

24 November 2008

**IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2008/18**

**To: All Manual Holders**

**AMENDMENTS TO THE IMMIGRATION NEW ZEALAND (INZ) OPERATIONAL MANUAL – SPECIAL SAMOAN QUOTA PLACES AND SPECIAL PACIFIC ACCESS CATEGORY PLACES POLICIES**

**Introduction**

This circular outlines the changes to government residence policy in the INZ Operational Manual for the creation of the Special Samoan Quota Places policy and the Special Pacific Access Category Places policy.

All visa and immigration officers dealing with immigration applications should read the amended policy and operate in accordance with it from 8 December 2008.

A copy of the amended policy is attached to this Circular at Appendix 1.

**Note**

The amended policy described in this Circular will be published in the electronic version of the INZ Operational Manual in due course.

**Any enquiries about this policy change should be directed to the National Contact Centre on 0508 558 855 or 09 914 4100 (Auckland only).**

**Amendments to Government residence policy**

***S1.45 Special Samoan Quota Places Policy***

This policy allows applicants who have applied but not had a decision under Residual Quota Places Policy to reapply under this special policy. To be eligible applicants must have made an application for residence under the Residual Quota Places Policy which was not decided as at 7 December 2008 and have withdrawn that undecided application after 7 December 2008. The criteria for approval are based on the criteria for approval in the Residual Quota Places Policy in place in 2004/05.

***S1.50 Special Pacific Access Category Places Policy***

This policy allows applicants who have applied but not had a decision under Residual Pacific Access Category Places Policy to reapply under this special policy. To be eligible applicants must have made an application for residence under the Residual Pacific Access Category Places Policy which was not decided as at 7 December 2008 and have withdrawn that undecided application after 7 December 2008. The criteria for approval are based on the criteria in the Residual Pacific Access Category Places Policy in place in 2004/05.

## APPENDIX 1

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### S1.45 Special Samoan Quota Places Policy

#### S1.45.1 Objective

This policy allows for the grant of residence to citizens of Samoa who made an application for residence under the Residual Quota Places Policy and that application had not been decided as at 7 December 2008.

#### S1.45.5 Criteria for residence

- a. To qualify for residence under the Special Samoan Quota Places Policy, the principal applicant must:
  - i be a Samoan citizen (having been born in Samoa or born overseas to a Samoan citizen who was born in Samoa); and
  - ii have made an application for residence under the Residual Quota Places Policy before 28 November 2005 which was not decided as at 7 December 2008; and
  - iii have withdrawn that undecided application after 7 December 2008; and
  - iv have an acceptable offer of employment or have a partner, included in the application, who has an acceptable offer of employment (see S1.45.10 below); and
  - v meet the minimum income requirement (see S1.45.15 below) if they have dependants; and
  - vi meet a minimum level of English language ability (see S1.45.20 below); and
  - vii meet health and character requirements (see R4).
- b. Partners and dependent children accepted under this policy must meet health and character requirements policy (see R4).
- c. Applications will only be accepted if sent to the designated receiving office in New Zealand on the form Application for Special Samoan Quota Places Policy.
- d. Applications that are made in the prescribed manner (that meet all mandatory lodgement requirements) will be processed in the order in which they are received.
- e. Applications must be made before or on 31 March 2009.

#### S1.45.10 Acceptable offers of employment

- a. Acceptable offers of employment may be in either a skilled or unskilled occupation but must be for ongoing and sustainable employment. Ongoing and sustainable employment is employment with a single employer:
  - i in a job which is permanent, or indefinite, and for which the employer is in a position to meet the terms specified; or
  - ii for a stated term of at least twelve months with an option for the employee of further terms, and for which the employer is in a position to meet the terms specified.

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**Note:** When assessing whether employment is sustainable, officers may consider, but are not limited to, such factors as the residence status of the employer, the period for which the employing organisation has been established as a going concern, and the financial sustainability of the employing organisation.

