



17 August 2017

IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2017/11

To: All Manual Holders

AMENDMENTS TO THE IMMIGRATION NEW ZEALAND OPERATIONAL MANUAL

Introduction

This circular outlines changes to immigration instructions. A copy of the amended instructions is attached.

All immigration officers dealing with immigration applications should read the amendments and operate in accordance with the amended instructions on and after 28 August 2017.

Note

The amendments described in this circular will be published in the Immigration New Zealand Operational Manual in due course.

Any enquiries about these amendments should be directed to the Immigration Contact Centre on 0508 558 855 or 09 914 4100 (Auckland only).

Summary of contents

This amendment circular details changes to Immigration New Zealand's Operational Manual, and contains the following:

- The *Description of key changes* section contains a summary of the changes to immigration instructions.
- Appendix 1 contains amended *Temporary Entry instructions* effective on and after 28 August 2017.
- Appendix 2 contains amended *Residence instructions* effective on and after 28 August 2017.
- Appendix 3 contains other amendments to the Operational Manual effective on and after 28 August 2017.

Changes to Essential Skills work instructions have not been highlighted, as the current Essential Skills chapter will be revoked and replaced by new immigration instructions.

Other changes to Temporary Entry instructions, and changes to Residence instructions have been highlighted for ease of reference.

Description of key changes

Attached are the new Essential Skills work visa immigration instructions, which are effective from 28 August 2017. These new immigration instructions replace those in effect on 27 August 2017.

The new Essential Skills immigration instructions have a modified structure. Minor changes to wording have been made to some provisions carried over to the new immigration instructions.

Use remuneration to assist determining the skill-band of employment

WK3.5 Acceptable employment

Employment will be assessed as being in one of three skill-bands, based on the remuneration that will be paid and the skill level of the occupation as described in the Australian and New Zealand Standard Classification of Occupations (ANZSCO).

The skill-band of the employment will determine the duration an Essential Skills work visa may be granted for, whether there is a maximum time a person may work in New Zealand before they must leave for 12 months, and whether the partner and dependent children may apply for visas based on their relationship to an Essential Skills work visa holder.

Remuneration will be calculated on the basis of payment per hour, according to the hours stated in the employment agreement. Each hour worked must be paid above the remuneration threshold for a particular skill-band, for employment to be assessed as within that skill-band.

Consequential amendments have been made to provisions relating to approvals in principle

Three year maximum period allowed to hold Essential Skills work visas to work in lower-skilled employment before being required to leave New Zealand for 12 months

WK3.20 Requirements for applicants

An Essential Skills work visa holder may hold visas allowing work in lower-skilled employment for a maximum period of 3 years. After holding Essential Skills work visas for lower-skilled employment for 3 years, applicants are required to apply for a visa of a different type, an Essential Skills work visa for mid- or higher-skilled employment, or to leave New Zealand for 12 consecutive months before they are eligible to apply for a further Essential Skills work visa for lower-skilled employment.

Family members of Essential Skills work visa holders who have lower-skilled employment

WF3.1 Who is eligible for a special work visa

V3.10 Partners and dependent children of Essential Skills work visa holders

U8.20 Dependent children of holders of work visas

Immigration instructions have been amended to restrict the ability of Essential Skills work visa holders in lower-skilled employment from supporting the visas of their partner, and dependent children for work, student or visitor visas.

Despite this restriction, partners and children of Essential Skills work visa holders undertaking lower-skilled employment, who held a visa based on their relationship on 28 August 2017, will be eligible for further relationship-based visas, as long as the supporting worker is eligible for an Essential Skills work visa.

Family members of people who previously held student visas and post-study work visas, who transition to Essential Skills work visas for lower-skilled employment, will be eligible for further

visas, if the supporting worker was able to support work or student visas for their family at the time they were a student in New Zealand.

New lodgement requirements for Essential Skills work visa applications

WK2.1 Lodging an Essential Skills work visa application

WK2.5 Lodging a request for approval in principle to recruit overseas workers

To allow the employment conditions, pay and hours of work to be assessed, applications for an Essential Skills work visa must include a copy of the proposed employment agreement.

Essential Skills work visa applications submitted by a person holding a work visa with remuneration payment as a condition must also contain evidence of remuneration payment.

Labour hire employer accreditation instructions aligned with those for Talent (Accredited Employers)

WK5.1 Labour hire employer accreditation

WK5.5 Labour hire employer requirements and obligations

WK5.10 Applying for accreditation

WK5.15 Determining applications for labour hire employer accreditation

WK5.20 Reconsideration process for declined labour hire accreditation applications

WK5.25 Non-compliance with labour hire employer accreditation requirements and obligations

Amendments have also been made to align the labour hire accreditation rules and criteria with recent changes made to the Talent (Accredited Employer) instructions.

Talent (Accredited Employer) work instructions

WR1.25 Requirements for accreditation

Accreditation will now be granted for an initial period of two years. Applications for renewal of accreditation may be approved for up to five years.

An auditing provision has also been introduced, enabling INZ to request evidence that an accredited employer is continuing to meet requirements throughout the period of accreditation. Failure to continue to maintain compliance with accreditation requirements throughout an accreditation period may result in accreditation being revoked.

Further detail has been also added, outlining specific factors that may be considered when determining whether the requirements for accreditation have been met.

Appendix 1: Amendments to Temporary Entry instructions effective on and after 28 August 2017

WK1 Essential Skills Objective and Overview

WK1.1 Objective

WK1.5 Overview

WK1.1 Objective

Essential Skills work instructions contribute to the overall work instructions objective (see W1) by:

- a. incentivising the development of a highly skilled workforce, high quality jobs and workplaces, and high value industries; and
- b. helping New Zealand firms maintain capacity and supporting the provision of services meeting important social needs; while
- c. not displacing New Zealanders from employment opportunities or hindering improvements to wages or working conditions; and
- d. managing fiscal risks, settlement risks and public perceptions of migration; and
- e. ensuring the integrity of the immigration system and promoting the international reputation of New Zealand.

WK1.5 Overview

- a. Essential Skills work instructions provide for the grant of work visas to overseas workers with an offer of employment to work in New Zealand.
- b. Essential Skills work visas may only be granted if:
 - i. the employment is acceptable (WK3.5); and
 - ii. there are no New Zealand citizens or residents available for the work (WK3.10); and
 - iii. the employer meets requirements (WK3.15); and
 - iv. the applicant meets requirements (WK3.20).
- c. The skill band of the employment (WK3.5.1) generally determines the currency of an Essential Skills work visa granted and the ability of an Essential Skills work visa holder to support temporary visas for family members.

WK1.5.1 Applications with approval in principle

- a. Employers wishing to recruit foreign workers for a specific role or roles may request approval in principle (AIP).
- b. When considering a request for approval in principle, Immigration New Zealand will assess the availability of New Zealanders to do the work, and the requirements related to the employment and the employer, in advance of the applicant making a work visa application.
- c. Where an Essential Skills work visa application is made based on AIP, generally only the requirements related to the applicant (WK3.20) will be assessed.

WK1.5.5 Applications without approval in principle

- a. Overseas workers who have been offered employment in New Zealand do not require approval in principle and may apply directly to Immigration New Zealand for an Essential Skills work visa.
- b. In the case of a direct application for an Essential Skills work visa, requirements related to the employment, employer, applicant and the availability of New Zealanders will be assessed together.

WK2 Lodging an application under Essential Skills instructions

WK2.1 Lodging an Essential Skills work visa application

WK2.5 Lodging a request for Approval in Principle to recruit overseas workers

WK2.1 Lodging an Essential Skills work visa application

- a. Applications for Essential Skills work visas must be lodged in the prescribed manner (see [E4.50](#)) and include an *Employer Supplementary Form (INZ 1113)* completed by the employer.
- b. Applicants who hold a work visa with remuneration as a condition of that visa (see WK4.5(a)(iv)), must include evidence of their remuneration payment, such as Inland Revenue income summaries and bank statements.
- c. Applicants must provide:
 - i. a copy of the proposed employment agreement; and
 - ii. a copy of the signed offer of employment (see W2.10.10).
- d. Applications made on the basis of an offer of employment in an ANZSCO skill level 4 or 5 occupation must include a valid Skills Match Report prepared by Work and Income, unless:
 - i. the employer holds valid approval in principle for the role identified; or
 - ii. the role is on an Essential Skills in Demand list and the applicant meets the qualification and/or experience requirements; or
 - iii. the role is in the Canterbury region (WK3.10.20); or
 - iv. Work and Income have advised Immigration New Zealand of a regional absolute labour shortage (WK3.10.1 (e)(i)); or
 - v. the role is included in a list of occupations published by Work and Income that are exempt from the Skills Match Report process, and meets any additional requirements of that list (e.g. region of employment).

Note: A Skills Match Report may be used to support more than one work visa application, as long as it remains valid. A copy of the Skills Match Report should be included with each visa application.

WK2.5 Lodging a request for approval in principle to recruit overseas workers

- a. Applications for approvals in principle must be made on the form 'Request for Approval in Principle' (INZ 1112).
- b. A request for approval in principle must be accompanied by evidence that:
 - i. the employment is acceptable (WK3.5); and
 - ii. there are no New Zealand citizens or residents available for the work (WK3.10); and
 - iii. the employer meets requirements (WK3.15).
- c. To determine the skill-band of the proposed employment, evidence must be provided of:
 - i. the proposed remuneration; and
 - ii. the hours of work, or of the arrangements relating to the number of hours to be worked.

WK3 Determining an Essential Skills work visa application

WK3.1 Assessing an Essential Skills application or a request for approval in principle to recruit overseas workers

WK3.5 Acceptable employment

WK3.10 Determining the availability of New Zealand citizens or residents

WK3.15 Requirements for employers

WK3.20 Requirements for applicants

WK3.1 Assessing an Essential Skills application or a request for approval in principle to recruit overseas workers

- a. To approve an Essential Skills work visa, an immigration officer must be satisfied that:
 - i. the employment is acceptable as specified at WK3.5; and
 - ii. there are no New Zealand citizens or residents available for the work as specified at WK3.10; and
 - iii. the employer meets requirements as specified at WK3.15; and
 - iv. the applicant meets requirements as specified at WK3.20.
- b. To approve an Essential Skills work visa made on the basis that the employer has approval in principle (AIP), an immigration officer:
 - i. must be satisfied the applicant meets requirements for Essential Skills work visa applicants (WK3.20) and any requirements specified in the approval in principle; and
 - ii. may rely on the AIP to satisfy the requirements of WK3.1(a)(i-iii).
- c. Despite WK3.1(b), where an immigration officer has reasonable grounds for determining that the labour market, or circumstances of the employment or of the employer have materially altered since the grant of approval in principle, they may undertake further checks to ensure the provisions of WK3.1(a)(i-iii) are still satisfied.
- d. In cases where the employer supporting a work visa application currently holds or has previously held AIP which has lapsed for that position, the conditions specified in the AIP will continue to apply, unless the employer can satisfy the immigration officer that the circumstances of employment have changed.
- e. INZ may, on an exceptional basis, require an employer to apply for AIP to recruit overseas workers for the purposes of assessing any further work visa applications supported by the employer. This requirement will be imposed only where an employer's recruitment of non-New Zealand citizen or residence class visa holder workers is such that it is appropriate to undertake a labour market test for future applications collectively with an AIP, rather than on an individual basis. In these circumstances any further application for a work visa supported by that employer which is not associated with a valid AIP may be declined.

