

Accredited Employer Work Visa Employer Accreditation Policy

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Topics

About Employer Accreditation, including how to apply

Requirements for all employers

Requirements for triangular employment arrangements

Requirements for franchisee employers

Treasure Hunt - Further policy concepts

Interim Employer Accreditation

Accredited Employer Risk Management and Review (AERMR)

Close

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The Accredited Employer Work Visa policy



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Objective of Employer Accreditation instructions (WA1.1)

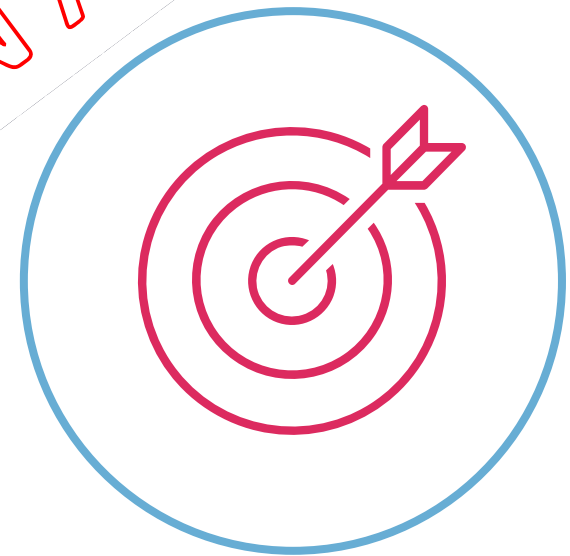
The Accredited Employer policy contributes to the *Reconnecting New Zealand* strategy. The EA instructions:

Incentivise employment of New Zealanders

Promote migrant recruitment for genuine skill shortages

Reduce migrant exploitation risks

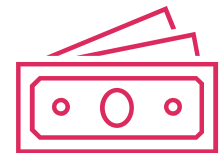
Ensure employers comply with employment & immigration standards



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Applying

- 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.
- To apply, or upgrade from Standard to High Volume Accreditation, a set fee must be paid.



Accreditation scenario

Standard



Employer

Migrant employee



High Volume



Employer

Migrant employees **6+**



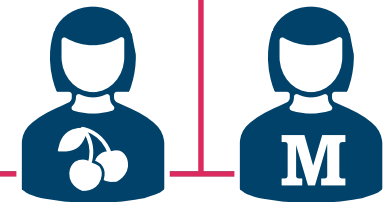
Triangular



Employer (e.g. Labour hire)



Migrant employees



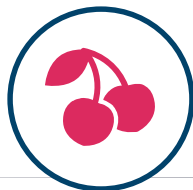
Third party organisations

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Accreditation scenario continued...

Franchisee

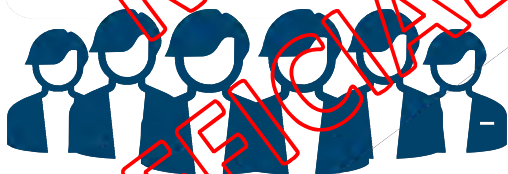
**CHERRY
CONSTRUCTION**



Jerry's Franchise



Migrant employees



Triangular franchisee



Jerry owns
many franchises



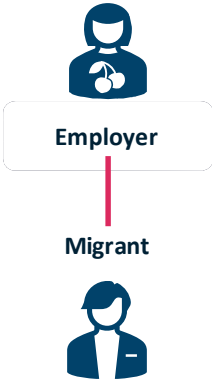

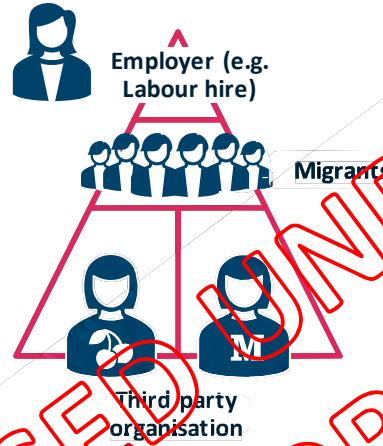

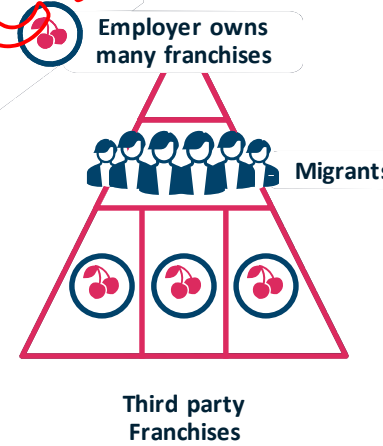
Migrant
employees



Jerry's franchises

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Accreditation type overview

Standard	High Volume	Triangular	Franchisee	Triangular Franchisee
 <p>Employer</p> <p>Migrant</p>	 <p>Employer</p> <p>Migrants</p> <p>6+</p>	 <p>Employer (e.g. Labour hire)</p> <p>Migrants</p> <p>Third party organisation</p>	 <p>Franchisee</p> <p>Migrants</p>	 <p>Employer owns many franchises</p> <p>Migrants</p> <p>Third party Franchises</p>
<p>Requirements</p> <p>Standard</p>	<p>Standard</p>	<p>Standard + Triangular</p>	<p>Standard + Franchisee</p>	<p>Standard + Triangular + Franchisee</p>
<p>Fees</p> <p>Standard</p>	<p>Higher fee for more post-decision risk management activities</p>	<p>Higher fee for more post-decision risk management activities (e.g. site visits). These types always require manual assessment due to some of these employers being higher risk.</p>		

