assess viable and genuinely operating business/organisation.

Provide these instructions:

Open the link to the SOP on your device and identify how the following details are assessed or confirmed:

- **If the sole trader, partner in a general partnership or general partner in a limited partnership applying for accreditation are the same as person listed on the insolvency register.**

Answer: Compare the information:

- in ADEPT and AMIS
- on the NZBN websites
- on the Insolvency register website
- from the Insolvency and Trustee Service.

- **If an employer that has indicated that they have a positive cashflow for each of the last 6 months**

Answer: Review cashflow statement, (or year-to-date or profit and loss statement) and GST and PAYE or payday filing provided by the employer to establish whether the income is higher than the expenses for the organisation.

- **If an employer has indicated that they have sufficient capital and/or external investment to remain viable and ongoing.**

Answer: See SOP on financial sustainability. This is equivalent to an assessment of whether an organisation is likely to remain viable and ongoing.

Standard Operating Procedure - Assess viable and genuinely operating business/organisation

8 mins	<p>Settlement Support activities (WA2.10.5)</p> <p><i>Highlight</i></p> <p>Where an employer is applying for accreditation for the first time, these activities cannot be done since the instruction wording relies on an AEWV holder being employed. So, the form requires them to declare they will do these things.</p> <p><i>Ask: What sort of support do you think a new migrant will require in the first month of arriving in New Zealand.</i></p> <p><i>Reveal icons, then bottom most text.</i></p> <p>Answer: In the employee’s first month, the employer must provide the following:</p> <ul style="list-style-type: none"> • Information about: <ul style="list-style-type: none"> – accommodation options – transportation options (including driving and public transportation) – the cost of living – how to access healthcare – Citizens Advice Bureau services – relevant community groups – how to obtain an IRD number – any industry training and qualification information/options – specific job or industry hazards. • Sufficient time during paid work hours to complete all of Employment New Zealand’s online employee modules. <p>Note – <i>In the Immigration Online EA application form the employer needs to complete a declaration about whether they ‘intend’ to provide settlement support activities and time to complete them. If the employer declares that they don’t intend to provide settlement support, then we should PPI them. See the SOP, for more detail.</i></p> <p><i>Employers declaring that they don’t intend to meet requirements is expected to be rare.</i></p>	Slide 13	Standard Operating Procedure - Assess settlement activities
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Evidence

Explain:

If you are a VO doing a post-assurance risk management activity to assess Settlement Support, evidence may include, but is not limited to:

- copies of the settlement information
- communications to AEWV employees with settlement information
- on-boarding or induction policies, guidelines, or plans
- confirmation of completed Employment New Zealand’s employee online modules.

Employers completing ENZ modules

Explain:

As well as the employee completing ENZ modules, everyone who makes recruitment decisions within the employer’s organisation must complete Employment New Zealand’s online employer modules once within every accreditation period. This requirement is designed to educate employers to prevent migrant exploitation. It is outlined in a section *WA2.10.10 Compliance with specific employment, immigration, and business standards*.

Examples of those who need to complete the modules are provided as:

- hiring managers (this doesn’t include people who sit on interview panels who are not the hiring manager)
- human resource managers
- sole traders, and
- partners.

Employers have asked if they need to submit evidence of the completion of modules by themselves or their employees. For this requirement, INZ have decided that we won’t check this during post-decision risk management activities. However, businesses are encouraged to do the ENZ modules during the application process.

Note -*The settlement activities do not need to be completed multiple times by the employer for the same Accredited Employer work visa holder if the information initially provided has not changed.*

