

16 May 2017

IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2017/06

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 in Appendices 1 to 3 on and after 22 May 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).

Changes to instructions effective on and after 22 May 2017

South Island Contribution work and residence policies

WR7.1 Objective

WR7.5 Applying for a South Island Contribution work visa

WR7.10 Requirements to be granted a South Island Contribution work visa

WR7.15 Duration and conditions of work visas granted under South Island Contribution work instructions

WR7.20 Visas for partners and dependent children

WR7.25 Applications for a subsequent South Island Contribution work visa

WR7.30 South Island Contribution work visas for Filipino dairy workers who have provided false documents

E4.5 Temporary entry class visa for partners and dependent children

RW8 Residence instructions for holders of work visas granted under South Island Contribution work instructions

RW8.5 Resident visa subject to conditions

RW8.10 South Island Contribution resident visas for Filipino dairy workers who have provided false documents

R2.1 Who may be included in an application

Immigration instructions have been amended to implement the South Island Contribution visa policy. This policy has work-to-residence and residence-from-work components. Applications for a work-to-residence visa must be made between 22 May 2017 and 22 May 2018.

Applicants must be 55 years of age or younger, have been employed in the South Island as the holder of an Essential Skills work visa for the last five years and have current employment, or offer of employment, to work in the South Island. Residence health and character requirements apply to both the work and resident visa categories.

Partners and dependent children of people who hold South Island Contribution visas will be eligible for associated visas.

Adjustments to the Investor categories

BJ2.1 Investor 1 Category

BJ2.5 Investor 2 Category

BJ2.10 Applications available under the Investor 2 Category

BJ2.15 Approval in principle

BJ2.20 Resident visas granted with conditions

BJ2.25 Verification

BJ3.10 Investment funds

BJ3.15 Definitions

BJ4.1 Expressing interest in being invited to apply under the Investor 2 Category

BJ4.10 Submission of Expressions of Interest to the Pool

BJ4.15 Selection of Expressions of Interest

BJ4.20 Currency of an Expression of Interest

BJ4.25 Invitation to Apply for a resident visa under the Investor 2 Category

BJ5.5 Approval of applications under the Investor 2 Category

BJ5.15 English language requirements

BJ5.25 Age
BJ5.30 Business experience
BJ5.35 English language ability
BJ5.40 Investment funds
BJ5.45 Growth Investments
BJ5.50 Definition of 'acceptable investment'
BJ6 Summary of points for the Investor 2 category
BJ7.5 Approval in principle
BJ7.10 Transfer of the nominated investment funds
BJ7.15 Evidence of the transfer of the nominated funds to New Zealand
BJ7.20 Timeframe for investing funds in New Zealand
BJ8.1 Grant of resident visas
BJ8.10 Resident visas subject to conditions under section 49(1) of the Immigration Act
BJ8.15 Section 49(1) condition: minimum period of time in New Zealand
BJ9.1 Reminder from Immigration New Zealand to provide evidence of section 49(1) conditions being met
BJ9.10 Retention of acceptable investment
BJ5.45 Settlement funds (rescinded)

Immigration instructions have been amended to implement changes to the residence Investor categories. These changes are intended to improve the operation of the Investor policies and the economic contribution made to New Zealand. Key changes include:

- Increased minimum investment value to \$3 million.
- Removed the requirement to demonstrate settlement funds.
- Adjusted the allocation of points for Investor 2 applicants.
- Introduced rewards for growth investments.
- Revised definitions.
- Enabled philanthropic investments to be counted towards 'acceptable investments'.

Appendix 1: Amendments to Temporary Entry instructions effective on and after 22 May 2017

WR7 South Island Contribution work instructions

IN THIS SECTION

WR7.1 Objective

WR7.5 Applying for a South Island Contribution work visa

WR7.10 Requirements to be granted a South Island Contribution work visa

WR7.15 Duration and conditions of work visas granted under South Island Contribution work instructions

WR7.20 Visas for partners and dependent children

WR7.25 Applications for a subsequent South Island Contribution work visa

WR7.30 South Island Contribution work visas for Filipino dairy workers who have provided false documents

WR7.1 Objective

The objectives of the South Island Contribution work instructions are to:

- a. recognise well-settled temporary migrants who have made a commitment to New Zealand and their South Island communities; and
- b. meet genuine regional labour market needs and contribute to individual firm productivity, by enabling employers to maintain an experienced workforce; and
- c. minimise the risk of displacing New Zealanders from employment opportunities or hindering improvements to wages, working conditions or industry-wide productivity growth.