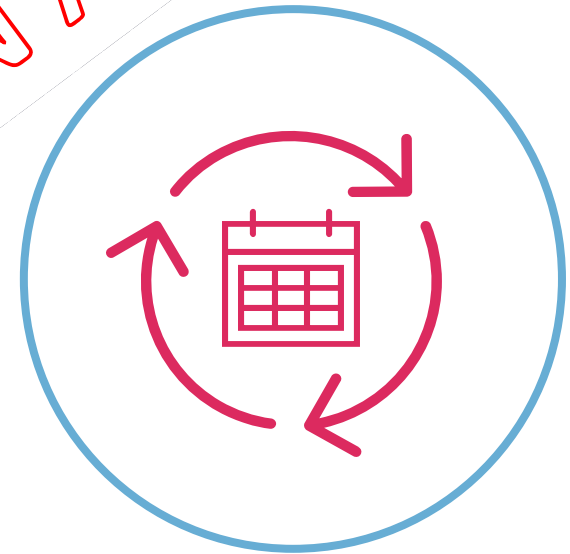
Upgrades

At some stage, applications will be able to be submitted for upgrades from Standard accreditation to High-volume. Upgrade fees will apply.

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Accreditation terms and renewing accreditation

- An employer could get an accreditation in advance of the need.
- **Standard and High Volume** – Approved for 12 months initially, with 24 month renewal.
- **All other types** – Approved for 12 months with 12 month renewal.
- Renewals have the same fee as first-time applications.
- The way an accreditation application is processed in ADEPT is mostly the same for first year applications and renewals.



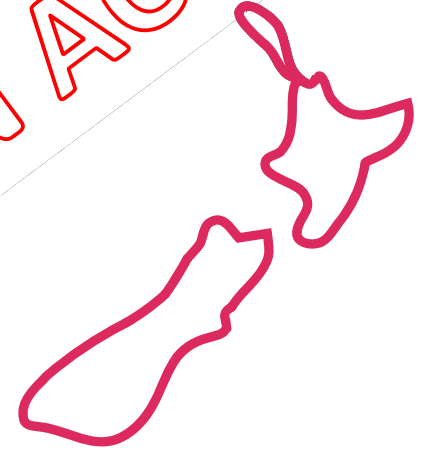
Data integrations

To obtain the information we need we integrate with other organisations:

- NZBN - Employers need a NZ Business Number to interact with INZ for accreditation.*
- Companies Office - This information is used to check the status of employers who are companies.
- Employment NZ, Labour Inspectorate - INZ use the Employer Stand Down List to see if key people are prohibited from supporting visa applications for migrant workers.



'Standard' Requirements for all employers (WA2.10)



VIABLE &
GENUINE

SETTLEMENT
SUPPORT

COMPLIANT

NZ-BASED

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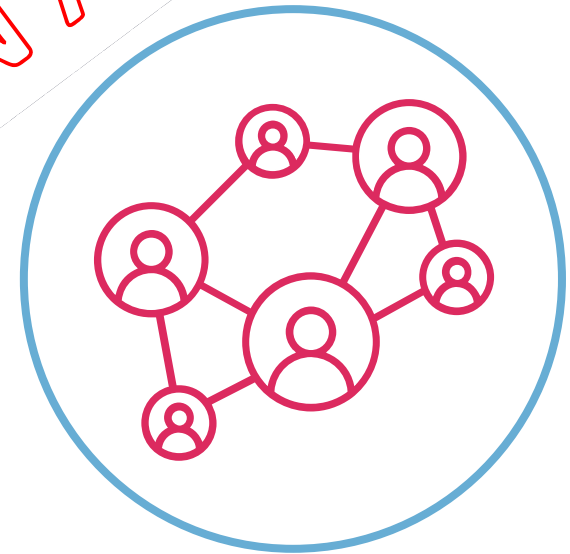
Viable and genuine business (WA2.10.1)

The employer must:

- be a **registered employer with IRD**; *and*
- have no sole traders or general partners who are **bankrupt or subject to a No Asset Procedure**.

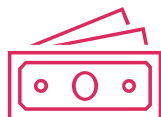
And they must:

- have **not made a loss**; *or*
- have a **positive cash flow**; *or*
- have **sufficient capital and/or external investment**; *or*
- have a **credible, minimum two-year plan**



Settlement Support activities (WA2.10.5)

In the employee's first month, the employer must provide settlement information...



