



27 October 2019

Immigration New Zealand Instructions: Amendment Circular No. 2019/07

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 their effective dates.

Note

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

Information about these changes is available on our website www.immigration.govt.nz .

Description of changes

The following changes will be made to the INZ Operational Manual:

Talent (Accredited Employers) salary threshold

The salary threshold required for Talent (Accredited Employers) temporary work visa applications will increase from \$55,000 to \$79,560 per annum (150% of the current national median wage). The new threshold will apply to any initial application made on or after 7 October 2019.

Eligibility for a permanent resident visa

The ability to grant a permanent resident visa in place of a resident visa to Talent (Accredited Employers) work visa holders who meet a high salary threshold will be removed.

Duration of employer accreditation

The duration of accreditation that can be granted to employers under Talent (Accredited Employers) instructions will be limited to 24 months.

Silver Fern Job Search closure

The Silver Fern Job Search work visa instructions will be removed as the visa will be permanently closed.

Appendix 1 contains the amended immigration instructions effective on and after 7 October 2019. Additions to the instructions have been highlighted for ease of reference. Deletions have not been highlighted.

Appendix 1: Amendments to immigration instructions effective on and after 7 October 2019

WR1.10 Requirements for offers of employment

Offers of employment from accredited employers must be:

- a. for employment in New Zealand in the accredited employer's core area of business activity and where the accredited employer will have direct responsibility for their work output; and
- b. for a period of at least 24 months; and
- c. for full-time employment, (that is it amounts to, on average, at least 30 hours per week); and
- d. current at the time of assessing the application and at the time of grant of the visa; and
- e. genuine; and
- f. for a position with a minimum base salary of NZ\$79,560 per annum; and
- g. accompanied by evidence of full or provisional registration, or eligibility for such registration, if full or provisional registration is required by law to take up the offer; and
- h. compliant with all relevant employment law in force in New Zealand; and
- i. with an employer who has a history of compliance with employment law and who is not included on a list of non-compliant employers maintained by the Labour Inspectorate(see [W2.10.15](#) and [Appendix 10](#)).

Note:

~ Compliance with relevant New Zealand employment law includes but is not limited to:

- * a written employment agreement that contains the necessary statutory specified terms and conditions
- * meeting holiday and special leave requirements and other minimum statutory criteria
- * meeting health and safety obligations.

~ For the avoidance of doubt, the minimum base salary excludes employment-related allowances (for example overtime, tool or uniform allowances, medical insurance, accommodation).

~ Where an employee is to work more than 40 hours per week, the minimum base salary must be calculated on the basis of 40 hours work per week.

~ The minimum base salary requirement of NZ\$79,560 (see WR1.10 (f)) may be waived for applicants who have exceptional talent in a declared field of art, culture or sport and who hold an offer of employment in that field from an accredited employer.

WR1.10.1 Applications for a subsequent Talent (Accredited Employers) work visa

A subsequent Talent (Accredited Employers) work visa application may be approved if the applicant:

- a. holds a Talent (Accredited Employers) work visa at the time they apply; and
- b. has made an application for residence under the Talent (Accredited Employers) residence instructions and a decision on that residence application is yet to be made; and
- c. continues to meet the minimum base salary that was in place when they applied for their current visa; and
- d. has an offer of employment:
 - i. for a period of at least 12 months; and
 - ii. that meets all other requirements of WR1.10, except (b) and (f).

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 be made online using the electronic form provided on the INZ website. 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 [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;
 - 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;
 - iv. policies and processes the employer has put in place to ensure they remain compliant with immigration and employment legislation; and
 - 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 Head of Operations.
- 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. Approved employers will be granted accreditation for a period of two years.
- b. Accreditation may be renewed, upon application, where INZ is satisfied that the employer still meets the requirements for accreditation set out above.