WR7.5 Applying for a South Island Contribution work visa

An application under the South Island Contribution work instructions must be made on the INZ form *Work Visa Application (INZ 1015)*, and:

- a. meet all requirements under Generic Temporary Entry instructions for lodging 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; and
- b. include evidence the applicant has been employed in a full-time role in the South Island for five years or more while holding an Essential Skills work visa (see WR7.10(c)); and
- c. include an offer of employment or evidence of ongoing full-time employment that meets the requirements for employment set out at WR7.10.5; and
- d. include 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; and
- e. include all required evidence that the applicant meets health (A4) and character (A5) requirements for applicants for residence.

WR7.10 Requirements to be granted a South Island Contribution work visa

To be granted a visa under the South Island Contribution work instructions, an applicant must:

- a. hold an Essential Skills work visa at the time their application is made, which specifies as a condition employment to be undertaken at a location within the South Island; and
- b. be in full-time (see W2.2.10), lawful employment in the South Island; and
- c. have undertaken full-time, lawful employment in the South Island as the holder of an Essential Skills work visa, or an interim visa, for five years between 22 May 2012 and 22 May 2017 (see WR7.10.1); and
- d. have acceptable ongoing employment, or an offer of acceptable employment, in the South Island (see WR7.10.5); and
- e. meet the health and character requirements for residence set out at A4 and A5; and
- f. meet the requirements for bona fide applicants set out at E5; and
- g. be 55 years of age or younger on the date their application is accepted for processing; and
- h. apply before 23 May 2018 (except where WR7.25 applies).

WR7.10.1 Time working outside the South Island

Time spent working in New Zealand outside of the South Island as an Essential Skills work visa holder may count towards the five years required by WR7.10(c) if:

- a. employment outside of the South Island was full-time and lawful; and
- b. employment outside of the South Island was the result of the nature of the applicant's employment and the industry they work in; and
- c. the applicant has spent no more than three months in a calendar year, and no more than 12 months in total, working outside the South Island.

WR7.10.5 Acceptable employment in the South Island

Employment is acceptable if:

- a. it is full-time (see W2.2.10); and
- b. it is genuine; and
- c. it is ongoing and sustainable (permanent or indefinite, or for a stated term of at least 24 months); and
- d. payment for work is by salary or wages; and
- e. the workplace is in the South Island; and
- f. the work is legal and consistent with existing visa conditions (if applicable); and
- g. the terms and conditions specified are not less than those of the New Zealand market; and
- h. the employer has no significant adverse record with Immigration New Zealand or the Labour Inspectorate, and is not included on a list of non-compliant employers maintained by the Labour Inspectorate (see W2.10.15 and Appendix 10).

WR7.10.10 Applicants who do not meet the requirements for the grant of a visa

- a. An immigration officer must consider granting a visa as an exception to instructions if an application does not meet the requirements for the grant of a South Island Contribution visa (see E7.10).
- b. In particular, an immigration officer should consider the objective of this visa category and the applicant's circumstances if they fall marginally short of the five year requirement set out at WR7.10(c).

WR7.15 Duration and conditions of work visas granted under South Island Contribution work instructions

- a. Work visas granted under South Island Contribution work instructions will be valid for a period of 30 months.
- b. Work visas granted under South Island Contribution work instructions will allow multiple-entry travel and be subject to the condition that the applicant must undertake employment that is:
 - i. in the industry associated with the occupation specified on their most recent Essential Skills work visa; and
 - ii. in the region in which their current employment is situated.

Notes:

- For the purposes of these instructions, region means one of the seven South Island regions – Canterbury, Marlborough, Nelson, Otago, Southland, Tasman, and West Coast.
- For the purposes of these instructions, industry is defined by level 2 of the Australia and New Zealand Standard Industrial Classification 2006 (see www.stats.govt.nz/~media/Statistics/surveys-and-methods/methods/class-stnd/industrial-classification/classification-anzsic06-level2-v1-0.xls).