...and sufficient time during paid work hours to complete all of Employment New Zealand's online employee modules.

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Compliance with specific standards (W2.10.10)

Paraphrased (see section W2.10.10)

The employer and any of its key persons* must not:

- **be on a list of non-compliant employers** maintained by the Labour Inspectorate
- **be subject to a stand-down period** for specific immigration offences
- **have previously been subject to a stand-down for, or convicted and fined for, an immigration offence** without rectifying it and taking preventative measures
- **have employed someone who is not entitled to work** under the Immigration Act 2009
- **have provided false or misleading information or withheld relevant prejudicial information** from INZ
- **Be acting as the employer's key person in New Zealand without a valid visa or in breach of the conditions of their New Zealand visa.**
- **have received a prison sentence** for a specific immigration offence
- **have been convicted** at any time of a specific offence from the Immigration Act or Crimes Act
- **have a history of immigration non-compliance** in other organisations they were key people in
- **be prohibited from being a director, promotor or manager** of a company or unincorporated body, within New Zealand or overseas
- **have been convicted in the last five years of any offences listed in the Companies Act s382**
- **be under current investigation or in a prosecution process for any non-compliance.**
- **Plus other requirements**

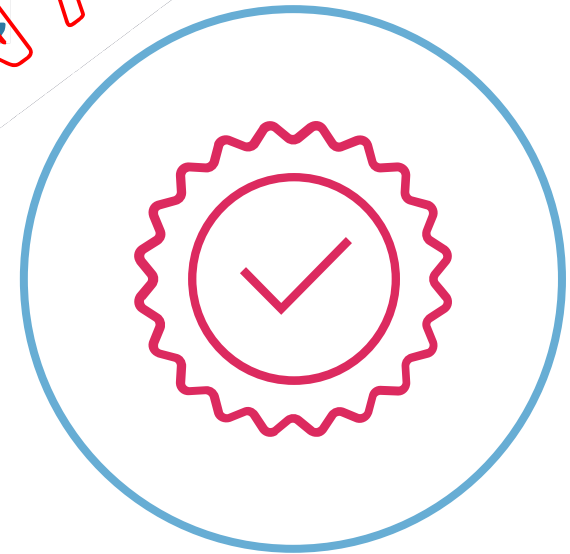
Activity – Compliance relating to offences

Open the instructions and locate

WA2.10.10 Compliance with specific employment, immigration and business standards

Which section numbers relate to:

- **Stand-down periods** for offences
- **Imprisonment** for offences
- **Convictions** for offences.



Answers – Compliance relating to Offences

IMMIGRATION ACT 2009

STAND-DOWN (FINE ONLY)

Sections

342(1)(a)

343(1)(d)

344(d)

347

350(1)(a)

PRISON SENTENCES

Sections

343(1)(d)

344(d)

CONVICTIONS

Sections

342(1)(b), 343(1)(a),

345, 348,

351 *or*

CRIMES ACT 1961

Sections

98, 98C or 98D



Activity – Describe the Sections

IMMIGRATION ACT 2009

STAND-DOWN FOR FINE

342	343	344	347	350

PRISON SENTENCES

CONVICTIONS

345	348	351

CRIMES ACT 1961

CONVICTIONS

98	98C	98D

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Answers – Describe the Sections

IMMIGRATION ACT 2009

STAND-DOWN FOR FINE

342 Provision of false or misleading information	343 Aiding and abetting	344 Obstruction or failing to meet requirements	347 Publishing false or misleading information	350 Offences by employer
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PRISON SENTENCES

CONVICTIONS

345 Improper dealings with immigration or identity documents	348 Alteration of forms	351 Exploitation of unlawful employees and temporary workers
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CRIMES ACT 1961

CONVICTIONS

98 Dealing in slaves	98C Smuggling migrants	98D Trafficking in persons
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Compliance – Costs and fees - (W2.10.10.(l)&(m))

Costs

The employer must **not** pass on recruitment, training or equipment costs to the employee.

Fees

The employer must **not** charge fees that would be unlawful in New Zealand.