WK3.1.5 Assessing a request for approval in principle to recruit overseas workers

- a. To grant approval in principle to recruit overseas workers, an immigration officer must be satisfied that:
 - i. the employment is acceptable as specified at WK3.5; and
 - ii. there are no New Zealand citizens or residents available for the work as specified at WK3.10; and
 - iii. the employer meets requirements as specified at WK3.15.
- b. Where approval in principle to recruit foreign workers is granted, the approval must specify:
 - i. the duration the approval is valid for; and
 - ii. the duration of the work visa(s) to be granted to the eligible applicants who apply on the basis of the approval in principle; and
 - iii. the number of positions the employer has been approved to recruit for; and
 - iv. the skill-band of the employment that the employer has been approved to recruit for; and
 - v. the occupation(s) that the employer has been approved to recruit for; and
 - vi. the location(s) that the employer has been approved to recruit for; and
 - vii. the training and/or work experience necessary for applicants to be considered qualified for the position(s); and
 - viii. any undertakings the employer has agreed to as part of the job offer (such as provision of accommodation) and any other conditions deemed necessary by the immigration officer.
- c. No approval in principle application for the recruitment of workers to plant, maintain, harvest or pack crops in the horticulture or viticulture industries will be approved under these instructions. All requests to recruit non-New Zealand citizen or residence class visa holder workers to plant, maintain, harvest or pack crops in the horticulture or viticulture industries must be made under Recognised Seasonal Employer (RSE) instructions (see [WH1](#)) or the Supplementary Seasonal Employment (SSE) instructions (see [WH3](#)).

WK3.5 Acceptable employment

- a. To grant an Essential Skills work visa, an immigration officer must be satisfied that:
 - i. the offer of employment meets the requirements set out at W2.2.10; and
 - ii. the employment offered is genuine, sustainable and full-time for the duration of the employment period specified in the employment agreement; and
 - iii. payment is by wages, or salary; and
 - iv. the rate of pay is not less than the market rate for New Zealand workers in that occupation (regardless of whether the occupation is on one of the Essential Skills in Demand Lists); and
- b. An immigration officer will assess the employment offered to determine the skill-band of that employment (WK3.5.1) based on the remuneration and the skill level of the occupation as set out in the Australian and New Zealand Standard Classification of Occupations (ANZSCO).
- c. Applications for visas under Essential Skills instructions for self-employment must be declined.
- d. Applications for visas under Essential Skills instructions related to planting, maintaining, harvesting or packing crops in the horticulture or viticulture industries must be declined.

Note: Applications for work visas to plant, maintain, harvest or pack crops in the horticulture or viticulture industries must be made under the Recognised Seasonal Employer (RSE) Instructions (see [WH1](#)) or the Supplementary Seasonal Employment Instructions (see [WH3](#)).

WK3.5.1 Determining the skill-band of employment

- a. Employment will be assessed as higher-skilled where the remuneration offered is greater than \$35.24 per hour, regardless of the ANZSCO occupation.
- b. Employment will be assessed as mid-skilled where:
 - i. the remuneration offered is between \$19.97 per hour and \$35.24 per hour (inclusive); and
 - ii. the employment substantially matches the description for a skill level 1, 2 or 3 occupation as set out in the ANZSCO.
- c. Employment will be assessed as lower-skilled where:
 - i. the remuneration offered is less than \$19.97 per hour, regardless of the ANZSCO occupation; or
 - ii. the remuneration offered is less than \$35.24 per hour and the employment substantially matches the description for a skill level 4 or 5 occupation as set out in the ANZSCO.

WK3.5.5 Calculating remuneration

- a. Remuneration will be calculated on the basis of payment per hour.
- b. Remuneration will be calculated according to the hours of work stated in the employment agreement.
- c. If the employment agreement specifies payment by salary, the payment per hour will be calculated by dividing the annual salary by 52 weeks, followed by the number of hours that will be worked each week.
- d. If the employment agreement specifies payment other than by hour (including payment by salary), and the hours of work are variable, an immigration officer may request evidence of the range of hours to be worked in order to calculate the remuneration and determine the skill-band of the employment.
- e. Hours of work per week will be considered variable where the employment agreement contains a provision allowing the employer to request or require the employee to work additional hours from time to time.
- f. Where evidence of the range of hours is provided in terms of (e) above or where the employment agreement specifies a range of hours, the maximum hours will be used to calculate the remuneration.
- g. Each hour of work must be paid above the remuneration threshold for a particular skill-band, for employment to be assessed as within that skill-band.
- h. For the purposes of WK3.5.5, remuneration includes:
 - i. the agreed value of any reasonable deduction from the applicant's salary or wages for goods or services; and
 - ii. in the case of accommodation provided in connection to the employment:
 - o the agreed value of any reasonable deduction from the applicant's salary or wages for that accommodation; or
 - o if accommodation is provided by the employer, and there is no deduction from the applicant's salary or wages for that accommodation, the market rental value of the accommodation provided; or
 - o if an accommodation allowance is provided, the amount of that allowance.

Note: In relation to WK3.5.5(h)(ii) above, the meaning of accommodation, and the value of accommodation that is included in the definition of 'remuneration', reflects the definition of accommodation and the value of accommodation that forms part of a person's income under section CE 1 of the Income Tax Act 2007.

- i. For the purposes of WK3.5.5, remuneration excludes other employment-related allowances (for example tool, or uniform allowances), and bonuses which are dependent on performance.
- j. The remuneration requirements set out in WK3.5.1 will be updated in November each year based on New Zealand income data.

WK3.5.10 Assessment that employment substantially matches an ANZSCO occupation

- a. When assessing whether an offer of employment substantially matches a particular occupation in the ANZSCO, an immigration officer must be satisfied that the applicant's duties and responsibilities match the description of that occupation as set out in the ANZSCO.
- b. Where related occupations are described by the same task list in the ANZSCO, an immigration officer may disregard tasks not relevant to the occupation that most closely matches that of the applicant.

WK3.10 Determining the availability of New Zealand citizens or residents

- a. New Zealand citizens or residence class visa holder workers are considered to be 'available' if, as a result of a labour market test (see WK3.10.1), an immigration officer establishes that there are:
 - i. suitable New Zealand citizens or residence class visa holder workers who can take up the work on offer (see WK3.10.10); or
 - ii. suitable New Zealand citizens or residence class visa holder workers who can readily be trained to do the work on offer (see WK3.10.15).
- b. Immigration officers will accept that no suitably qualified New Zealand citizens or residence class visa holders are available where an occupation is included on the current Long Term Skill Shortage List, Immediate Skill Shortage List or (for employment in the Canterbury region only) Canterbury Skill Shortage List and the applicant's qualification and/or work experience meets the requirements on the list.
- c. It is not relevant to the determination of availability of New Zealand citizens or residence class visa holder workers whether those New Zealand citizen or residence class visa holder workers are prepared to do the work on the terms and conditions proposed by the employer.

Notes:

- The Essential Skills in Demand Lists are published on the immigration website at <http://skillshortages.immigration.govt.nz/>.
- Employment is in the Canterbury region if the entire or principal place of work is within the territorial authorities of Christchurch City Council, Selwyn District Council or Waimakariri District Council.

WK3.10.1 Labour market tests

- a. When conducting a labour market test an immigration officer must be satisfied that:
 - i. the employer has made a genuine attempt to attract and recruit suitable New Zealand citizens or residence class visa holder workers (see WK3.10.5); and
 - ii. New Zealand citizens or residence class visa holder workers are not available (WK3.10).
- b. Matters an immigration officer may take into account when determining whether or not a labour market test is satisfied include but are not limited to:
 - i. the employer's case in support of an individual worker's application; and
 - ii. evidence of a genuine attempt (see WK3.10.5) on the part of the employer to recruit New Zealand workers by way of advertising and/or use of other appropriate avenues of recruitment likely to attract New Zealand workers; and
 - iii. advice from Work and Income about the availability of New Zealand citizens or residence class visa holder workers to do the work offered; and
 - iv. advice from relevant stakeholders within the particular industry, including unions.
- c. In any particular case an immigration officer may decide to:
 - i. determine the labour market test is satisfied by one or more of the above; or
 - ii. determine that the labour market test is not satisfied by one or more of the above; or
 - iii. make other inquiries.
- d. Despite (c) above, but subject to (e) below, when determining whether there are New Zealand citizen or residence class visa holder workers available to undertake work in an ANZSCO Skill Level 4 or 5 occupation, immigration officers must consider advice from Work and Income about the availability of New Zealand citizens or residence class visa holder workers to do the work offered.
- e. The requirement in (d) above does not apply:
 - i. for any period of time where Work and Income has advised INZ of a regional absolute labour shortage for a specified occupation or industry, and the work offered is both for that occupation or industry, and in the region specified; or
 - ii. where the role is included in a list of occupations published by Work and Income that are exempt from the Skills Match Report process, and meets any additional requirements of that list (e.g. region of employment).

WK3.10.5 Definition of 'genuine attempts'

- a. For the purpose of these instructions an employer is considered to have made genuine attempts to recruit suitable New Zealand citizens or residence class visa holder workers if:
 - i. any specifications or requirements stipulated in a job description and/or ideal person specification are restricted to those specifications or requirements necessary to perform the work on offer; and
 - ii. the terms and conditions specified for the work on offer are not less than those of the New Zealand market, including payment at the New Zealand market rate; and
 - iii. the extent and nature of advertising or use of other appropriate means of recruitment is such that any suitable New Zealand workers would apply or be likely to apply for the position(s), for example:
 - o listing the vacancy with Work and Income;

- advertising the vacancy in a national newspaper and/or website;
 - contracting a recruitment company appropriate to the industry.
- b. For the purposes of these instructions an employer is not considered to have made genuine attempts to recruit suitable New Zealand citizens or residence class visa holders if:
- i. the employer has advertised the work in such a way that no New Zealand citizen or residence class visa holder will or is likely to apply (e.g. making foreign language skills a requirement when it is not necessary for the performance of the work); or
 - ii. an employer has advertised the work at terms and conditions that are less than terms and conditions New Zealand citizens or residence class visa holders typically receive for equivalent work; or
 - iii. a Skills Match Report is required by WK2.1 (d) and an immigration officer is satisfied the employer has not considered available New Zealand citizens or residence class visa holders referred by Work and Income.