<p>10 mins</p>	<p>Assess Employer Compliance</p> <p>Compliance with specific standards (W2.10.10)</p> <p>Use the paraphrased list of criteria to outline some of the main requirements.</p> <p><i>Explain</i></p> <ul style="list-style-type: none"> • The full detail of this instruction can be found in the Employer Accreditation policy. We will look at those shortly. • For the purpose of this instruction, a history of immigration non-compliance. <ul style="list-style-type: none"> – means two or more instances of the non-compliance set out at (b) to (f) above, and – includes where it was only carried out by the other organisation rather than the individual, or where the other organisation was penalised rather than the individual, provided that the individual was acting as a key person in the organisation when the non-compliance occurred. <p><i>Emphasise</i></p> <p>These instructions are quite a departure from what officers are used to; they are black and white in most cases. For example, either you are on a list/have a conviction, or you are/do not. Previously it would be up to an IO to make a more holistic assessment of employer compliance. That approach is no longer applied.</p> <p>Notes</p> <ul style="list-style-type: none"> • <i>Key persons are defined in the definitions at the end of the policy. Ask one of the group to find that definition, in the Definitions section of the instructions, and read it to the group.</i> • <i>The Other requirements noted on the slide are detailed in earlier or later slides/learning. Instructions W2.10.10 (l) and (m) relate to Fees and Costs, and (n) relates to the need for employers and hiring staff to complete ENZ modules every 12 months.</i> • <i>Regards the history of non-compliance; IOs are unlikely to come across this during application processing. It is more likely that a VO will identify non-compliance as part of a post-decision risk management activity</i> 	<p>Slide 14</p>	
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<p>10 mins</p>	<p>Activity – Compliance relating to offences</p> <p><i>Provide instructions on slide.</i></p> <ul style="list-style-type: none"> • Open the instructions and locate: WA2.10.10 Compliance with specific employment, immigration, and business standards • Which section numbers relate to: <ul style="list-style-type: none"> – Stand-down periods for immigration? offences – Imprisonment for immigration offences – Convictions for immigration offences. <p>Answers – Compliance relating to Offences</p> <p><i>Select four pairs to read out the answers they found, for the three types, including a separate group for the Crimes Act.</i></p> <p><i>Reveal the slide and confirm the answers.</i></p> <p><i>Explain</i></p> <p>There are other parts to this section of the Operational Manual. We don't have time to cover it all today, but you can look at it when you return to your desk.</p> <p><i>Summarise</i></p> <p>Under WA2.10.10 Employers can also not:</p> <ul style="list-style-type: none"> • have previously been subject to a stand-down period for an immigration offence. The issue must have been rectified and sufficient steps taken to prevent it from happening again for this criterion to be waived. • have employed someone who is not entitled, under the Immigration Act 2009, to work in the role; or • have provided false or misleading information to INZ or withheld relevant information from INZ that is prejudicial to an application or any verification, investigation, or compliance activities. <p>We will use the process outlined in the SOPS, which outline what evidence is required to prove or disprove these requirements.</p>	<p>Slide 15</p> <p>Slide 16</p>	
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10 mins	<p>Activity – Describe the Sections</p> <p><i>Provide instructions</i></p> <p>Ask the group to pair up and take five minutes to try to find out as many titles of the sections of the two acts using legislation.govt.nz as a source.</p> <p>Note - The title is for the whole section and not the sub-sections.</p> <p>Answers – Describe the Sections</p> <p><i>Present the answers and explain:</i></p> <p>Every group who got more than 8 answers can participate in a pop-quiz. (Facilitator option - To provide chocolates/small prizes.</p> <p>Pop-quiz</p> <p><i>Select one person to make a noise as their teams' buzzer. Ask three questions to determine the winner. If there is draw, the final correct answer wins</i></p> <p>Questions</p> <ul style="list-style-type: none"> • Which section is referenced in each group - i.e. stand-down, prison, and conviction? Answer: Section 343. • Which sub-sections of s343 are relevant, and to which group - i.e. stand-down, prison, and conviction? Answers: Section 343(1)(d) relates to stand-down and prison. Section 343(1)(a) relates to convictions. • What does Section 98D of the Crimes Act say is the maximum prison term for someone who arranges, organises, or procures <ul style="list-style-type: none"> - (a) the entry of a person into, or the exit of a person out of, New Zealand or any other State— <ul style="list-style-type: none"> o (i) for the purpose of exploiting or facilitating the exploitation of the person. <p>Answer: 20 years in prison.</p> • What does section 98C (2)a say? Answer: Everyone is liable to the penalty stated in subsection (3) who arranges for an unauthorised migrant to be brought to New Zealand or any other State, if he or she— 	Slide 17	
		Slide 18	

- (a) does so for a material benefit.

Activity - Check the SOPs

Ask the group to open the SOP and look for the following answers:

- **How do you check if the employer is on a stand-down period for employment offences?**
Answer: Check this list: [Stand-down list: Employers who have breached minimum employment standards](#). And confirm the identity of the director, or key person is the same as the Identity listed on the stand-down list.
- **If the employer/key person is still within their stand-down period, what should you do?**
Answer: PPI the employer.
- **How will you know if the employer has provided false and misleading information to INZ, or withheld information?**
Answer: It will be triggered by alerts and warnings in ADEPT.