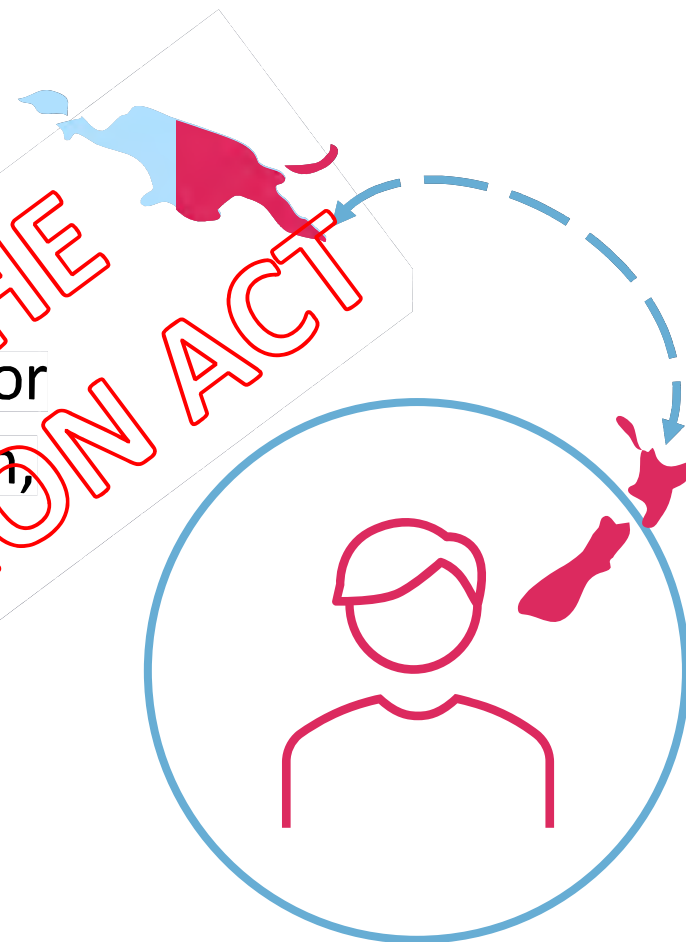


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Case Study - Wilding Diaries Ltd

Wilding Dairies Limited needs a farm assistant. They plan to recruit from PNG and have applied for Employer Accreditation. As part of the application, the company director, Ron Western declares that *'the Employer or a Key Person are listed as non-compliant employers on the Labour Inspectorate Stand down list.'* This triggers an ADEPT manual assessment, which is assigned to you.

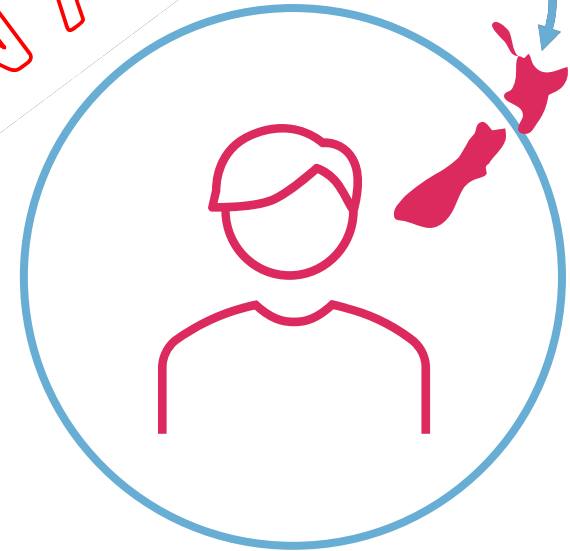
You search the list and can't find Ron, but Aaron Knowles, the 'key person', is listed on the Inspectorate Stand down list. **What do you do?**



Wilding Dairies Ltd continued..

During a further search you discover Ron Western, the Director, has been convicted for these offences. **What should you do in each situation?**

- Ron is the same person as that identified on the banned directors list.
- Ron previously was convicted of offences against Holidays Act and the Minimum Wages 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.

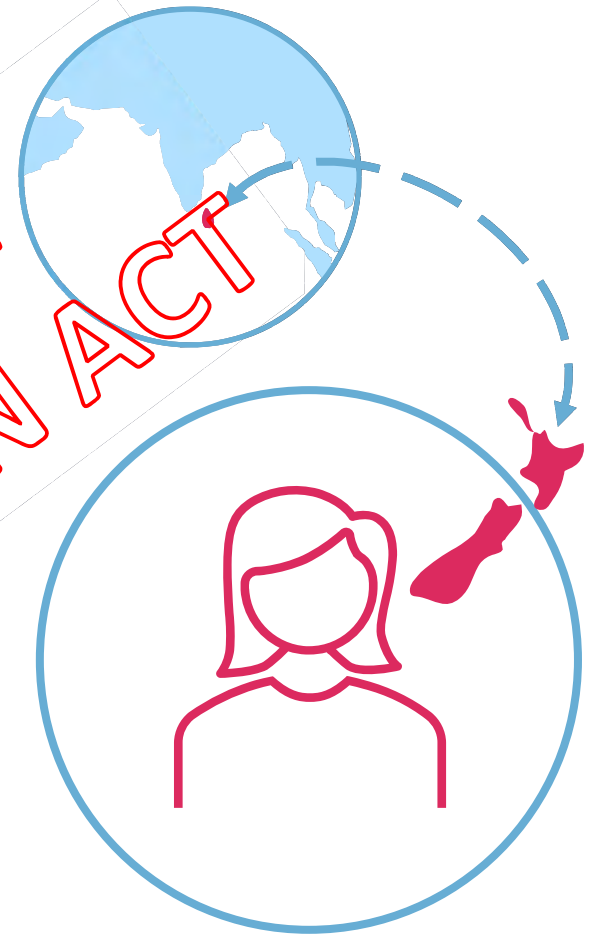


Case Study – Injala Ltd

Injala Ltd is an employer that has applied for accreditation.