WK3.10.10 Definition of 'suitable New Zealand citizens or residence class visa holder workers who can take up the work on offer'

For the purpose of these instructions a 'suitable New Zealand citizen or residence class visa holder worker who can take up the work on offer' is a New Zealand citizen or residence class visa holder worker who:

- a. has the relevant recognised qualification which is at, or above, the qualification that corresponds to the indicative skill level described for that occupation in the ANZSCO or has the relevant recognised work experience that the ANZSCO indicates may substitute the required qualification; and
- b. has qualifications, work experience or skills identified by the employer as being necessary to perform the role, but which are not listed in the indicative skill level described for that occupation in the ANZSCO, that are determined by an immigration officer to be reasonable; and
- c. has other competencies identified by the employer as necessary for the performance of the work that are determined by an immigration officer to be reasonable including (but not limited to):
 - i. having a driver licence or ability to get one, or
 - ii. being fit enough to do the work or not have any medical or other reasons why they cannot perform the work, especially for physical work, or
 - iii. being able to pass health, drug and criminal checks if required; and
- d. is located in the local region, or is willing and able to move to that region; and
- e. can practically make it to the workplace by having a suitable mode of transport; and
- f. is available for work at the hours required by the employer, noting that the position must be for full-time employment (see [W2.2.10](#)).

Notes:

- Local region is defined based on the regions used by Work and Income.
- At ANZSCO skill level 5, work experience and qualifications are not relevant.
- Where other prerequisites are needed to perform the role an employer must explain why and demonstrate that the remuneration offered reflects those requirements.

WK3.10.15 Definition of 'suitable New Zealand citizens or residence class visa holder workers who can readily be trained to do the work on offer'

For the purpose of these instructions a 'suitable New Zealand citizen or residence class visa holder worker who can readily be trained to do the work on offer' is a New Zealand citizen or residence class visa holder worker who:

- a. with on the job training could do the work on offer, despite not having:
 - i. the relevant recognised qualification which is at, or above, the qualification that corresponds to the indicative skill level described for that occupation in the ANZSCO or the relevant recognised work experience that the ANZSCO indicates may substitute the required qualification; and
 - ii. the qualifications, work experience or skills identified by the employer as being necessary to perform the role, but which are not listed in the indicative skill level described for that occupation in the ANZSCO, that are determined by Immigration New Zealand to be reasonable; and
- b. has other competencies identified by the employer as necessary for the performance of the work that are determined by an immigration officer to be reasonable including (but not limited to):
 - i. having a driver licence or ability to get one, or
 - ii. being fit enough to do the work or not have any medical or other reasons why they cannot perform the work, especially for physical work, or
 - iii. being able to pass health, drug and criminal checks if required; and
- c. is located in the local region, or is willing and able to move to that region; and
- d. can practically make it to the workplace by having a suitable mode of transport; and

- e. is available for work at the hours required by the employer, noting that the position must be for full-time employment (see [W2.2.10](#)).

Notes:

- Local region is defined based on the regions used by Work and Income.
- All positions at ANZSCO skill level 5 are positions which New Zealand citizens and residence class visa holder workers are considered able to 'readily be trained to do the work on offer'

WK3.10.20 Special instructions for labour market tests where the employment is in Canterbury

- a. In addition to the normal requirements of WK3.10.5, an employer requesting approval in principle based on an offer of employment in any occupation in the Canterbury region, or supporting an individual work visa application based on an offer of employment in an ANZSCO Skill Level 3, 4 or 5 occupation, in the Canterbury region must:
- i. engage with the Canterbury Skills and Employment Hub when attempting to recruit suitable New Zealand citizens or residence class visa holders; and
 - ii. provide evidence from the Canterbury Skills and Employment Hub of the outcome of this engagement, with the approval in principle or work visa application.
- b. Immigration officers may take this engagement and any related evidence into account when determining whether or not a labour market test is satisfied.
- c. Engagement with the Canterbury Skills and Employment Hub is not required if the occupation is included on the current Long Term Skill Shortage List, or Immediate Skill Shortage List or Canterbury Skill Shortage List and the applicant's qualification and/or work experience meets the requirements on the list.

Notes:

- For the purposes of [WK3.10.1\(b\)\(iv\)](#), advice from the Canterbury Skills and Employment Hub is considered to be advice from Work and Income.
- Employment is in the Canterbury region if the entire or principal place of work is within the territorial authorities of Christchurch City Council, Selwyn District Council or Waimakariri District Council.

WK3.15 Requirements for employers

- a. To grant an Essential Skills work visa, an immigration officer must be satisfied that:
- the employer is the direct employer, responsible for such things as:
 - payment of salaries;
 - PAYE tax instalments;
 - conditions of employment;
 - day-to-day supervision of the workplace and the employee; and
 - the employer has previously complied and will comply in future with all relevant New Zealand employment and immigration law and immigration instructions; and
 - the employer has previously paid any employees who were holders of an Essential Skills work visa the remuneration required by those employees' work visa conditions (see WK4.5 (a) (iv)); and
 - the employer meets the requirements set out at W2.10.15 and is not included on a list of non-compliant employers maintained by the Labour Inspectorate (see Appendix 10).
- b. Where the job offer is in the construction sector in the Canterbury region and the employer is a labour hire company, the application must be declined unless the labour hire company holds accreditation (see [WK5](#)).

Note: Employment is in the Canterbury region if the entire or principal place of work is within the territorial authorities of Christchurch City Council, Selwyn District Council or Waimakariri District Council.

WK3.15.1 Evidence required from employers

- a. Employers requesting approval in principle to employ a non-New Zealand citizen or residence class visa holder worker or supporting an individual work visa application must provide:
- job offer(s) containing all the information specified in the generic work visa provisions at W2.10.10; and
 - confirmation of whether or not the worker requires occupational registration in New Zealand; and
 - if more than one, the number of temporary workers sought; and
 - the names of suitable applicants (if known); and
 - evidence of genuine attempts to recruit suitable New Zealand citizens or residence class visa holders (see WK3.10.5), including the reasons why:
 - any particular job specifications were considered necessary for the performance of the work; and
 - any New Zealand applicants who applied were either not suitable, or refused to perform the work; and
 - if requested by an immigration officer, evidence and/or confirmation of past compliance with employment and immigration law (see [W2.10.5](#)); and
 - if the job offer(s) is in the construction sector in Canterbury region and the employer is a labour hire company, confirmation of the labour hire company's accreditation.

Note: Employment is in the Canterbury region if the entire or principal place of work is within the territorial authorities of Christchurch City Council, Selwyn District Council or Waimakariri District Council.

- b. Evidence and/or confirmation of past and future compliance with employment and immigration law may include but is not limited to:
- employment agreements with workers which demonstrate compliance;
 - tax records that show compliance with employment agreements and visa conditions;
 - a history with the Ministry of Business, Innovation and Employment and WorkSafe New Zealand of past compliance.
- c. Employers who are included on a list of non-compliant employers maintained by the Labour Inspectorate are considered to not have a history of compliance with employment law (see W2.10.15 and Appendix 10).
- d. Employers who have previously failed to pay any employee the remuneration required by the employee's visa conditions are considered to not have a history of compliance with immigration law.

WK3.20 Requirements for applicants

To grant an Essential Skills work visa, an immigration officer must be satisfied that the applicant:

- a. is suitably qualified by training and experience to do the work offered; and
- b. if the Essential Skills work visa is for lower-skilled employment (WK3.5.1), is not required to spend time outside New Zealand (referred to as an applicant who is subject to a 'stand-down period' – see WK3.20.5).

WK3.20.1 Determining that an applicant is suitably qualified

- a. When assessing whether an applicant is suitably qualified by training and experience to do the work offered, immigration officers will consider whether the qualifications and work experience required by the occupation described in the ANZSCO substantially matches the applicant's proposed employment.
- b. Immigration officers must consider whether:
 - i. the applicant holds a relevant qualification that is comparable to the qualification described for that occupation in the ANZSCO; or
 - ii. the applicant has the relevant work experience that the ANZSCO indicates may substitute for the required qualification; or
 - iii. the employment is in an occupation included on the Essential Skills in Demand Lists and the applicant meets the relevant requirements specified for that occupation.
- c. Immigration officers must be satisfied that the qualifications and/or work experience provided by the applicant are relevant to their proposed employment in New Zealand.

WK3.20.5 Applicants who are required to spend time outside New Zealand (subject to a 'stand-down period')

- a. An Essential Skills work visa holder may hold visas allowing work in lower-skilled employment (as defined in WK3.5.1) for a maximum period of 3 years before they are required to spend time outside New Zealand (subject to a stand-down period).
- b. Applicants subject to a stand-down period are not eligible for a further Essential Skills work visa for lower-skilled employment until they spend 12 consecutive months outside New Zealand.
- c. A person who has spent 12 consecutive months outside New Zealand is no longer subject to a stand-down period and may be granted further Essential Skills work visas for the duration allowed by WK4.1(a)(iii).
- d. Essential Skills work visas applied for before 28 August 2017 did not include an assessment of skill-band under WK3.5.1 and are therefore not considered when calculating the 3 year maximum period.

WK3.20.10 Determining an Essential Skills work visa application where an applicant is awaiting a Skilled Migrant Category decision

- a. Despite WK3.1 (a)(ii), an applicant may be granted an Essential Skills work visa, valid for 1 year without an immigration officer being satisfied that there are no New Zealand citizens or residence class visa holders available to do the work offered if:
 - i. they currently hold a temporary work visa; and
 - ii. they have applied for an Essential Skills work visa to continue working in the role they currently hold; and
 - iii. they meet all other requirements of Essential Skills work visa instructions; and
 - iv. they have been issued an Invitation to Apply under the Skilled Migrant Category and retain the ability to apply (see [SM3.1](#)), or have made an application for residence under the Skilled Migrant Category and that application has not yet been completed; and
 - v. their Expression of Interest was selected in part on the basis of points claimed for skilled employment in the role they currently hold.
- b. One further Essential Skills work visa, valid for six months, may be granted in exceptional circumstances to an applicant who continues to meet the requirements of (a) above.

WK3.20.15 Determining an Essential skills work visa application for Filipino dairy workers who have provided false documents

- a. The intent of this section of Essential Skills instructions is:
 - i. to recognise that the dairy industry is of particular importance to the New Zealand economy, particularly in regional and rural New Zealand;
 - ii. to acknowledge significant levels of false and misleading information have been identified in previous work visa applications to work in the dairy industry; and
 - iii. to acknowledge that declining a large number of work visa applications for failing to meet the requirement to be of good character would have a detrimental effect on the dairy industry.
- b. These instructions apply to people who:
 - i. are nationals of the Philippines;

- ii. are in New Zealand holding an Essential Skills work visa (or an interim visa based on holding an Essential Skills work visa at the time they made an application);
 - iii. are subject to [A5.45\(b\)](#) as an immigration officer has established that, on the balance of probabilities, in the course of applying for a New Zealand visa they provided any statement, information, evidence or submission that was false, misleading or forged;
 - iv. were granted an Essential Skills work visa to work on a dairy farm before 1 September 2015; and
 - v. are applying for a further Essential Skills work visa to work on a dairy farm.
- c. Despite the character requirement set out at [A5.45\(b\)](#) a person to whom (b) above applies may be granted an Essential Skills work visa if they:
- i. have not subsequently withheld information or provided further false information to INZ, in particular with regard to the application in which they originally supplied false information; and
 - ii. meet all other criteria for the grant of an Essential Skills visa.