Explain

There are two requirements with stand down periods. One is the labour inspectorate list of employers who have breached employment standards, that we just discussed. The other stand-down list is created by INZ for Immigration offences that result in a fine only. Appendix 12 of the instructions relates to the Immigration offences with fine only.

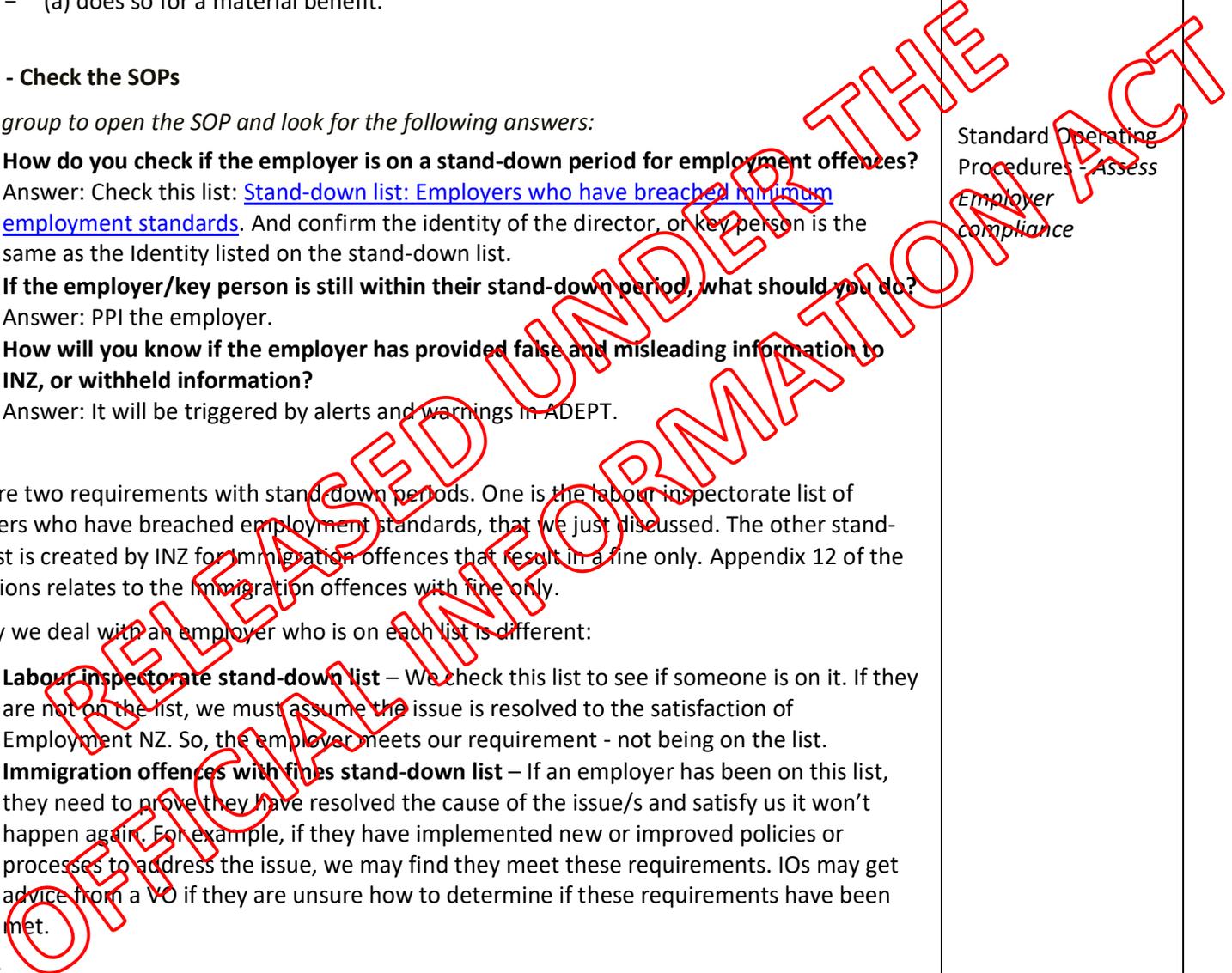
The way we deal with an employer who is on each list is different:

- **Labour inspectorate stand-down list** – We check this list to see if someone is on it. If they are not on the list, we must assume the issue is resolved to the satisfaction of Employment NZ. So, the employer meets our requirement - not being on the list.
- **Immigration offences with fines stand-down list** – If an employer has been on this list, they need to prove they have resolved the cause of the issue/s and satisfy us it won't happen again. For example, if they have implemented new or improved policies or processes to address the issue, we may find they meet these requirements. IOs may get advice from a VO if they are unsure how to determine if these requirements have been met.