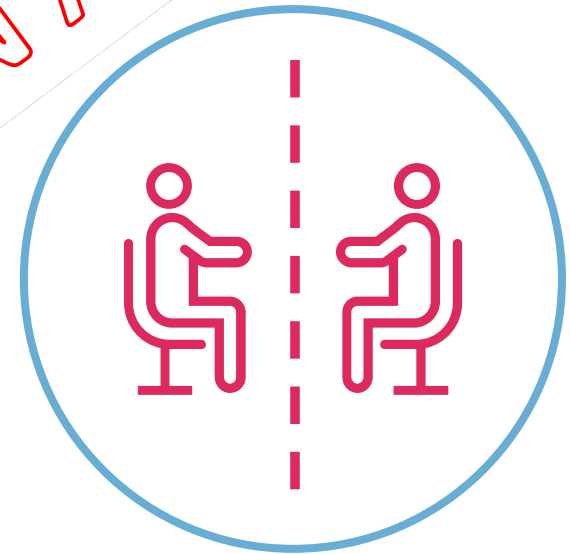
Previously, they were convicted of an offence against the Immigration Act. They transferred a Sri Lankan national money to enhance their bank balance, to demonstrate there was sufficient money to support three months of travel. On arrival in NZ on a Visitor Visa, the Sri Lankan national did unpaid work for Injala to repay them for the transfer.

What section of the Immigration Act do you think Injala Ltd was convicted of?



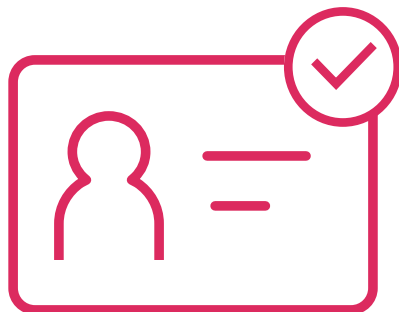
Employers substantially the same (WA2.10.15)

“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”.



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Triangular employment requirements (WA2.20)



ONLY PLACE
EMPLOYEES IN
BUSINESSES
THAT MEET
CRITERIA
(WA2.20.1)

MONITOR &
RESPOND
(WA2.20.5 &
WA2.20.10)

EMPLOY 15%+
NZ CITIZENS
OR RESIDENTS
FOR 30 HRS +
(WA2.20.15)

HAVE A
HISTORY OF
EMPLOYING
STAFF
(WA2.20.20)

Where employees can be placed (WA2.20.1)

- Why do you think there are special requirements for third-party organisations that employees will be 'placed' with?
- What are some of the key placement information that the third-party employer should have provided the employer (e.g. labour hire agency)?
- Does the third-party employer need to agree to site visits from INZ?
- What list must the third-party employer not to be on?



Monitoring employment conditions & safety (WA2.20.5)

The employer must provide:

- a plan for how they will monitor employment and safety conditions of migrants
- workplace bullying prevention processes
- risk assessment and prevention processes, including the Risk Register
- health and safety induction material
- visa conditions and placement terms
- declarations that support the above.



Triangular Monitoring Evidence (WA2.20.5)

Evidence may include, but is not limited to:

- Plan for how third parties will be monitored
- contracts
- workplace policies, processes and guidelines
- health and safety induction material
- records of communications
- terms of business between the employer & third-party
- placement details, including start & finish dates
- wage and time records
- information obtained from site visits
- information from the employee
- independent third-party audit findings.



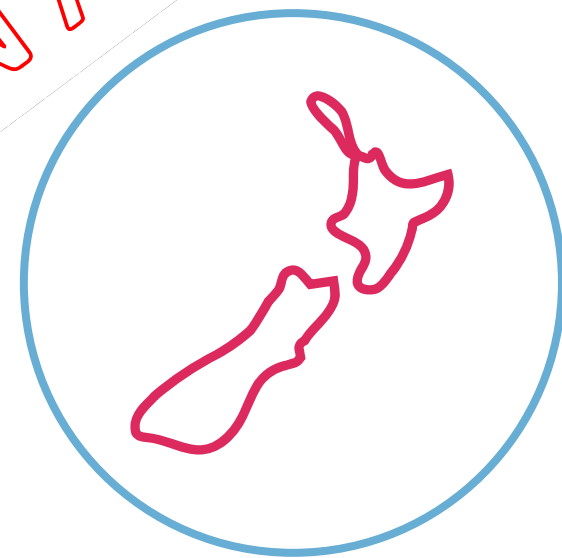
Responding appropriately to issues (WA2.20.10)

- The employer must have informal and formal disputes and complaints resolution processes
- These processes must include certain elements - See policy (b)
- There are results for 'significant' and 'moderate' breaches in these requirements – See policy (c and d)
- Where non-compliance affects more than one employee, those employees must be removed as per the policy (e)



Place NZ citizens and residents (WA2.20.20)

“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”