WK3.20.20 Minimum income requirement for dependent children of Essential Skills work visa holders

See also Immigration Act 2009 s 49(1)(b)

- a. Essential Skills visa holders in lower skilled employment who is eligible to support their dependent child's visitor or student visa application (see V3.10.1 or U8.20.1), must meet a minimum income threshold if they wish to support their dependent child's visa application. The visa holder's dependent child will be assessed against criteria set out in V3.10.5 or U8.20.5.
- b. Parents holding Essential Skills work visas may be liable for deportation if the dependent child's visa application is declined under these instructions and the dependent child becomes unlawful.
- c. It will be a condition of the dependent child's visa and the parent/s visa(s) that the parent/s must maintain the minimum income threshold for the duration of their dependent child's visa. If the threshold is not maintained the parent/s and child may be liable for deportation.

Note: Where both parents hold Essential Skills work visas, their incomes may be combined to meet the minimum income threshold.

The minimum income threshold excludes employment-related allowances (for example tool or uniform allowances) and must be calculated on the basis of no more than 40 hours' work per week

WK4 Currency and Conditions of Essential Skills work visas

WK4.1 Currency of Essential Skills work visas

WK4.5 Conditions of Essential Skills Work Visas

WK4.1 Currency of Essential Skills work visas

- a. An Essential Skills work visa may be granted for the period for which the employment is offered, up to a maximum of:
 - i. 5 years for employment assessed as higher-skilled; or
 - ii. 3 years for employment assessed as mid-skilled; or
 - iii. 1 year for employment assessed as lower-skilled, unless a 1 year visa would result in the holder exceeding the 3 year maximum period holding Essential Skills visas for lower-skilled employment (WK3.20.5); or
 - iv. 3 years for employment for an accredited labour hire company; or
 - v. 1 year or 6 months if the applicant meets the requirements at WK3.20.10 for people also applying under the Skilled Migrant Category for a resident visa.
- b. Where the grant of a 1 year visa, for employment assessed as lower-skilled, would result in the holder exceeding the 3 year maximum period holding Essential Skills visas for lower-skilled work, the visa may be granted for the remainder of the 3 year period.
- c. Despite (a) above, if an application for a work visa is approved on the basis of approval in principle issued prior to 28 August 2017, the duration of that work visa may be consistent with the duration stated in that approval in principle.

Note: The maximum 3 year period is based on the total period that the applicant held Essential Skills work visas to work in lower-skilled employment, regardless of whether the holder was inside or outside New Zealand while holding the visa.

WK4.5 Conditions of Essential Skills Work Visas

- a. Essential Skills work visas will be subject to conditions that the holder:
 - i. may work only in a specified industry, trade, occupation or profession; and
 - ii. may work only for a specified employer; and
 - iii. may work only in a specified area or location; and
 - iv. must be paid at or above the level required by the skill-band of their employment; and
 - v. must provide evidence of the payment of remuneration if requested by an immigration officer.
- b. Despite (a)(ii) above, until 31 December 2017 the following provisions apply:
 - i. for work visas granted under the Essential Skills instructions for work in the Canterbury region, the employer does not need to be specified as a condition on the visa label;
 - ii. holders of current work visas granted under the Essential Skills instructions for work in the Canterbury region may apply for a variation of conditions to remove the condition that the holder may work only for a specified employer (see [E3.25](#))

Note: Employment is in the Canterbury region if the entire or principal place of work is within the territorial authorities of Christchurch City Council, Selwyn District Council or Waimakariri District Council.

WK5 Labour hire employer accreditation

WK5.1 Labour hire employer accreditation

WK5.5 Labour hire employer requirements and obligations

WK5.10 Applying for accreditation

WK5.15 Determining applications for labour hire employer accreditation

WK5.20 Reconsideration process for declined labour hire accreditation applications

WK5.25 Non-compliance with labour hire employer accreditation requirements and obligations

WK5.1 Labour hire employer accreditation

- a. For the purposes of these instructions, labour hire employers are defined as employers who employ and outsource workers for short or long-term positions to third parties with whom the employer has a contractual relationship to supply labour.
- b. Accreditation will be granted where an immigration officer is satisfied that the labour hire employer:
 - i. is in a sound financial position; and
 - ii. has human resource policies and processes which are of a high standard; and
 - iii. has a demonstrable commitment to training and employing New Zealand citizens or residence class visa holders; and
 - iv. has good workplace practices, including a history of compliance with all immigration and employment laws such as the Immigration Act 2009, the Accident Compensation Act 2001, the Minimum Wage Act 1983, the Health and Safety at Work Act 2015, the Employment Relations Act 2000, Wages Protection Act 1983, Parental Leave and Employment Protection Act 1987, the Equal Pay Act 1972 and the Holidays Act 2003; and
 - v. will comply with all the requirements and obligations set out at WK5.5.
- c. Approved employers will be granted accreditation for a period of 12 months.
- d. Accreditation may be renewed on an annual basis, upon application, where INZ is satisfied that the employer still meets the requirements for accreditation set out above.
- e. Subsidiary companies cannot be covered by the accreditation of a parent company. To be accredited, they must apply in their own right.

WK5.5 Labour hire employer requirements and obligations

Before accreditation is granted the labour hire company must agree to meet the following conditions and obligations for the duration of the accreditation. They must agree to:

- a. offer employment agreements that:
 - i. meet the employment requirements set out in WK3.5;
 - ii. exclude a trial period provision;
 - iii. specify a rate of pay not less than the market rate for New Zealand workers in the specified occupation (see WK3.5);
 - iv. contain employment terms and conditions equivalent to those of workers directly employed by the company with whom the worker is placed; and
- b. ensure that any third party to whom they hire out a migrant worker has good workplace practices that align with the requirements set out under WK5.1(b)(i-iv).

WK5.10 Applying for accreditation

- a. Applications for accreditation must be made on the *Labour Hire Employer Accreditation Application (INZ 1227)* form and accompanied by documents which demonstrate that the employer meets the requirements for accreditation set out at WK5.1(b).
- b. A fee is payable for an application for accreditation. A lower fee is payable for annual renewal of accreditation.

WK5.15 Determining applications for labour hire employer accreditation

- a. In determining whether an employer is in a sound financial position, an immigration officer may take into account such factors as:
 - i. the period for which the employing organisation has been established as a going concern; and
 - ii. financial indicators such as revenue, profit and equity levels; and
 - iii. reserve capital; and
 - iv. ability to sustain current and proposed employment; and
 - v. accounts receivable.
- b. In determining whether an employer has human resource policies and practices which are of a high standard, an immigration officer may take into account such factors as:
 - i. WorkSafe NZ or Labour Inspectorate findings; and
 - ii. sample employment agreements; and
 - iii. evidence of HR and health and safety policies and procedures; and
 - iv. whether the employer is International Organisation for Standardisation (IOS) certified; and
 - v. feedback from relevant unions and other employee representatives.
- c. In determining whether an employer has a demonstrable commitment to training and employing New Zealand citizens or residence class visa holders, an immigration officer may take into account such factors as:
 - i. evidence of training provided to staff who are New Zealand citizens or residents; and
 - ii. whether the employer makes 'genuine attempts' (see WK3.10.5) to recruit New Zealand citizens or residents to fill any vacancies including that advertised vacancies accurately reflect the position and salary or wages; and
 - iii. the proportion of the employer's workforce who are New Zealand citizens or residents; and
 - iv. feedback from relevant unions and other employee representatives.
- d. In determining whether an employer has good workplace practices, an immigration officer may take into account such factors as:
 - i. whether the employer has diversity policies and practices in place as outlined by Diversity Works NZ; and
 - ii. the extent of any non-compliance with legislation listed in WK5.1(b)(iv); and
 - iii. where there have been minor breaches of legislation listed in WK5.1 (b)(iv), the degree to which the employer has put in place remedies to prevent similar breaches in the future; and
 - iv. policies and processes the employer has put in place to ensure they remain compliant with the legislation listed in WK5.1 (b)(iv); and
 - v. feedback from relevant unions and other employee representatives.
- e. Applicants must consent to INZ seeking information from the Ministry of Business, Innovation and Employment, WorkSafe New Zealand and the Accident Compensation Corporation concerning the applicant's compliance with New Zealand employment laws. Where such consent is not given an application for accreditation will be declined.
- f. An application for accreditation will be declined where the employer has a history of non-compliance with immigration or employment law, including if they fail to meet the requirements set out at W2.10.15 or are currently included on a list of non-compliant employers maintained by the Labour Inspectorate (see Appendix 10).
- g. Breaches of employment standards which lead to inclusion on a list of non-compliant employers may still be considered when determining if an employer has a history of compliance with employment law, even if the employer is no longer on the list.
- h. An application for accreditation will be declined where an immigration officer considers accreditation would create unacceptable risks to the integrity of New Zealand's immigration or employment laws or policies.
- i. An immigration officer must be satisfied that the information and documents included in an application for accreditation are genuine and accurate, and may take any steps it determines necessary to verify such documents and the information they contain, including interviews. An immigration officer will decline an application for accreditation if they are satisfied that an employer provided false or misleading information in support of an application, or withheld relevant information that was prejudicial to the grant of accreditation.
- j. INZ may, where necessary, seek the approval of an employer to conduct a site visit to the employer's premises.
- k. INZ will consult with relevant unions and other employee representatives when determining whether an employer has human resource policies and processes which are of a high standard, a commitment to training and employing New Zealand citizens and residence class visa holders and good workplace practices.

- l. An application for accreditation will be declined where an employer does not give consent to disclose relevant information. Before disclosing information, INZ will seek the consent of the employer for the disclosure of information that is:
 - i. identified by the employer as commercially sensitive; and
 - ii. that information is provided in confidence to INZ; and
 - iii. INZ considers that disclosure of that information is necessary for the determination of an application.
- m. Where INZ, in consulting with other agencies, receives information which may be prejudicial to the positive outcome of an employer's application for accreditation, that adverse information will be put to the employer for comment before a decision is made on their application.

WK5.20 Reconsideration process for declined labour hire accreditation applications

- a. There is no statutory right of appeal against the decision to decline an application for labour hire accreditation. However, INZ will reconsider a declined application for labour hire accreditation where new information is provided within 14 days of the employer being notified of the decline.
- b. The fee for reconsideration of an application for accreditation must accompany the written request for reconsideration.

WK5.25 Non-compliance with labour hire employer accreditation requirements and obligations

Where non-compliance, other than of a minor nature, with the conditions listed under WK5.5 has been identified, the following process will occur:

- a. INZ will suspend the processing of any work visa applications related to an existing labour hire accreditation immediately.
- b. The non-compliant employer will be advised in writing of the suspension and will be sent a report detailing the non-compliance, and will be given 30 days to remedy the non-compliance.
- c. Resolution (or satisfactory progress towards resolution) of the non-compliance to the satisfaction of INZ within the 30 day period will see the suspension lifted and processing of related work visa applications will resume.
- d. The Ministry of Business, Innovation and Employment may conduct an audit three to six months later to assess the effectiveness of the remediation undertaken. If the remediation is deemed inadequate or ineffective, the suspension can be re-imposed.
- e. If INZ is not satisfied that the non-compliance has been addressed or satisfactory progress has been made towards resolution within the 30 day period, the suspension of related work visa processing will continue (until resolution occurs).
- f. Failure to address or make satisfactory progress towards resolving the non-compliance may result in the current accreditation being revoked, current work visa holders becoming liable for deportation, and any future accreditation applications being declined.
- g. INZ may also revoke an employer's accreditation where:
 - i. non-compliance, other than of a minor nature, with the conditions and obligations listed under WK5.5 is identified; or
 - ii. it considers an accredited employer's conduct has created an unacceptable risk to the integrity of New Zealand's immigration or employment laws or policies.