Explain:

The SOPs will direct you on how to do other things we haven't covered in detail in this session.

Standard Operating Procedures - Assess Employer compliance



4 mins	<p>Compliance – Costs and fees - (W2.10.10.(l)&(m))</p> <p><i>Ask for examples of fees and costs that a ‘unlawful’ employer might impose on a new migrant to save or make money.</i></p> <p>The group can use the Ops manual link to find the lists provided below.</p> <p>Reveal two statements and summarise, then provide a summary using the examples in the lists below.</p> <p>Fees</p> <p>The employer must not charge fees that would be unlawful in New Zealand. Examples may include:</p> <ul style="list-style-type: none"> • any payment to secure/retain an employment relationship • unlawful bonding agreements • deductions that are ‘unreasonable’ or are not in the employment agreement, for accommodation, travel, or food. <i>Note: Deductions can be unreasonable, even if it is in the employment agreement</i> <p>Costs</p> <p>The employer must not pass on recruitment, training, or equipment costs. Examples may include:</p> <ul style="list-style-type: none"> • advertising/recruitment fees • employer accreditation and Job Check application fees, or immigration adviser fees • compulsory training costs • health and safety equipment or branded uniforms • trade testing costs • tools, where the employer retains the ownership. 	Slide 19	
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- Check the employer or key person is the same as that listed on the banned director list.
- If the key person is the same as that identified on the banned directors list, go to the PPI process.
- Ron was previously convicted under the Immigration Act for offences against the Holidays Act and Minimum Wage Act. He:
 - didn't pay employees 'pay as you go' holiday pay for fixed term staff working less than 12 months
 - didn't pay staff 'time and a half for public holidays', on two occasions
 - made people work extra hours not listed in the employment agreement, and not remunerated. They ended up being paid below the minimum wage.

Ask: Which part of the Immigration Act do these convictions relate to?

Answer: All the offences listed would fall under section 351 of the Immigration Act. The first two situations relate to breaches of the Holidays Act- the first offence is considered serious-but the second moderate. The last is a serious breach of the Minimum Wage Act. Employers who have committed the offences listed in are permanently banned from gaining employer accreditation. You would PPI the applicant business, Wilding Dairies Ltd.

***Note** - The employer/key persons must have been convicted with respect to any of the offences that fall under these instructions. If, for example, during visa application processing, an IO determines an employer or key person didn't pay time-and-a-half on a public holiday, this is not enough evidence to trigger a response under these instructions. However, you may refer the employer to Investigations to look at this. Or you could add a note or alert to the employer's application.*

Show this section from legislation.govt.nz if necessary:

Immigration Act, Section 351 - Exploitation of unlawful employees and temporary workers

- (1) Every employer commits an offence against this Act who, —
- (a) while allowing an unlawful employee or temporary worker to work in the employer's service, —

	<p>(i) is responsible for a serious failure to pay to the employee or worker money payable under the Holidays Act 2003; or</p> <p>(ii) is in serious default under the Minimum Wage Act 1983 in respect of the employee or worker.</p> <p>Case Study – Injala Ltd</p> <p><i>Read the scenario out to the group.</i></p> <div data-bbox="344 539 1512 724" style="border: 1px solid black; padding: 5px;"> <p>Injala Ltd is an employer that has applied for accreditation. Previously, they were convicted of an offence against the Immigration act. They transferred a Sri Lankan national money to enhance their bank balance, to demonstrate there was sufficient money to support three months of travel. On arrival in NZ on a Visitor Visa, the Sri Lankan national did unpaid work for Injala to repay them for the transfer.</p> </div> <p>What section of the Immigration Act did Injala breach?</p> <p><i>Ask: What section of the Immigration Act do you think Injala Ltd was convicted of?</i></p> <p>Answers:</p> <ul style="list-style-type: none"> • s343 of the Immigration Act - Aiding and abetting. This section states: <ul style="list-style-type: none"> Every person commits an offence against this Act who <ul style="list-style-type: none"> – (a) for a material benefit, aids, abets, incites, counsels, or procures any other person to be or to remain unlawfully in New Zealand or to breach any condition of a visa granted to the other person. 	Slide 22	
2 min	<p>Employers substantially the same (WA2.10.15)</p> <p><i>Allow the group time to read the text on the slide.</i></p> <div data-bbox="344 1230 1512 1342" style="border: 1px solid black; padding: 5px;"> <p>“An immigration officer may decline an application if they are satisfied that the employer is substantially the same as another organisation that does not meet the requirements for accreditation and has been re-established as a new legal entity”.</p> </div>	Slide 23	