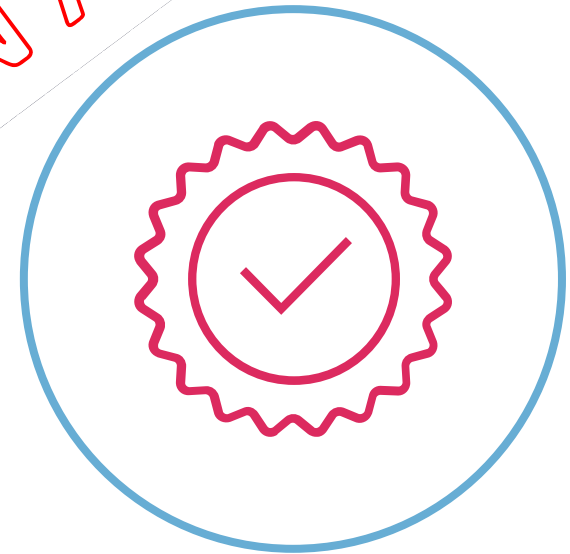


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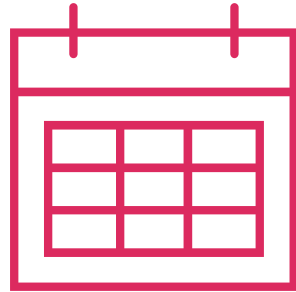
History of employing staff (WA2.20.20)

Paraphrased

- The employer must have employed staff (**not the key person in NZ**) for the previous 12 months
- If another entity is used to evidence employment history, the entity needs to be in the same sector and have 66% or more of the same owner/s.



Requirements for franchisee employers (WA2.25)

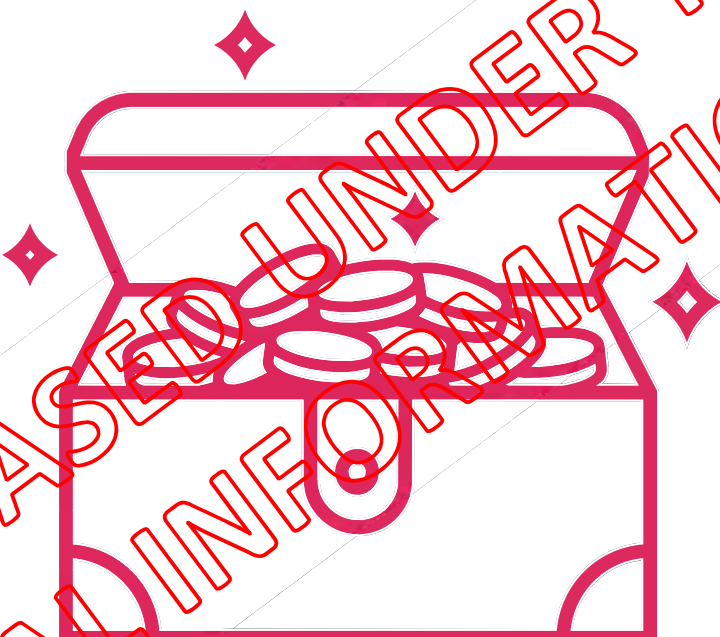


TRADING FOR
12 MONTHS
PRIOR AS A
FRANCHISEE

EMPLOY 15%+
NZ CITIZENS
OR RESIDENTS
FOR 30 HRS +

Treasure Hunt – Further policy concepts

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Treasure Hunt – Questions

- A. If an employer has not complied with the requirements in WA2.30(a) above since their previous accreditation was granted, the application for employer accreditation application must be declined unless the employer meets certain requirements. What are these requirements?
- B. Which ‘other relevant parties’ are mentioned as examples of sources of information that can be used assess an employer accreditation application.
- C. What information, in addition to that collected from applicant, can be gathered from interviews or site visits?
- D. What might happen to an employer accreditation application if an employer does not give consent for INZ to disclose relevant information to other agencies, in order to obtain information to assess the application?
- E. If an employer has any changes to their key persons, compliance with these instructions or business structure, within how many business days do employers have to advise INZ?

Treasure Hunt – Answers

- A. The requirements are that the employer:
- has rectified the non-compliance promptly; and
 - has taken sufficient steps to address the cause of the non-compliance; and
 - satisfies INZ that they will comply with the requirements in (a) in future accreditation periods.
- B. Other parts of the Ministry of Business, Innovation and Employment, WorkSafe, the Labour Inspectorate, the Companies Office, the Inland Revenue Department or other government agencies.
- C. Information supplied by an employee to INZ at any time; and
- information about the employer held by INZ from their current or previous accreditation or Job Check application(s) or from other interactions the employer has had with INZ (e.g. visa applications they have supported); and
 - publicly available information about the employer.
- D. The application may be declined.
- E. Employers must advise INZ within 10 working days.

Treasure Hunt – Questions

- A. Will employers submitting an employer accreditation application be given the opportunity to comment before a decision to decline an application is made on the basis of any potentially prejudicial information (PPI)?
- B. Is there a statutory right of appeal against the decision to decline an employer accreditation application under these instructions?
- C. Does a fee for reconsideration of an employer accreditation application need to be paid?
- D. Is an immigration officer obligated to consider new information that is provided with a request for reconsideration? When might you not reconsider new information?
- E. If an employer is being granted accreditation for the first time under these instructions, how long will their accreditation last for?
- F. When might an employer be granted accreditation for 24 months?