Note: INZ may rely on the advice of the Ministry of Business, Innovation and Employment - Labour Inspectorate in determining whether resolution has been reached or satisfactory progress has been made towards resolution.

E3.26 Varying the conditions of temporary entry class visas

See also *Immigration Act 2009 s 52*

- a. Holders of temporary entry class visas should apply for a variation of the conditions of their visa if:
 - i. they wish to work and do not have a visa that allows work in New Zealand; or
 - ii. they hold a work or visitor visa and wish to undertake a programme of study in New Zealand for longer than 3 months (unless [U2.5](#) applies); or
 - iii. they hold a work visa limited by conditions and wish to change employers, and/or occupation and/or the place of employment
- b. Immigration officers may grant a variation of conditions in such cases provided that the applicant completes an Application for Variation of Conditions and produces:
 - i. the appropriate fee;
 - ii. a valid passport (or a certified copy) or travel document (or a certified copy);
 - iii. documents which support the requested variation, such as:
 - an offer of employment (see [W2.10.10](#)); or
 - an offer of place at a suitable education provider (see [U3.5](#)), and evidence of tuition fee payment or exemption (see [U3.10](#)); and
 - iv. any other documents or information requested by the immigration officer.
- c. A variation of conditions will only be granted where the varied conditions still meet the objectives of the instructions which the visa was granted under.
- d. A variation of conditions to work for a specific employer will only be granted where the employer meets requirements at [W2.10.5](#), [W2.10.6](#) and [W2.10.15](#).

E3.26.1 Varying the conditions of work visas

E3.26.1.1 Varying Essential Skills work visa conditions

- a. Essential Skills work visa holders seeking to change occupation or place of employment will not be granted a variation of conditions and must instead apply for a new work visa, **unless**:
 - i. their new occupation is listed on an Essential Skills in Demand list; and
 - ii. they meet the requirements of the list.
- b. Essential Skills work visa holders seeking to change employment to a skill-band lower than that of their current employment ([WK3.5.1](#)), will not be granted a variation of conditions, and must instead apply for a new work visa.

E3.26.1.5 Varying Specific Purpose or Event visa conditions

- a. Holders of a work visa granted under [WS2](#) as players or professional sports coaches may apply for a variation of conditions of their work visa to undertake additional employment. A variation of conditions may be granted if:
 - i. the terms of the existing employment have been met, and will continue to be met; and either
 - ii. the secondary employment is offered by the sports club or a company involved in the sport and the position is offered solely to this particular player or coach; or
 - iii. the secondary employment is offered by an employer other than the sports club or a company involved in the sport and an immigration officer is satisfied that there are no New Zealand citizens or residence class visa holders available to be employed in the position (see [WK3.10](#)).

E3.26.1.10 Varying Talent (Accredited Employers) work visa conditions

- a. Holders of a work visa granted under [WR1](#) (Talent Accredited Employers) Work Instructions) may apply for a variation of conditions of their work visa to change employers. A variation of conditions may be granted:
 - i. to undertake employment for another accredited employer; or
 - ii. to undertake employment for another employer who is not an accredited employer if their employment is no longer available due to reasons beyond the visa holder's control. When assessing such applications for a variation of conditions, immigration officers will consider all the circumstances of the applicant and the reasons for which the former accredited employer did not continue employment or the former employer's accreditation was not renewed or rescinded.
- b. In order to be granted a variation of conditions under (a) above:
 - i. the base salary offered must be no less than the base salary that was required at the time the initial work visa application was made; and
 - ii. the offer of employment must meet the requirements of [WR1.10](#); and
 - iii. employers must meet the requirements under [W2.10.5](#), [W2.10.6](#), [W2.10.10](#) and [W2.10.15](#).

Notes:

~ Where a person fails to continue employment in the circumstances described in (a) and (b) above, they will not be eligible for residence under the Residence Instructions for holders of work visas granted

under the Talent (Accredited Employers) Work Instructions.

~ For the avoidance of doubt, the base salary in (d) above excludes employment-related allowances (for example overtime, tool or uniform allowances). The base salary is calculated on the basis of 40 hours work per week.

E3.26.5 Varying the conditions of visitor visas

- a. Holders of visitor visas granted under V3.100 Guardians accompanying students to New Zealand may only be granted a variation of conditions for part time work or part time study between the hours 9:30am and 2:30pm Monday to Friday (inclusive) (see [V3.100.35](#)).
- b. Holders of visitor visas may be granted a variation of conditions for a duration of six weeks to undertake seasonal work (planting, maintaining, harvesting and packing crops) in any region where the Ministry of Social Development has identified a shortage of seasonal labour and for any employer in the horticulture or viticulture industries, provided the applicant has not been granted a variation of conditions for this purpose since their most recent entry to New Zealand.

E3.26.10 Varying the conditions of student visas

Holders of student visas may be granted a variation of conditions to allow them to work in line with the requirements at [U13](#).

W2.10 Generic work visa instructions

Unless specifically stated otherwise elsewhere in work visa instructions the requirements set out below apply to all applicants for work visas and all employers wishing to employ them.

W2.10.1 Requirements for applicants

Unless specifically stated otherwise all applicants for work visas must:

- a. meet the requirements under Generic Temporary Entry instructions for:
 - i. lodging an application for temporary entry as set out at [E4](#); and
 - ii. bona fide applicants as set out at [E5](#); and
 - iii. health and character as set out at [A4](#) and [A5](#); and
- b. produce evidence to show that:
 - i. they are suitably qualified by training and experience to do the job they have been offered; and
 - ii. they can meet any of the necessary New Zealand registration requirements (see [SM10](#) for the list of occupations requiring registration); or
 - iii. they have an offer of employment and evidence from the New Zealand Medical or Dental Council that they are eligible for registration subject only to attending a personal interview with a Council representative within one month of their arrival in New Zealand; and

Notes:

~ For medical practitioners, registration within a 'special purpose scope of practice' is not registration for the purpose of a residence or work to residence application.

~ Applicants who have been granted a visa in order to obtain registration as a nurse may only work in an occupation which is ANZSCO Skill Level 1 or 2.

- c. not have held a work visa as a Primary Sector Trainee ([W18](#)) in the two years prior to their current work visa application.

W2.10.5 General requirements for employers

See also *Immigration Act 2009 ss 350, 351*

- a. All employers wishing to employ non-New Zealand citizen or residence class visa holders to work in New Zealand must comply with all relevant employment and immigration law in force in New Zealand. Compliance with relevant New Zealand employment and immigration law includes, but is not limited to:
 - i. paying employees no less than the appropriate statutory minimum wage or other contracted industry standard; and
 - ii. meeting holiday and special leave requirements or other minimum statutory criteria, e.g. health and safety obligations; and
 - iii. only employing people who have authority to work in New Zealand (see W2.10.6 below); and
 - iv. meeting the requirements of W2.10.15.
- b. Evidence or confirmation of past and future compliance with employment and immigration law may include but is not limited to:
 - i. employment agreements with workers which demonstrate compliance, including, but not limited to, that all mandatory terms and conditions are included in the employment agreement, that any deductions are reasonable, and that any minimum standards included comply with employment legislation; and
 - ii. a recognised history with the Ministry of Business, Innovation and Employment of past compliance.
- c. Immigration officers may also request other evidence or confirmation of the employer's past and future compliance with employment and immigration law.
- d. To ensure that the objective of work visa instructions at [W1\(b\)\(iii\)](#) is met, immigration officers may require employers to provide evidence that the rate of pay offered to non-New Zealand citizen or residence class visa holder workers is not less than the market rate for New Zealand workers in that occupation.
- e. INZ will decline an application for a work visa or employer status (such as accreditation, recognised seasonal employer, agreement to recruit or approval in principle) where the employer does not have a history of compliance with employment law or where the employer is included on a list of non-compliant employers maintained by the Labour Inspectorate (see W2.10.15 and Appendix 10).

Notes:

~W2.10.5(d) applies regardless of whether a labour market test (including where an occupation is listed on the Essential Skills in Demand Lists (see [WK3.10](#))) has been met.

~INZ will decline an application for a work visa or entry permission where it considers that granting the work visa or entry permission would undermine the integrity, credibility or reputation of the New Zealand immigration or employment relations systems.

W2.10.6 Duty of employers to only employ people who have authority to work in New Zealand

See also *Immigration Act 2009 ss 350, 351*

- a. All employers wishing to employ non-New Zealand citizen or residence class visa holders have a duty to only employ people who are entitled to work in New Zealand. This duty includes employing people only in accordance with the employment-related conditions of their visas, if such conditions are imposed (such as a specific employer, a specific position, or remuneration above the threshold required for the holder's Essential Skills skill-band).
- b. Employers are liable for prosecution under section 350 of the Immigration Act 2009 if they:
 - i. allow or continue to allow any person to work in that employer's service, knowing that the person is not entitled under the Immigration Act 2009 to do that work (see also [D7.40](#)); or
 - ii. allow a person who is not entitled under the Immigration Act 2009 to work in the employer's service to do that work.
- c. It is not a defence to b(ii) above that the employer did not know that the person was not entitled to do that work, except where the employer has taken reasonable precautions and exercised due diligence to ascertain a person's entitlement to do the work.
- d. An employer is treated as knowing that an employee is not entitled under the Immigration Act 2009 to do any particular work if, at any time in the preceding 12 months (whether before or after the commencement of section 350 of the Immigration Act 2009), the employer has been informed of that fact in writing by an immigration officer.
- e. Employers may ascertain an employee or potential employee's entitlement to work for them by:
 - i. sighting suitable documentation proving that person's entitlement to work in New Zealand; or
 - ii. utilising the online VisaView system (www.immigration.govt.nz/VisaView); or
 - iii. contacting the INZ Contact Centre; or
 - iv. any combination of the above.
- f. Suitable documentation for (e)(i) above includes, but is not limited to:
 - i. for non-New Zealand citizens:
 - o a passport with a valid work visa;
 - o a passport with a valid temporary-entry class visa (other than a work visa) with a variation of conditions to work;
 - o a passport with a valid residence class visa;
 - o an Australian passport;
 - o an eVisa allowing work (and evidence of the visa-holder's identity);
 - ii. for New Zealand citizens:
 - o a New Zealand passport;
 - o a New Zealand birth certificate confirming New Zealand citizenship, and photo identification;
 - o a New Zealand citizenship certificate and photo identification.
 - o a non-New Zealand passport with an INZ endorsement confirming New Zealand citizenship
- g. Where an employer takes reasonable precautions and exercises due diligence to ascertain an employee's entitlement to do that work, they should keep a record of the steps they took and evidence of the employee's entitlement to work for them.
- h. If an employee's entitlement to work is for a limited period, an employer is liable under (b) if the employment continues after the employee is no longer entitled to work.