	There is no need to discuss this topic. Simply refer the group to read the instructions if they have any questions when on the job.		
1 min	<p><i>Summarise</i></p> <p>All employers who apply from accreditation need to meet the requirements we just discussed.</p> <p>Next, we will learn about the specific additional requirements that other accreditation types need to meet, starting with those in triangular employment arrangements.</p>		

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Requirements for Triangular employment arrangements

Outcome: Learners can provide an overview of the policy requirements for Triangular employment arrangement applicants.

Resources

- Employer Accreditation Policy PowerPoint
- [Employer Accreditation Instructions](#)
- [Employer Accreditation Standard Operating Procedures \(SOPs\) – Triangular Employers](#)

Lesson Plan

Time	Topic	Resource	Notes
4 mins	<p><i>Explain</i></p> <p>We will look at the specific requirements for Triangular employment arrangements now. They are additional to the Standard requirements for all employers.</p> <p>Requirements</p> <p><i>Introduce overarching requirements:</i></p> <ul style="list-style-type: none"> • Only place employees in businesses that meet criteria set out in WA2.20.1 • Monitor the employment conditions and safety of employees (WA2.20.5) and respond appropriately to issues (WA2.20.10) • Be placing 15% or more New Zealand Citizens or residents for 30 or more hours per week (WA2.20.15) • Have a history of employing staff (WA2.20.20) <p><i>Ask</i></p> <p>Why do you think these extra requirements are in place for Triangular employment arrangements?</p> <p><i>Answers:</i></p> <ul style="list-style-type: none"> • We want to ensure they have experience employing people and 	Slide 24	

	<ul style="list-style-type: none"> • The employer remains responsible for their migrant employees while they are placed with third parties and that they will treat their employees safely and fairly (according to the law). • Because we don't want the employer to be set up solely for the purpose of employing migrants. 		
7 mins	<p>Only place employees in businesses that meet criteria set out in WA2.20.1</p> <p><i>Ask the group</i></p> <p>Why do you think there are special requirements for third-party organisations that employees will be 'placed' with?</p> <p>Answer: Because the employer, is not the person who will direct the employee on a daily basis and INZ need to ensure that the employee is being placed in a fair, safe, and legally compliant workplace.</p> <p><i>Explain</i></p> <p>You will see that many of these requirements are the same as the business 'standards' that we expect when employers directly apply for accreditation. That is, we want the employee to be working in a fair, safe, legal business, whether placed there by a labour hire firm or by the employer themself.</p> <p>Activity- Learn about WA2.20.1</p> <p><i>Provide these instructions</i></p> <p>Read the policy instructions related to the organisations an employee can be placed with and answer these questions:</p> <ul style="list-style-type: none"> • What are some of the key placement information that the third-party employer should have provided the employer (e.g.- labour hire)? <p>Answers can include:</p> <ul style="list-style-type: none"> - Plan for how the employer is going to check employment and safety conditions of migrants placed with the third-party. - Starting and finishing dates, hours worked, locations of work and employment or safety issues identified. 	Slide 25	

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	<ul style="list-style-type: none"> - Declarations that it (the business entity), or any of its key persons: <ul style="list-style-type: none"> o are not subject to any ineligible stand-down period for, o have not received a prison sentence for, or o have not been convicted of; <ul style="list-style-type: none"> specific offences listed under either WA2.10.10 (b), (f) or (g). <p>Note -These stand-downs, prison sentences and convictions are the same ones we learned about earlier.</p> <ul style="list-style-type: none"> • What list do we expect the third-party employer not to be on? Answer: Labour Inspectorate list. Possible alternative answer is a list of stand-downs, prison sentences or convictions for certain immigration-related offences. <p><i>Note - There is currently no detail or example for what an effective 'plan' would look like, for how the employer is going to check employment and safety conditions. INZ are also working through how a plan would translate to effective actions, and whether plans provided by another party, such as a LIA would be acceptable.</i></p>		
5 mins	<p>Monitoring employment conditions & safety (WA2.20.5)</p> <p><i>Ask the group to read the requirements in WA2.20.5 a-c.</i></p> <p><i>Explain</i></p> <ul style="list-style-type: none"> i. important to note for first time employer accreditation that some of the requirements cannot be met until an AEWV is about to be placed with a CTP. So apart from the plan the other requirements will be met by the employer declaring they intend to do these things. For them to state that they won't meet the requirements would be rare. However, if they state they won't meet the requirements a manual assessment activity will be created in ADEPT for an IO to check certain things. <p><i>Ask: What must be checked, either as part of the application process, or as part of a post-decision risk assessment?</i></p> <p><i>Answer: As per (c), checks carried out before an Accredited Employer work visa holder is placed in a triangular employment arrangement must include, but are not limited to:</i></p>		