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- b. Acceptable offers of employment must also be:
- i for full-time employment (employment is full-time if it amounts to, on average, at least 30 hours per week); and
  - ii current at the time of assessing the application and at the time of issue of the visa and/or grant of the permit; and
  - iii genuine; and
  - iv for a position that is paid by salary or wages (ie, positions of self-employment, payment by commission and/or retainer are not acceptable); and
  - v accompanied by evidence of professional or technical registration if this is required by law to take up the offer; and
  - vi compliant with all relevant employment law in force in New Zealand.
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**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
  - ~ paying employees no less than the appropriate adult or youth minimum wage
  - ~ meeting holiday and special leave requirements and other minimum statutory criteria
  - ~ meeting occupational safety and health obligations.
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- c. If the principal applicant has dependent children, the offer of employment must also meet the minimum income requirement set out at S1.45.15 below

#### **S1.45.15 Minimum income requirement**

- a. Principal applicants with dependent children must show that they will meet the minimum income requirement if they come to New Zealand, which is intended to ensure they can support themselves and any dependants.
- b. The gross minimum income requirement for the purposes of this policy is \$25,585.
- c. The salary or wages specified in the acceptable offer of employment (see S1.45.10) must be equal to or more than the gross minimum income requirement.
- d. However, if both the principal applicant and their partner included in their application have an acceptable offer of employment in New Zealand, both of their wages or salaries may be taken into account when determining if the minimum income requirement is met, provided (at the time the application is assessed) a visa or immigration officer is satisfied the principal applicant and partner have been living together for 12 months or more in a partnership that is genuine and stable - see R2.1.15.1(b) and R2.1.15.5(a)(i). The offers of employment must meet all the requirements in S1.45.10, except that only one has to meet the requirement that the offer be for full-time employment.

#### **S1.45.20 Minimum English language requirement**

- a. Immigration and visa officers determine whether principal applicants meet the minimum English language requirement by assessing whether they are able to:
  - i read English; and
  - ii understand and respond to questions in English; and
  - iii maintain an English language conversation about themselves, their family or their background.

**Effective 08/12/2008**

## **S1.50 Special Pacific Access Category Places Policy**

### **S1.50.1 Objective**

This policy allows for the grant of residence to citizens of Tonga, Tuvalu, Kiribati or Fiji who made an application for residence under the Residual Pacific Access Category Places Policy and that application had not been decided as at 7 December 2008.

### **S1.50.5 Criteria for residence**

- a. To qualify for residence under the Special Pacific Access Category Places Policy, the principal applicant must:
  - i be a citizen of Tonga, Tuvalu, Kiribati or Fiji;
  - ii have made an application for residence under the Residual Pacific Access Category Places Policy before 28 November 2005 which was not decided as at 7 December 2008; and
  - iii have withdrawn that undecided application after 7 December 2008; and
  - iv have an acceptable offer of employment or have a partner, included in the application, who has an acceptable offer of employment (see S1.50.10 below); and
  - v meet the minimum income requirement (see S1.50.15) if they have dependants; and
  - vi meet a minimum level of English language ability (see S1.50.20); and
  - vii meet health and character requirements (see R4).
- b. Principal applicants who are citizens of Tonga must have been born in Tonga or born overseas to a Tongan citizen who was born in Tonga.
- c. Principal applicants who are citizens of Kiribati must have been born in Kiribati or born overseas to a Kiribati citizen who was born in Kiribati.
- d. Principal applicants who are citizens of Tuvalu must have been born in Tuvalu or born overseas to a Tuvaluan citizen who was born in Tuvalu.
- e. Partners and dependent children accepted under this policy must meet health and character requirements policy (see R4).
- f. Applications will only be accepted if sent to the designated receiving office in New Zealand on the form Application for Special Pacific Access Category Places Policy.
- g. Applications that are made in the prescribed manner (that meet all mandatory lodgement requirements) will be processed in the order in which they are received.
- h. Applications must be made before or on by 31 March 2009.

### **S1.50.10 Acceptable offers of employment**

- a. Acceptable offers of employment may be in either a skilled or unskilled occupation but must be for ongoing and sustainable employment. Ongoing and sustainable employment is employment with a single employer:
  - i in a job which is permanent, or indefinite, and for which the employer is in a position to meet the terms specified; or
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