Notes:

~ Suitable documentation may also include evidence of a permit allowing work, issued under the Immigration Act 1987.

~ The defence available under s 39(1B) of the Immigration Act 1987 of holding a tax code declaration (IRD form IR330) signed by a person before or when employment began, stating that this person is entitled to undertake employment in the employer's service, is no longer valid.

W2.10.10 Offers of Employment

All offers of employment must be genuine and sustainable. Unless specifically stated otherwise all offers of employment should contain the following information:

- a. name, address, telephone and/or fax number of the employer; and
- b. name and address of the person to whom the job is offered; and
- c. a full job description including:
 - i. the job title or designation; and
 - ii. the address of the place of employment if different from that in paragraph (a) above; and

- iii. the type of work, duties and responsibilities involved; and
 - iv. details of pay and conditions of employment; and
 - v. the hours of work; and
 - vi. any qualifications, experience or training required; and
 - vii. the duration of the job; and
 - viii. how long the job offer is open.
- d. To determine whether an offer of employment is genuine and sustainable, and to ensure that the objective of work visa instructions at [W1\(b\)\(iii\)](#) is met, immigration officers may consider whether the salary or wages offered meet the New Zealand market rate.
- e. INZ will decline an application for a work visa where it considers that the employment was offered as a result of payment made or promised by the applicant (or their agent) to the employer (or their agent) in exchange for securing that offer of employment.

W2.10.15 Compliance with employment law

- a. An employer who supports a visa application, provides an offer of employment in support of a visa application, or applies for employer status must have a history of compliance with employment law.
- b. A history of compliance with employment law includes, but is not limited to, meeting the requirements of the following legislation:
 - Accident Compensation Act 2001; and
 - Employment Relations Act 2000; and
 - Equal Pay Act 1972; and
 - Health and Safety at Work Act 2015; and
 - Holidays Act 2003; and
 - Minimum Wage Act 1983; and
 - Parental Leave and Employment Protection Act 1987; and
 - Wages Protection Act 1983.
- c. Employers are considered to not have a history of compliance with employment law if they are included on a list of non-compliant employers maintained by the Labour Inspectorate. The rules for inclusion on the list are set out in Appendix 10.
- d. Where an employer has an investigation or case pending with the Labour Inspectorate, the Employment Relations Authority, or the New Zealand courts, an immigration officer should request further information to determine whether an employer is complying with the requirements of employment law.
- e. New employers may be considered to have a history of compliance if:
 - i. they do not appear on the list of non-compliant employers maintained by the Labour Inspectorate; and
 - ii. they can demonstrate they have sound human resources policies and practices; and
 - iii. there is no other information that indicates non-compliance, for example when a person who is on the stand-down list is able to influence employment agreements, practices and policies.
- f. Unless otherwise specified, a visa application or employer request will be declined if:
 - i. it is supported by, or includes a job offer based on employment with, an employer who is included on a list of non-compliant employers; or
 - ii. an immigration officer is otherwise not satisfied the employer meets the requirements of [W2.10.15\(a-e\)](#) above.

Note: Breaches of employment standards which lead to inclusion on a list of non-compliant employers may still be considered when determining if an employer has a history of compliance with employment law, as required elsewhere in immigration instructions, even if the employer is no longer on the list.

W2.25 Conditions of work visas

See also Immigration Act 2009 ss 49, 52, 77

- a. A work visa may be granted with any or all of the following conditions as specified in immigration instructions or imposed by special direction by the Minister or an immigration officer with the delegated authority:
 - i. the holder may work only in a specified industry, trade, occupation or profession;
 - ii. the holder may work only for a specified employer;
 - iii. the holder may work only in a specified area or location;
 - iv. the holder must be paid at or above the remuneration level required for the skill-band of their employment;
 - v. the holder must provide evidence of remuneration payment, if requested by an immigration officer;
 - vi. any other condition the immigration officer or Minister considers is appropriate to reflect the reason for which the visa is being granted.

WF3.1 Who is eligible for a special work visa

- a. Partners (see [E4.1.20](#)) of people granted work visas (including visas granted under Entrepreneur Work Visa Category instructions) allowing a stay in New Zealand of more than six months may apply for and be granted a multiple entry work visa under these instructions, unless their partner has been granted a work visa under any one of the following instructions:
 - i. Essential Skills where the employment has been assessed as lower-skilled (see WK3.5.1), unless WF3.1.1 below applies; or
 - ii. Foreign crew of fishing vessels (see [WJ](#)); or
 - iii. a Working Holiday Scheme (see [WI2](#)); or
 - iv. Recognised Seasonal Employer (RSE) Work Instructions (see [WH1](#)); or
 - v. Supplementary Seasonal Employer (SSE) Instructions (see [WH3](#)); or
 - vi. Silver Fern Job Search Instructions (see [WL2](#)); or
 - vii. Skilled Migrant Category Job Search Instructions (see [WR5](#));
 - viii. domestic staff of diplomatic, consular, or official staff (see [WI4](#)).
- b. Work visas will be granted for the same period as the work visa held by the applicant's partner subject to the generic requirements at [E4.5](#) being met.
- c. Partners of people granted work to residence visas must meet health and character requirements for residence class visa applications as set out at [A4](#) and [A5.15](#) to [A5.25](#).
- d. Applicants under these instructions are not required to produce a job offer.
- e. Any work visas granted under these instructions may be endorsed with conditions that allow work for any employer.

WF3.1.1 Holders of Essential Skills work visas for lower-skilled employment who are able to support work visas for their partner

- a. The applicant (who is the partner of the holder of an Essential Skills work visa whose employment has been assessed as lower-skilled) may be granted a work visa under these instructions if:
 - i. the applicant held a visa on the basis of their relationship to the Essential Skills work visa holder on 28 August 2017; and
 - ii. that Essential Skills work visa holder has not been required to spend 1 year outside New Zealand (subject to a stand-down period)(see WK3.20.5.).
- b. The applicant (who is the partner of the holder of an Essential Skills work visa whose employment has been assessed as lower-skilled) may be granted a work visa under these instructions if the Essential Skills work visa holder:
 - i. previously held a student visa; and
 - ii. was eligible to support a partner for a work visa (WF4.1) at the time they held the student visa; and
 - iii. held a post-study work visa (WD) based on that student visa; and
 - iv. supported the applicant for a visa based on the relationship while holding a post-study work visa.

V3.10 Partners and dependent children of student or work visa holders

Subject to the provisions of [E4.5](#):

- a. Partners (see [E4.1.20](#)) of student or work visa holders may be granted visitor visas if that type of visa is appropriate to their needs for the currency of the partner's visa.
- b. Dependent children (see [E4.1.10](#)) of student or work visa holders may be granted visitor visas if that type of visa is appropriate to their needs for the currency of the parent's visa.
- c. Despite (a) and (b) above, partners and dependent children of the following persons are not eligible for the grant of a visa under these instructions:
 - i. people granted an Essential Skills work visa where the employment has been assessed as lower-skilled(WK3.5.1), unless V3.10.1 below applies; or
 - ii. people granted a work visa under the instructions for Foreign Crew of Fishing Vessels (see [WJ](#)); or
 - iii. people granted a work visa under the instructions for Recognised Seasonal Employer (RSE) (see [WH1](#)); or
 - iv. people granted a work visa under the instructions for Supplementary Seasonal Employment (SSE) (see [WH3](#)); or
 - v. people granted a work visa under the Silver Fern Job Search Instructions ([WL2](#)); or
 - vi. people granted a work visa under the Skilled Migrant Category Job Search Instructions (see [WR5](#)); or
 - vii. people granted a work visa under a Working Holiday Scheme (see [WI2](#)); or
 - viii. people granted a work visa as a domestic staff member of diplomatic, consular or official staff (see [WI4](#)).
- d. Partners and dependent children of people granted work to residence visas must meet health and character requirements for residence class visa applications as set out at [A4](#) and [A5.15](#) to [A5.25](#).

V3.10.1 Holders of Essential Skills work visas for lower-skilled employment who are able to support visitor visas for their family members

- a. Partners and dependent children of an Essential Skills work visa holder whose employment has been assessed as lower-skilled may be granted a visitor visa under these instructions if:
 - i. the applicant held a visa on the basis of their relationship to the Essential Skills work visa holder on 28 August 2017; and
 - ii. the Essential Skills work visa holder has not been subject to a stand-down period (see WK3.20.5).
- b. The applicant (who is the partner of an Essential Skills work visa holder whose employment has been assessed as lower-skilled) may be granted a visitor visa under these instructions if the Essential Skills work visa holder:
 - i. previously held a student visa that made them eligible to support a partner for a work visa (WF4.1); and
 - ii. held a post-study work visa (WD) based on that student visa; and
 - iii. supported the applicant (who is the partner of an Essential Skills work visa holder) for a visa based on the relationship while holding a post-study work visa.
- c. The applicant (who is the dependent child of an Essential Skills work visa holder whose employment has been assessed as lower-skilled) may be granted a visitor visa under these instructions if the Essential Skills work visa holder parent:
 - i. previously held a student visa that made them eligible to support a child for a student visa (U8.25); and
 - ii. subsequently held a post-study work visa (WD) based on that student visa; and
 - iii. supported the applicant for a visa based on their relationship while holding a post-study work visa.

V3.10.5 Dependent children of Essential Skills work visa holders

- a. A dependent child of a holder of a work visa granted under the Essential Skills work instructions ([WK](#)) after 30 November 2009 will only be granted a visitor visa if the minimum income threshold is met.
- b. Despite (a) above, dependent children born in New Zealand after 30 November 2009 will not be tested against the threshold until their parent(s) next applies for an Essential Skills work visa.
- c. Despite (a) and (b) above, the minimum income threshold does not apply if the dependent child's parent(s):
 - i. have held any temporary work visa before 30 November 2009; and
 - ii. have remained on a valid visa from 30 November 2009 until the date of the dependent child's application under V3.10.

V3.10.10 Minimum income threshold

- a. The minimum income threshold is NZ\$37,090.68 gross per annum.
- b. The minimum income threshold must be met and maintained wholly by the salary or wages of a parent or parents holding an Essential Skills work visa.
- c. Evidence must be provided of the Essential Skills work visa holder's current salary or wages.

- d. Despite (a) above, if the dependent child is included in a Samoan Quota or Pacific Access Category application, the minimum income threshold is the amount specified in Samoan Quota or Pacific Access Category instructions.
- e. If a visa application is declined under these instructions and the dependent child becomes unlawful the parent(s) may become liable for deportation.
- f. If the parent(s) do not maintain the minimum income threshold for the duration of their or their dependent child's visa, both the child and the parent(s) may become liable for deportation.

Note: Where both parents hold Essential Skills work visas, their income may be combined to meet the minimum income threshold.