	<ul style="list-style-type: none"> i. Plan for monitoring the working conditions and safety of migrants while they are placed with third parties ii. assessing documentation from the organisation about their: <ul style="list-style-type: none"> o processes to prevent and address workplace bullying; and o processes to assess and prevent risk (including a risk register); and o health and safety induction material; and iii. providing information to the organisation about the visa conditions and employment terms and conditions of the Accredited Employer work visa holders that will be placed with them; and iv. acquiring declarations from the organisation that they meet the requirements set out at (a) above. <p><i>Reveal the summary/answers on the slide</i></p> <p><i>Summarise</i></p> <p>These checks are specific, and an easy list to use to make sure you can say the Employer (e.g. labour hire agency) has done enough homework on the businesses that they will be placing migrant employees with.</p>	Slide 26	
3 mins	<p>Triangular Monitoring Evidence (WA2.20.5)</p> <p><i>Ask: What sort of evidence do you think you could use to prove the nature of monitoring activities for a triangular employment arrangement?</i></p> <p><i>Take answers from the group, then summarise and reveal the answer.</i></p> <p>Note - You can also use the Companies office register and tools like Google to identify if the third-party business seems legitimate.</p>	Slide 27	
5 mins	<p>Responding appropriately to issues (WA2.20.10)</p> <p><i>Explain</i></p>	Slide 28	

We don't only want to see that they have plans in place for good 'preventative' employment practices, such as inductions. We also want to evidence that they are prepared to be able to resolve any employment issues that arise. So, we look at things like their processes for investigating employment issues, for example.

Show the summary slide and explain:

We don't have time to work through every point of the policy in this session, but after this workshop, at your desk, you can look at the detail of:

- the required resolution processes (point (b)) and
- what happens to the employer's accreditation when an employer breaches of employment law in a significant and moderate way (point (c)).

Explain

There is distinction between what is needed for the first accreditation application and what is needed in renewal (second or subsequent) accreditation applications. That is, for the first application the only thing INZ can assess is 'is a complaints and disputes process (formal and informal) in place and is it appropriate?' In the renewal application, INZ may also seek examples of how an employer responded to any issues raised.

Ask: What sort of evidence would you expect to see that would prove (or disprove) the ability of an organisation to respond appropriately to issues?

Answer: As per point (f), evidence of meeting the requirements set out at (a) to (e) above may include, but is not limited to:

- documented complaints and disputes resolution processes;**
- records of issues raised in relation to Accredited Employer work visa holders,** how the issue was investigated and resolved, the outcome of issue resolution and corrective actions taken to prevent the issue recurring. This includes information directly from Accredited Employer work visa holders and the organisations they are placed with;
- terms of business, contract or agreement documentation** between the employer and the organisation where Accredited Employer work visa holders are placed;

	<ul style="list-style-type: none"> iv. records of site-specific safety inductions of Accredited Employer work visa holders; v. site visit and inspection findings; vi. safety audit compliance updates, including findings; vii. communication records between the employer and both the Accredited Employer work visa holders and the organisations they are placed with (including emails, file notes, and records of meetings and conversations) <p><i>Ask the group to read through the instructions for WA2.20.10 (b) to (e)</i></p> <p><i>Explain</i> See the Triangular Accreditation SOP to learn more about the types of evidence that we need to obtain from an employer for these requirements, both for an initial application and a renewal.</p>		
2 min	<p>Place NZ citizens and residents (WA2.20.20)</p> <p><i>Read the text on the slide.</i></p> <p>“A minimum of 15% of the employer’s employees who are placed in triangular employment arrangements must be New Zealand citizens or residents who are guaranteed at least 30 paid hours per week, unless the employer is placing no more than one employee in a triangular employment arrangement.”</p> <p><i>Explain</i> There should be no further need for explanation. The rule around one employee allows a triangular arrangement between a labour hire agency and a third-party employer to place one migrant.</p> <p>Note - <i>The question you might get asked is, ‘Is INZ actually able to check this?’ Response is: It will be declaration-based.</i></p>	Slide 29	
4 mins	<p>History of employing staff (WA2.20.20)</p> <p><i>Read the following text and point to the paraphrased bullet points as you do.</i></p>	Slide 30	