Treasure Hunt – Answers

- A. Yes.
- B. No. INZ will reconsider a decision when it is made within 14 days of the date of decision.
- C. Yes a fee applies for reconsideration.
- D. No, an IO is not obligated to consider new information. You might consider new information when it is substantial and would equate to a new application, or a change in circumstances that occurred after the decision to decline.
- E. Employer accreditation may be granted for a duration of 12 months where the employer is being granted accreditation for the first time under these instructions
- F. Employer accreditation may be granted for a duration of 24 months where:
- the employer has previously been granted accreditation under these instructions; and
 - the previous accreditation has not lapsed for 12 months or more; and
 - the employer is not being granted accreditation as an employer who places Accredited Employer work visa holders in triangular employment arrangements, or as a franchisee employer.

Treasure Hunt – Questions

- A. After accreditation is granted, during which two periods can INZ conduct verification and risk management activities?
- B. What role must approve a decision to suspend employer accreditation?
- C. What role must approve a decision to revoke employer accreditation?
- D. If Employer 1 is accredited, and they merge or amalgamate with a non-accredited employer is the accreditation for Employer 1 still valid?

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Treasure Hunt – Answers

- A. During the period that Accredited Employer work visa holders are employed by the employer or the employer accreditation period.
- B. Immigration Manager.
- C. Head of Operations.
- D. The accreditation will be deemed to be revoked where that amalgamation or merger results in the final entity being a new entity, or the existing non-accredited entity. If the merger results in the entity remaining as Employer 1 with the same NZBN, then they retain their accreditation- See WA2.35(b).

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Interim Employer Accreditation (WA2.45.1)

Interim accreditation may be granted to an employer who:

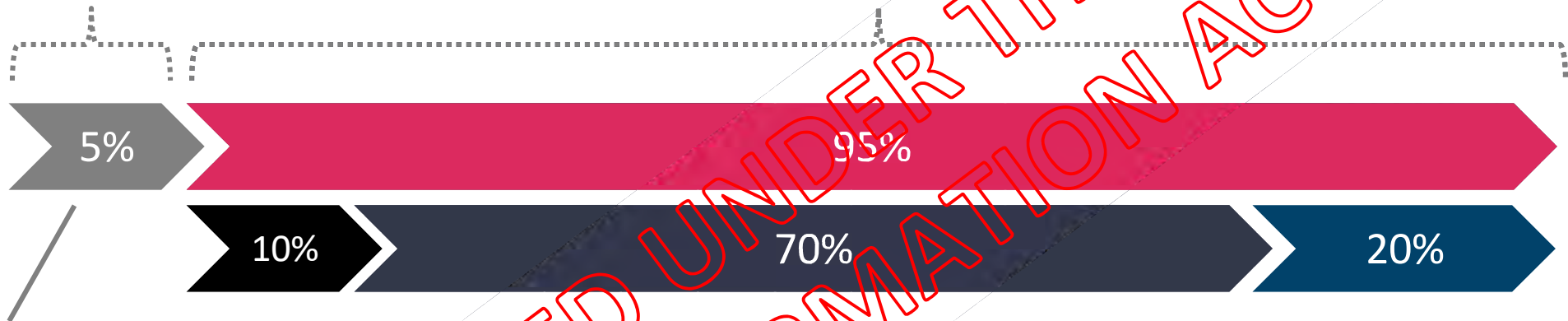
- has submitted an application for accreditation before their current accreditation has expired; and
- continues to meet the requirements for the accreditation they hold, as set out in these instructions.

The interim accreditation will be valid for **three months** or until the subsequent application has been decided, whichever occurs first.

AERMR allocations: decision timings and channels

Pre-decision AERMR

Post-decision AERMR



Streamlined processing

1. Employers with warnings
2. Stand-down list matches

Referral Targeted

Employers referred from the NPP

System Targeted

Employers selected from known higher risk sectors, business models and employment patterns

System Health

Employers selected from assumed lower or unknown risk factors

- 95% of effort focussed on post-decision AERMR
- Limited triggers for pre-decision intervention
- Slider will move more towards pre-decision risk management in later years

AERMR model inspired by the IRM

Appropriate corrective **Actions** are taken, recorded and assessed for effectiveness by A&S and R&V

AE RMR (R&V, JTA, MIU, A&S) collects both targeted and sampled information to better understand employer risks