WR1.30 Making an application under the Talent (Accredited Employers) Work Instructions

Applications under the Talent (Accredited Employers) Work Instructions must be made on the INZ form *Work Visa Application (INZ 1015)*, and

- a. meet all the requirements under Generic Temporary Entry instructions for lodging an application for a temporary entry class visa as set out at [E4](#), except the requirement to provide evidence of funds for maintenance in New Zealand or evidence of sponsorship. This requirement is met through the provision of an offer of employment (see [WR1.10](#)); and
- b. include an offer of employment from an accredited employer that meets the requirements for offers of employment set out at [WR1.10](#); and
- c. include, where necessary:
 - i. evidence of full or provisional registration, or eligibility for such registration, if full or provisional registration is required by law to take up the offer of employment (see [SM19.5](#) for the list of occupations requiring registration); or
 - ii. evidence from the New Zealand Medical or Dental Council that they are eligible for full or provisional registration subject only to attending a personal interview with a Council representative within one month of their arrival in New Zealand; and

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

- d. include, (if the offer of employment has a minimum base salary of less than NZ\$79,560 per annum), evidence that the applicant has exceptional talent in a declared field of art, sport or culture (see the Note to [WR1.10](#)); and
- e. include a completed *General Medical Certificate (INZ 1007)* and a *Chest X-ray Certificate (INZ 1096)* (except in the case of a pregnant woman) and any associated medical or laboratory reports required for the medical or chest X-ray certificates; and

Notes:

~ All medical and chest X-ray certificates and associated reports must be less than 3 months old at the time the application is made unless [A4.25\(c\)](#) applies.
~ Medical and chest X-ray certificates may be submitted directly to INZ by the physician who completes the examination.

- f. include police certificates from the applicant's country of citizenship and from any country in which they have lived for 5 or more years since attaining the age of 17 years.

Notes:

~ Police certificates must be no more than 6 months old when the application is lodged, unless [A5.10\(d\)](#) applies.
~ For the avoidance of doubt, the minimum base salary excludes employment-related allowances (for example overtime, tool or uniform allowances, medical insurance, accommodation).

RW2 Residence instructions for holders of work visas granted under the Talent (Accredited Employers) work instructions

Holders of visas granted under the Talent (Accredited Employers) work instructions may be granted a residence class visa where:

- a. they have held a work visa granted under the Talent (Accredited Employers) work instructions for a period of at least 24 months; and
- b. during the currency of that visa they have been employed in New Zealand throughout a period of 24 months:
 - i. by any accredited employer; or
 - ii. by an employer(s) who is not an accredited employer, provided that during the period of that employment the conditions of the applicant's visa were varied to allow them to work for that employer(s) in line with [E3.26.1.10](#); or
 - iii. by any accredited employer, whose accreditation is rescinded or not renewed during the currency of that visa, provided the employment continued to meet the following requirements:
 - o 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
 - o the offer of employment must meet the requirements of [WR1.10](#); and
 - o employers must meet the requirements under [W2.10.6](#) and [W2.10.10](#); and
- c. they have employment in New Zealand with a minimum base salary of:
 - i. NZ\$55,000 per annum if the associated work to residence visa application ([WR1](#)) was made before 7 October 2019; or
 - ii. NZ\$79,560 per annum if the associated work to residence visa application ([WR1](#)) was made on or after 7 October 2019; and
- d. they hold full or provisional registration, if full or provisional registration is required to practice in the occupation in which they are employed; and
- e. they meet health and character requirements (see [A4](#) and [A5](#)).

Note:

~ Applicants under these instructions must be in New Zealand at the time they lodge their application for a residence class visa.

~ For the avoidance of doubt, the minimum base salary excludes employment-related allowances (for example overtime, tool or uniform allowances, medical insurance, accommodation).

~ Where an employee is to work more than 40 hours per week, the minimum base salary must be calculated on the basis of 40 hours work per week.

~ The associated work to residence visa application is the application that resulted in a work visa that the applicant has held for a period of at least 24 months ([RW2\(a\)](#)) and on which the application for residence is based.

RW2.1 Eligibility for a permanent resident visa

A permanent resident visa may be granted to an applicant under Talent (Accredited Employers) work instructions who:

- a. meets all the requirements to be granted a residence class visa; and
- b. at the time of their application for a residence class visa, has employment in New Zealand with a minimum base salary of NZ\$90,000; and
- c. made the application for the associated Talent (Accredited Employers) work visa before 7 October 2019.