- a. The employer must have employed staff, **who is not a key person**, in New Zealand for the 12 months prior to the application being made.
- b. An employer may use another legal entity's history of employing staff in New Zealand to meet (a) above if at least 66% of the ownership of the employer and the other entity is the same, and the employer and the other entity are in the same sector and provide the same goods and/or services.
- c. Evidence of meeting the requirements at (a) and (b) above may include, but is not limited to:
 - i. employment records;
 - ii. audited accounts;
 - iii. evidence of owners of the employer (organisation) and affiliated organisation.

Note: Where these instructions state 'employer,' they refer to the employer applying for accreditation, not the organisation that Accredited Employer work visa holders are placed with.

Ask: Why do you think the key person/s are not allowed to be used as evidence of employment history?

Answer: To demonstrate the employer has experience with employing staff. This needs to include experience of employing people who do not hold decision-making rights within the organisation. The people they place with third parties are unlikely to be 'key' people.

Activity – Use the SOPs

Provide instructions

- Open the SOP *Assess monitoring the employment and safety conditions of employees in triangular employment arrangements*
- Answer this question:
If the employer has either not provided copies of their:
 - complaints and issue resolution process; and
 - guidance to AEWV on how to report issues to the employer directly, OR
 The guidance does not include all the requirements; what should you do?

Answer: The guidance in the SOP states you should go to PPI SOP i.e. - PPI the applicant.

Requirements for Franchisee employers

Outcome: Learners can provide an overview of the policy requirements for Franchisee applicants.

Resources

- Employer Accreditation Policy PowerPoint
- [Employer Accreditation Instructions](#)
- [Employer Accreditation Standard Operating Procedures \(SOPs\)](#) – Franchisee Employers

Lesson Plan

Time	Topic	Resource	Notes
10 mins	<p>Requirements for franchisee employers</p> <p><i>Explain</i></p> <p>All employers applying for triangular, or franchisee accreditation will be required to upload additional evidence, as these accreditation types have additional requirements and associated risks.</p> <p><i>Outline the policy:</i></p> <ol style="list-style-type: none"> a. An employer who is a franchisee (as defined at WA2.60.20) must meet the following requirements: <ol style="list-style-type: none"> i. The employer must have been operating (trading or carrying out business) in New Zealand, as a franchisee, for at least 12 months prior to the application being made (see (b) below); and ii. a minimum of 15% of the employer's employees must be New Zealand citizens or residents who are guaranteed at least 30 paid hours per week unless the employer has no more than one employee. b. An employer may use another legal entity's history of operating as a franchisee to meet (a)(i) above if at least 66% of the ownership of the employer and the other entity is the same, and the employer and the other entity are in the same sector and provide the same goods and/or services. 	Slide 31	

Ask: What sort of evidence would you expect to see to prove that they have been operating for 12 months or more and employ 15% or greater of NZ staff?

Answer: It is shown in point c). Evidence of meeting the requirements set out at (a) and (b) above may include, but is not limited to:

- i. certificates of occupancy or lease agreements for business premises or space;
- ii. evidence of bank transactions;
- iii. tax records;
- iv. stock lists/orders;
- v. evidence of owners of the employer (organisation) and affiliated organisation.

Note - *The requirement to employ 15% or greater of NZ staff is declaration-based. It is most likely that evidence for this set of requirements would be needed as part of post-decision risk management activities completed by R&V.*

Provide instructions.

- Go to the Standard Operating Procedure Assess Franchisee employer requirements.
- Identify what to do if:
 - the employer and the other entity are **not** in the same sector and provide the same goods and services
 - less than 66% of the ownership of the employer and the other entity is the same.

Answer: For both situations, you should PPI, based on the instructions under Step 1.

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Treasure Hunt - Further policy concepts

Outcome: Learners can navigate the policy instructions to find answers to questions.