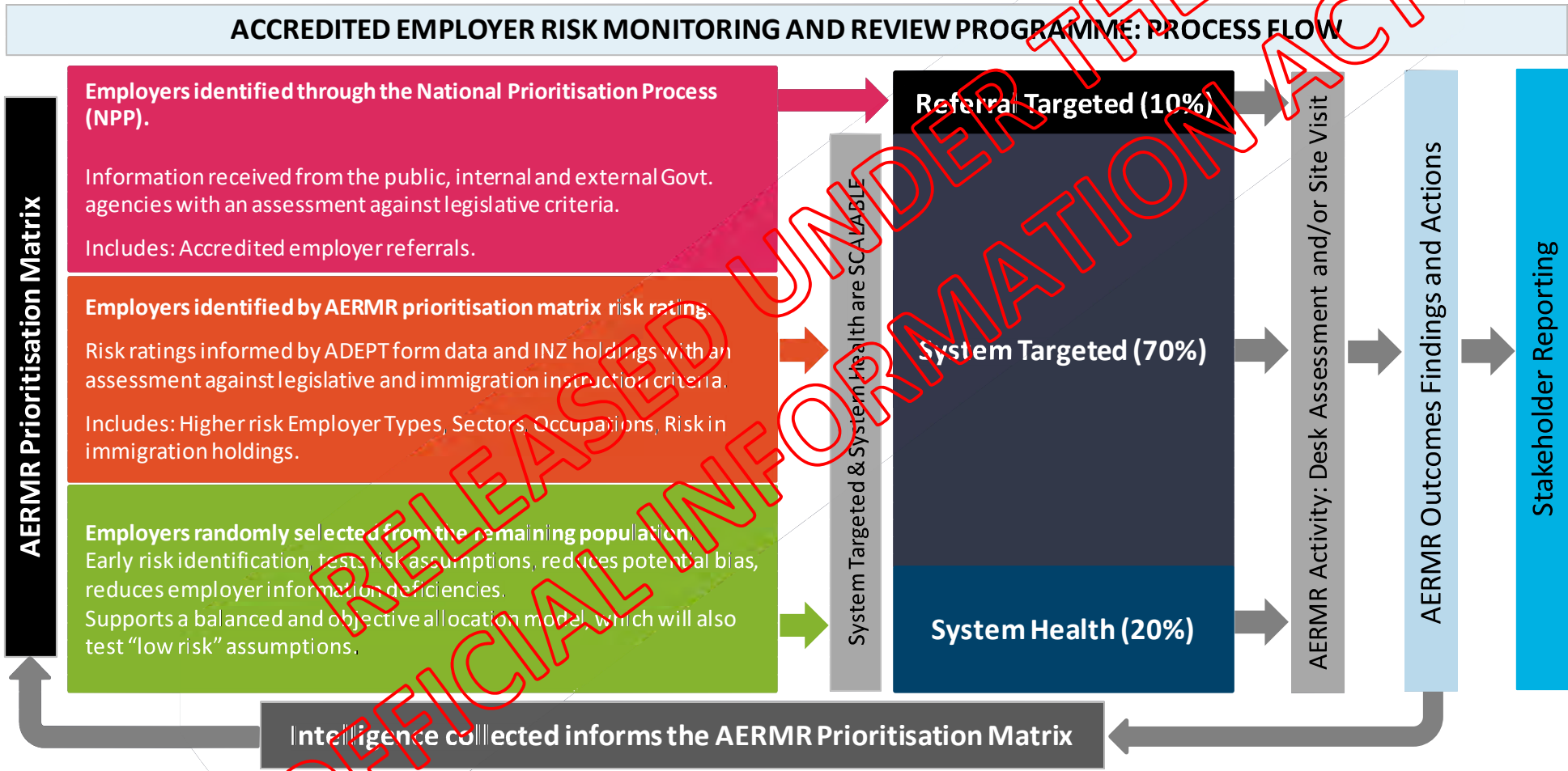
Where low or high risk is identified, appropriate **risk advice** is provided to BVO to improve accreditation decision making over time



AE RMR then **collates and evaluates** the information via an agreed process

Processed information is analysed and regularly reported to wider INZ to provide **insight** about the risk and value of different employers

AERMR Process Flow



Pre-decision risk management

Immigration Risks	AEWV Gateways			Post-Decision
	Employer Accreditation	Job Check	Migrant Check	AERMR
Migrant Exploitation	Y	Y		Y
Sustainability of Employment	Y			Y
Employer Phoenixing (obscuring previous non-compliance)	Y			Y
Non-compliance with Immigration Law	Y	Y		Y
Role Inflation		Y		Y
Salary Inflation		Y		Y
Non-genuine job offers		Y		Y
Non-genuine advertising		Y		Y
National Security			Y	Y
Character			Y	Y
Identity			Y	Y
Payments of premiums for employment			Y	Y
Non-genuine work experience			Y	Y

Activity

Use the SOPs to find the risk management approach for each of these scenarios:

- Employer is insolvent
- Employer has employed a person who is not entitled to work in that role
- Employer has provided false and misleading information
- Someone is claiming to be a qualified carpenter but is really a hammer hand (job inflation).
- The employer runs a restaurant, but we have received information that they are the partner of a banned director who ran a similar restaurant at the same location (phoenixing).
- There is an alert or warning. You review it and it isn't relevant anymore.



Close

Key take-outs?

Questions?

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