V3.10.15 Dependent children of work visa holders under Religious Worker instructions

See also Immigration Act 2009 ss 56, 157

- a. Dependent children of a holder of a work visa under Religious Worker instructions (WM) will only be granted a visitor visa if:
 - i. the minimum income threshold of NZ\$37,090.68 gross per annum is met by the Religious Worker visa holder and their partner; or
 - ii. the religious organisation sponsoring the principal applicant agrees to sponsor the dependent children.
- b. Under (a)(i) above:
 - i. the minimum income threshold must be met and maintained by the salary, wages or a stipend received by the Religious Worker visa holder and their partner; and
 - ii. evidence must be provided of the current salary, wages or stipend of the Religious Worker visa holder and their partner; and
 - iii. if a visa application is declined under these instructions and the dependent child becomes unlawful the parents may become liable for deportation; and
 - iv. if the parents do not maintain the minimum income threshold for the duration of their visa or their dependent child's visa, both the child and the parents may become liable for deportation.

Note: The income of both parents may be combined to meet the minimum income threshold.

U8.20 Dependent children of holders of work visas

- a. Dependent children (see [E4.1](#)) of work visa holders who wish to study in New Zealand may be granted student visas unless the work visa holder has been granted a work visa under any one of the following categories:
 - i. Essential Skills work visa where the employment has been assessed as lower-skilled (WK3.5.1), unless U8.20.1 below applies; or
 - ii. Foreign crew of fishing vessels (see [WJ1](#)); or
 - iii. Recognised Seasonal Employer (RSE) Work instructions (see [WH1](#)); or
 - iv. Supplementary Seasonal Employment (SSE) instructions (see [WH3](#)); or
 - v. Silver Fern Job Search Instructions (see [WL2](#)); or
 - vi. Skilled Migrant Category Job Search Instructions (see [WR5](#)); or
 - vii. Working Holiday Scheme instructions (see [WI2](#)); or
 - viii. domestic staff of diplomatic, consular or official staff (see [WI4](#)).
- b. Dependent children of work visa holders as defined in (a) above are regarded as domestic students (see [U3.35](#)) for the purpose of all tuition fees at primary and secondary schools for the period of the parent's work visa.
- c. Dependent children (see [E4.1](#)) of work visa holders may be granted student visas without the need to produce evidence of enrolment.
- d. Guarantees of accommodation and/or maintenance for dependent children may be waived provided this is covered by the income of the work visa holder parent or by evidence of funds or guarantees submitted with the work visa application of the parent (see [W2.15](#)).
- e. Dependent children of people granted work to residence visas must meet health and character requirements for residence class visa applications as set out at [A4](#) and [A5.15](#) to [A5.25](#).

U8.20.1 Holders of Essential Skills work visas for lower-skilled employment who are able to support student visas for their dependent children

- a. The applicant (who is the dependent child of an Essential Skills work visa holder whose employment has been assessed as lower-skilled) may be granted a student visa under these instructions if:
 - i. the applicant held a visa on the basis of being a dependent child of the Essential Skills work visa holder on 28 August 2017; and
 - ii. the Essential Skills work visa holder has not been subject to a stand-down period (see WK3.20.5).
- b. The applicant (who is the dependent child of an Essential Skills work visa holder whose employment has been assessed as lower-skilled) may be granted a student visa under these instructions if:
 - i. the Essential Skills work visa holder parent previously held a student visa that made them eligible to support a child for a student visa (U8.25); and
 - ii. subsequently held a post-study work visa (WD) based on that student visa; and
 - iii. supported the applicant for a visa based on their relationship while holding a post-study work visa.

U8.20.5 Dependent children of Essential Skill work visa holders

See also *Immigration Act 2009 ss 56, 157*

- a. Dependent children (see [E4.1.10](#)) of holders of work visas granted under the Essential Skills work instructions ([WK](#)) after 30 November 2009 will only be granted a student visa if their parent(s) meet a minimum income threshold.
- b. The minimum income threshold is NZ\$37,090.68 gross per annum and must be met and maintained wholly by the salary or wages of a parent or parents holding an Essential Skills work visa.
- c. Evidence must be provided of the Essential Skills work visa holder's current salary or wages to satisfy an immigration officer that the applicant's parent(s) meet the minimum income threshold.
- d. Despite (b) above, dependent children of Essential Skills work visa holders whose parents have an application being considered under the Samoan Quota or Pacific Access Category must meet the minimum income requirements of those instructions (see [S1.10.35](#) or [S1.40.35](#)) to be eligible for a student visa under these instructions.
- e. Dependent children are not required to be assessed against the Essential Skills minimum income threshold if their parent(s):
 - i. have held any temporary work visa before 30 November 2009; and
 - ii. have remained on a valid visa from 30 November 2009 until the date of the dependent child's application under U8.20.
- f. If a visa application is declined under these instructions and the dependent child becomes unlawful the parent(s) may become liable for deportation.

- g. If the parent(s) do not maintain the minimum income threshold for the duration of their or their dependent child's visa both the parent(s) and child may become liable for deportation.

Note: Where both parents hold Essential Skills work visas, their income may be combined to meet the minimum income threshold.

U8.20.10 *Dependent children of work visa holders under Religious Worker instructions*

See also Immigration Act 2009 ss 56, 157

- a. Dependent children of a holder of a work visa under Religious Worker instructions ([WM](#)) will only be granted a student visa if the:
- i. minimum income threshold is met by the Religious Worker visa holder and their partner; or
 - ii. religious organisation sponsoring the principal applicant agrees to sponsor the dependent children.
- b. Under (a)(i) above:
- i. the minimum income threshold is NZ\$37,090.68 gross per annum; and
 - ii. the minimum income threshold must be met and maintained by the salary, wages or a stipend received by the Religious Worker visa holder and their partner; and
 - iii. evidence must be provided of the current salary, wages or stipend of the Religious Worker visa holder and their partner; and
 - iv. if a visa application is declined under these instructions and the dependent child becomes unlawful the parents may become liable for deportation; and
 - v. if the parents do not maintain the minimum income threshold for the duration of their visa or their dependent child's visa, both the child and the parents may become liable for deportation.

Note: The income of both parents may be combined to meet the minimum income threshold.

WJ2 Requests for Approval in Principle

- a. Approval in Principle (AIP) requests to recruit foreign crew on fishing vessels are subject to the general objective of work visa instructions ([W1](#)).
- b. For an AIP to be granted, the New Zealand employer must satisfy Immigration New Zealand (INZ) that:
 - i. there are no (or insufficient) suitably qualified and experienced New Zealand citizens or residence class visa holders available to crew a single vessel for the specified period up to a maximum of 12 months;
 - ii. the terms and conditions of employment offered meet the requirements of [WJ5.45.10](#) Employment Agreements;
 - iii. it is financially sound ([WJ2.5](#));
 - iv. the directors and senior management of the New Zealand employer are 'fit and proper' people ([WJ2.10](#));
 - v. it is an acceptable sponsor (see [E6.5](#) and [WJ5.10](#));
 - vi. it will comply with all the requirements and obligations set out at [WJ5](#); and
 - vii. it agrees to the conditions as specified at [WJ3](#).
- c. INZ will determine whether the New Zealand employer has made genuine attempts to find suitably qualified and experienced New Zealand citizens or residence class visa holders in accordance with the requirements set out in [WK3.10](#).
- d. To ensure the above requirements have been met, INZ will consult with relevant government agencies including, but not limited to, the Ministry for Primary Industries, Maritime New Zealand, and the Ministry of Social Development.
- e. Employers must have a history of compliance with immigration and employment law. An employer is considered to not have a history of compliance if it fails to meet the requirements set out at [W2.10.15](#) or it is currently included on a list of non-compliant employers maintained by the Labour Inspectorate (see [W2.10.15](#) and [Appendix 10](#)).

WR1.25 Requirements for accreditation

- a. The objective of accreditation is to allow accredited employers to supplement their own New Zealand workforce in their core area of business activity through:
 - i. the recruitment of workers who are not New Zealand citizens or residence class visa holders and whose talents are required by the employer; and
 - ii. the accredited employer having direct responsibility for those employees and their work output.
- b. Under Talent (Accredited Employer) Work Instructions, accredited employers may offer employment to workers who are not New Zealand citizens or residence class visa holders without the need to establish that there are no New Zealand citizens or residence class visa holders suitably qualified by training and experience available, or readily able to be trained, to do the work.
- c. Accreditation will be granted where an immigration officer is satisfied that an employer:
 - i. is in a sound financial position; and
 - ii. has human resource policies and processes which are of a high standard; and
 - iii. has a demonstrable commitment to training and employing New Zealand citizens or residence class visa holders; and
 - iv. has good workplace practices, including a history of compliance with all immigration and employment New Zealand laws including but not limited to the Immigration Act 2009, the Accident Compensation Act 2001, the Minimum Wage Act 1983, the Health and Safety at Work Act 2015, the Employment Relations Act 2000, Wages Protection Act 1983, Parental Leave and Employment Protection Act 1987, the Equal Pay Act 1972 and the Holidays Act 2003.
- d. **Subsidiary companies cannot be covered by the accreditation of a parent company. To be accredited they must apply in their own right.**

WR1.25.1 Applying for accreditation

- a. An application for accreditation **must either be made online using the electronic form provided on the INZ website or on the INZ Employer Accreditation Application form (INZ 1090).** Applications must be accompanied by documents which demonstrate that the employer meets the requirements for accreditation set out at WR1.25.
- b. A fee is payable for an application for accreditation. A lower fee is payable for renewal of accreditation.

WR1.25.5 Determining applications for accreditation

- a. In determining whether **an employer is in a sound financial position, an immigration officer may take** into account such factors as:
 - i. the period for which the employing organisation has been established as a going concern;
 - ii. **financial indicators such as revenue, profit and equity levels;**
 - iii. **reserve capital;**
 - iv. **ability to sustain current and proposed employment;**
 - v. **accounts receivable;**
 - vi. **whether the employer is a state sector agency whose financial situation and performance is included in the Crown accounts as part of the Government reporting entity under the Public Finance Act 1989;**
 - vii. **whether the employer is are a local authority named in Schedule 2 of the Local Government Act 2002.**
- b. In determining whether an employer has human resource policies and practices which are of a high standard, an immigration officer may take into account such factors as:
 - i. **WorkSafe NZ or Labour Inspectorate findings;**
 - ii. **sample employment agreements;**
 - iii. **evidence of HR and health and safety policies and procedures;**
 - iv. **whether the employer is International Organisation for Standardisation (IOS) certified;**
 - v. **feedback from relevant unions and other employee representatives.**
- c. In determining whether an employer has a demonstrable commitment to training and employing New Zealand citizens or residence class visa holders, an immigration officer may take into account such factors as:
 - i. **whether the employer has engaged with the relevant Industry Training Organisation (ITO);**
 - ii. **evidence of training provided to staff who are New Zealand citizens or residents;**
 - iii. **whether the employer makes 'genuine attempts' (see WK2.10.5) to recruit New Zealand citizens or residents to fill any vacancies, including that advertised vacancies accurately reflect the position and salary or wages;**
 - iv. **the proportion of the employer's workforce who are New Zealand citizens or residents;**
 - v. **feedback from relevant unions and other employee representatives.**