Resources

- Employer Accreditation Policy PowerPoint
- [Employer Accreditation Instructions](#)
- Handout: Employer Accreditation Treasure Hunt – Questions
- Standard Operating Procedures:
 - [Assess Potentially Prejudicial Information \(PPI\)](#)
 - [Put application on hold](#)
 - [Decline application](#)

Lesson Plan

Time	Topic	Resource	Notes
20 mins	<p><i>Explain</i></p> <p>We are going to look at several policy details in this topic. We don't expect you to remember all the details. The goal is that we give you the skills to navigate and find answers to questions, so you can apply that skill when you get back to your desk.</p> <p>Activity – Further policy concepts</p> <p><i>Provide instructions.</i></p> <ul style="list-style-type: none">• Get into a team of three.• Answer the questions on the handout.• Once your team have completed the questions, pass your answers to the front.• There are prizes for the first team to get a full set of correct answers.	<p>Slide 32- 38</p> <p><i>(Note - You can use the handout if you prefer not to show more slides.)</i></p>	

Explain

The topics are from the remaining sections of the policy/instructions:

- Subsequent Applications
- Processing and verification requirements for Standard and Triangular arrangements
- Considering and reconsidering an application for employer accreditation
- Currency and approval specifications of employer accreditation
- Verification activities after accreditation has been granted
- Suspending and revoking employer accreditation

Treasure Hunt answers

Ask one group to provide an answer at a time, starting with the first set of questions.

Confirm or correct the answers and pass out chocolates for correct or incorrect responses.

Summarise

There are many details in the policy that we don't have time to cover today, and that you are best to refer to when you process the applications for Employer Accreditation. You should also refer to the Standard Operating Procedures (SOPs) for the following topics when you are processing an application:

- Assess Potentially Prejudicial Information (PPI)
- Suspend application
- Decline application

Next, we will look at Interim Employer Accreditation.

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Interim Employer Accreditation

Outcome: Learners can provide an overview of the process for Interim Employer Accreditation.

Resources

- Employer Accreditation Policy PowerPoint
- [Employer Accreditation Instructions](#)

Lesson Plan

Time	Topic	Resource	Notes
5 mins	<p>Interim Employer Accreditation</p> <p><i>Explain</i></p> <p>Interim Employer Accreditation is a three-month window when an accredited employer can continue to employ an AEW visa holder, assuming they still meet the requirements for the accreditation they hold, while they wait for their application to be processed. This policy won't apply until 12 months after the first Employer accreditations have been issued because the shortest AEWV accreditation period is 12 months.</p> <p>It may be granted to an employer who:</p> <ul style="list-style-type: none"> • has submitted an application for accreditation before their current accreditation has expired; and • continues to meet the requirements for the accreditation they hold, as set out in the instructions. <p><i>Highlight</i></p> <ul style="list-style-type: none"> • The interim accreditation will start when the current accreditation expires. • It will be valid for three months or until the subsequent application has been decided, whichever occurs first. • The type of interim accreditation granted will be the same as that they currently hold. <p><i>Note - If they are applying for standard accreditation, they must only have 5 or less jobs associated with them.</i></p>	Slide 39	

Provide this example

Jina, who runs an I.T business, becomes accredited in September 2022. In October 2022, she recruits Anil, who obtains an Accredited Employer Work Visa in November 2022. Jina forgets to apply for a renewal of her Employer Accreditation. When she remembers, in late August 2023, she applies for a renewal of her accreditation. INZ issue her with a three-month Interim Accreditation, based on evidence that she still meets the requirements of her original accreditation. It takes another 6 weeks to process her renewal application and she obtains her new accreditation in October 2023. At this point, her Interim accreditation is no longer valid. If Jina only wants to employ Anil she doesn't need to renew her accreditation. She would only need a renewal if she was needing to employ another migrant on an AEWV.

Answer or park any questions that relate to Interim Accreditation.

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Close

Outcome: Learners reflect on what they've learnt and ask final questions.

Resources

- Employer Accreditation Policy PowerPoint

Lesson Plan

Time	Topic	Resource	Notes
10 mins	Session close <ul style="list-style-type: none">• Answer any final questions.	Slide 45	
	Reflect <p><i>Use a reflection activity from your facilitation toolkit that is different from the activity you used in the previous workshop. For e.g. You may choose one of the following activities, or merge two activities.</i></p> <ul style="list-style-type: none">• Small groups, different to those they've been working in during the course, share their key takeaways.• Small groups write 1-2 of the hardest questions they have about the topic – Other groups then answer those questions.• Sit learners in a circle – have them ask a question they have that is unanswered. They then throw a ball to another learner – the learner who catches the ball answers the question.• Put key topic words on cards and put them in a bag/hat - have the learners draw a card and talk about the topic for 30 seconds. <p>After the small group activity, ask the group to show 1-5 fingers in response to the question, "How confident are you in completing the tasks you learned in this session?"</p>		