- d. In determining whether employers have good workplace practices, an immigration officer may take into account such factors as:
 - i. whether the employer has diversity policies and practices in place as outlined by Diversity Works NZ;
 - ii. the extent of any non-compliance with immigration or employment legislation;
 - iii. where there have been minor breaches of legislation listed in WK5.1 (b)(iv), the degree to which the employer has put in place remedies to prevent similar breaches in the future; and
 - iv. policies and processes the employer has put in place to ensure they remain compliant with immigration and employment legislation;
 - v. feedback from relevant unions and other employee representatives.
- e. In determining whether employers may be accredited an immigration officer will also give consideration to whether the employer has an intention to maintain accreditation throughout the period of currency of any visas granted to their employees under the Talent (Accredited Employers) Work Instructions.
- f. An immigration officer must be satisfied that the information and documents included in an application for accreditation are genuine and accurate, and may take any steps it determines necessary to verify such documents and the information they contain, including interviews. An immigration officer will decline an application for accreditation if they are satisfied that an employer provided false or misleading information in support of an application, or withheld relevant information that was prejudicial to the grant of accreditation.
- g. INZ may, where necessary, seek the approval of an employer to conduct a site visit to the employer's premises.
- h. Applicants must consent to INZ seeking information from the Ministry of Business, Innovation and Employment, WorkSafe New Zealand and the Accident Compensation Corporation concerning the applicant's compliance with New Zealand employment laws. Where such consent is not given an application for accreditation will be declined.
- i. An application for accreditation will be declined where the employer has a history of non-compliance with immigration or employment law, including if they fail to meet the requirements set out at W2.10.15 or are currently included on a list of non-compliant employers maintained by the Labour Inspectorate (see Appendix 10).
- j. An application for accreditation will be declined where an immigration officer considers accreditation would create unacceptable risks to the integrity of New Zealand's immigration or employment laws or policies.
- k. The accreditation of employers whose main business is the facilitation of entry to New Zealand of non-New Zealand citizens and residence class visa holders potentially creates an unacceptable risk to the integrity of New Zealand's immigration laws and policies, therefore applications for accreditation by such employers will not be approved.
- l. INZ will consult with relevant unions and other employee representatives when determining whether an employer has human resource policies and processes which are of a high standard, a commitment to training and employing New Zealand citizens and residence class visa holders and good workplace practices.
- m. An application for accreditation will be declined where an employer does not give consent to disclose relevant information. Before disclosing information, INZ will seek the consent of the employer for the disclosure of information that is:
 - i. identified by the employer as commercially sensitive; and
 - ii. that information is provided in confidence to INZ; and
 - iii. INZ considers that disclosure of that information is necessary for the determination of an application;
- n. Where INZ, in consulting with other agencies, receives information which may be prejudicial to the positive outcome of an employer's application for accreditation, that adverse information will be put to the employer for comment before a decision is made on their application.

WR1.25.10 Reconsideration process for applications for accreditation which are declined

- a. There is no statutory right of appeal against the decision to decline an application for accreditation, however INZ will reconsider a declined application for accreditation where new information is promptly provided within 14 days of the employer being notified of the decline.
- b. The fee for reconsideration of an application for accreditation must accompany the written request for reconsideration.

WR1.25.15 Auditing accredited employers

- a. INZ may audit an employer to ensure that they continue to meet the requirements of accreditation at any time during the period of accreditation.
- b. INZ may, where necessary, seek the approval of an employer to conduct a site visit to the employer's premises or request documentation or evidence from the employer as part of an audit.
- c. An audit will entail INZ making an assessment about whether the accredited employer continues to meet the criteria at WR1.25. Information taken into account during an audit may include but is not limited to:

- i. information supplied by the employer to INZ as part of the audit process;
 - ii. information about the employer held by INZ from their previous accreditation application or from other interactions the employer has had with INZ (e.g. visa applications they have supported);
 - iii. information supplied by third parties, such as the Labour Inspectorate;
 - iv. findings of a site visit conducted by INZ;
 - v. publicly available information about the employer.
- d. If an immigration officer is not satisfied the employer has continued to meet the requirements of WR1.25, the accreditation may be revoked (see WR1.25.20 below). The employer's accreditation and the processing of any associated work to residence applications may be suspended until an immigration officer is satisfied that the requirements of WR1.25(c) have been met or the accreditation is revoked.

WR1.25.20 Revoking accreditation

- a. INZ may revoke an employer's accreditation where:
- i. as a result of an audit, an immigration officer is not satisfied that the requirements of WR1.25 continue to be met; or
 - ii. the employer fails to comply with a request for further information or records by INZ within a reasonable specified timeframe; or
 - iii. the conduct of that employer has created an unacceptable risk to the integrity of New Zealand's immigration or employment laws or policies; or
 - iv. an employer supplies false or misleading information to INZ.
- b. If an immigration officer has concerns that the employer meets one of the criteria at (a) above, the employer will be notified in writing and provided an opportunity to provide comment before a final decision to revoke accreditation is made.
- c. Any decision to revoke accredited status must be approved by an INZ Area Manager.
- d. Employers that have their accreditation revoked will be notified of this and informed of the reasons in writing.

WR1.25.25 Duration of accreditation

- a. Employers approved accreditation will be granted accreditation for two years where they have not held accreditation continuously for the two years prior to the date the application was made.
- b. Employers approved renewal of their accreditation will receive accreditation for a period of two years, unless an immigration officer is satisfied an employer will continue to meet all requirements of WR1.25 for five years, in which case accreditation may be granted for five years.
- c. When considering whether an employer will continue to meet all requirements of WR1.25 for a five year period, an immigration officer will take into account:
- i. whether the employer has provided evidence to demonstrate they have continuously met or exceeded all requirements of WR1.25 for the previous two years,
 - ii. the likelihood that the employer will remain in a sound financial position for a five year period, including consideration of:
 - o their projected revenues;
 - o their equity and capital reserves;
 - o whether they are a state sector agency whose financial situation and performance is included in the Crown accounts as part of the Government reporting entity under the Public Finance Act 1989;
 - o whether they are a local authority named in Schedule 2 of the Local Government Act 2002.
 - iii. the likelihood that the employer will continue to meet or exceed the other requirements of accreditation, including consideration of whether they have sufficient resources and systems in place to actively manage:
 - o human resources policies and processes;
 - o training and recruitment of staff, in particular New Zealand citizens and residents;
 - o compliance with immigration and employment laws.

WJ6.5 Additional requirements for non-Approval in Principle applicants

- a. Where [WJ6\(a\)\(ii\)](#) applies, before any work visa is granted for foreign crew, the New Zealand employer must:
 - i. provide the completed form *Supplementary Form for Foreign Crew of a Fishing Vessel (INZ 1213)*; and
 - ii. meet the AIP requirements as set out at [WJ2\(b\)](#); and
 - iii. agree to comply with all the requirements and obligations set out at [WJ5](#).
- b. INZ will determine whether the New Zealand employer has made genuine attempts to find suitably qualified and experienced New Zealand citizens or residence class visa holders in accordance with the requirements set out in [WK3.10](#).
- c. To ensure the above requirements have been met, INZ will consult with relevant government agencies including, but not limited to, the Ministry for Primary Industries, Maritime New Zealand, and the Ministry of Social Development.

WS3.1 Requirements

- a. Employers, promoters, agents or producers must complete the *Performing Artists, Entertainers and Entertainment Industry Work Visa Application Supplementary Form (INZ 1187)* and provide evidence that:
 - i. the applicant is of international distinction, or particular ethnic significance, or is manifestly essential to the presentation or production; or
 - ii. the applicant's engagement does not put at risk the engagement of New Zealand entertainers or professionals in equivalent work unless the wider benefits to be obtained from the applicant's employment outweigh the loss of job opportunities for New Zealanders; or
 - iii. they have given appropriate consideration to engaging available New Zealand entertainers or professionals.
- b. Employers, promoters, agents or producers must also provide:
 - i. the full names, nationalities, dates and places of birth of each applicant; and
 - ii. production information; and
 - iii. a guarantee of accommodation and repatriation for each applicant.
- c. If applicable, evidence must be provided of an applicant's engagement:
 - i. on an official co-production; or
 - ii. with an accredited company ([WS3.15](#)); or
 - iii. with a company that has been granted approval in principle to recruit entertainment industry workers ([WK3.1.5](#)).

Note: Employment, as defined under section 4 of the Immigration Act 2009, includes engagement of an independent contractor under a contract for services.

Appendix 2: Amendments to Residence instructions effective on and after 28 August 2017

R5.110 Compliance with employment law

- a. An employer who supports a visa application, or provides an offer of employment in support of an application, must have a history of compliance with employment law.
- b. A history of compliance with employment law includes, but is not limited to, meeting the requirements of the following legislation:
 - i. Accident Compensation Act 2001; and
 - ii. Employment Relations Act 2000; and
 - iii. Equal Pay Act 1972; and
 - iv. Health and Safety at Work Act 2015; and
 - v. Holidays Act 2003; and
 - vi. Minimum Wage Act 1983; and
 - vii. Parental Leave and Employment Protection Act 1987; and
 - viii. Wages Protection Act 1983.

R5.110.1 Evidence of non-compliance with employment law

- a. Employers are considered to not have a history of compliance with employment law if they are included on a list of non-compliant employers maintained by the Labour Inspectorate. The rules for inclusion on the list are set out in Appendix 10.
- b. Where an employer has an investigation or case pending with the Labour Inspectorate, the Employment Relations Authority, or the New Zealand courts, an immigration officer may request further information to determine whether an employer is complying with the requirements of employment law.
- c. New employers may be considered to have a history of compliance if:
 - i. they do not appear on the list of non-compliant employers maintained by the Labour Inspectorate; and
 - ii. they can demonstrate they have sound human resources policies and practices; and
 - iii. there is no other information that indicates non-compliance, for example when a person who is on the stand-down list is able to influence employment agreements, practices and policies.
- d. A visa application will be declined if:
 - i. it is supported by, or includes a job offer based on employment with, an employer who is included on a list of non-compliant employers; or
 - ii. an immigration officer is otherwise not satisfied the employer meets the requirements of R5.110.1(a) – (c) above.

Note:

- Breaches of employment standards which lead to inclusion on a list of non-compliant employers may still be considered when determining an employer's compliance with employment law, as required elsewhere in immigration instructions, even if the employer is no longer on the list.

Appendix 3: Other amendments to the Operational Manual effective on and after 28 August 2017

A6.10 Fees payable to INZ when making applications and requests

See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010

- a. The Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 prescribe when fees may be payable to INZ or its agents and the amounts payable. For details of fees payable see www.immigration.govt.nz/fees.
- b. Fees may be payable to INZ regardless of whether the action requested of INZ requires completion of a prescribed application form or not. All fees are payable at the time an application or request is made to INZ or its agents.
- c. Different fees are payable for applications and requests based on the citizenship of the principal applicant. The respective fees apply regardless of the office at which the application is actually lodged.

Example: An Indian citizen resident in Bahrain who lodges a residence application with London office will be required to pay the fee payable by citizens of India.

- d. The only exception to this rule is that if a principal applicant is in New Zealand, the fee payable for the application or request is the fee payable for applications lodged in New Zealand, regardless of the principal applicant's citizenship.
- e. In the case of requests for approval in principle to employ foreign workers (see [WK3.1.5](#) and WJ3), as long as the positions offered are with the same employer then only one fee is payable regardless of the number of foreign workers for whom approval is being sought.