WR7.20 Visas for partners and dependent children

- a. Eligible partners of South Island Contribution work visa holders may be granted an open work visa, valid for the same length of time as the principal applicant (see WF3.1).
- b. Dependent children may be granted student, visitor or work visas, according to the needs of that applicant, valid for the same length of time as the principal applicant, if they:
 - i. meet the definition of a dependent child set out at E4.1.10; and
 - ii. meet residence health and character requirements; and
 - iii. meet the requirements of:
 - U8.20 (if applying for a student visa); or
 - V3.10 (if applying for a visitor visa); or
 - WR7.20.1 (if applying for a work visa).

WR7.20.1 Work visas for dependent children

Dependent children of South Island Contribution work visa holders may be granted work visas allowing work in the South Island for any employer if they meet WR7.20(b)(i) and (ii), and:

- a. are aged under 20 years old; and
- b. have completed compulsory schooling; and
- c. are currently dependent (see E4.1.10).

Note:

- Compulsory schooling means schooling up to age 16.
- Children assessed as dependent and granted a work visa under these instructions will continue to be considered dependent if a subsequent application is made under the South Island Contribution residence from work instructions.

WR7.25 Applications for a subsequent South Island Contribution work visa

- a. Despite WR7.10(h), an application for a South Island Contribution work visa may still be made, and a visa granted, if the principal applicant applies after 23 May 2018 and:
 - i. holds a South Island Contribution work visa; and
 - ii. has made an application for residence under the South Island Contribution residence instructions and a decision on that residence application has yet to be finalised; and
 - iii. provides evidence to show they meet the requirements of WR7.10(b) – WR7.10(f).
- b. Visas may be granted under these instructions for the length of time required to decide the application made under the South Island Contribution residence instructions.
- c. An application for a South Island Contribution work visa will be declined if it is made after 23 May 2018 and the principal applicant does not have a residence application made under the South Island Contribution resident visa instructions under consideration.

WR7.30 South Island Contribution work visas for Filipino dairy workers who have provided false documents

- a. These instructions apply to people who:
 - i. are nationals of the Philippines; and
 - ii. are subject to A5.25(i) 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 regarding their work experience that was false, misleading or forged; and
 - iii. were granted an Essential Skills work visa to work on a dairy farm prior to 1 September 2015; and
 - iv. are applying for a South Island Contribution work visa and have ongoing employment, or an offer of employment, on a dairy farm.
- b. Despite the requirement that applicants be of good character (WR7.10(e)), applicants who meet the requirements of WR7.30(a) may still be granted a South Island Contribution work visa if they:
 - i. have not withheld information or provided further false information to Immigration New Zealand since 3 November 2015; and
 - ii. meet all other criteria for the grant of a South Island Contribution work visa, including character requirements other than A5.25(i).

E4.5 Temporary entry class visa for partners and dependent children

E4.5.1 Eligibility of dependent children for temporary entry class visas

- a. A dependent child (see [E4.1.10](#)) may be eligible for a temporary entry class visa if their parent is:
 - i. a principal applicant in an application for a temporary entry class visa; or
 - ii. a non-principal applicant partner included in an application (i.e. they are not a dependent child of the principal applicant); or
 - iii. a New Zealand citizen or residence class visa holder.
- b. A dependent child may be granted a temporary entry class visa of a type appropriate to their needs as specified in:
 - i. Student instructions for dependants (see [U8](#)); or
 - ii. Visitor instructions for dependants (see [V3.10](#), [V3.20](#) and [V3.125](#)); or
 - iii. [Work instructions \(see WR7.20\)](#).
- c. Where the parent is an applicant for a temporary entry class visa, a dependent child may only be granted a temporary entry class visa if their parent's application is approved.

E4.5.5 Eligibility of partners for temporary entry class visas

- a. A person may be eligible for a temporary entry class visa on the basis of being the partner (see [E4.1.20](#)) of:
 - i. a principal applicant in an application for a temporary entry class visa; or
 - ii. a person who is a New Zealand citizen or residence class visa holder; or
 - iii. a person who is an applicant for, or the holder of a student, work or military visa.
- b. A person applying as a partner may be granted a temporary entry class visa of a type appropriate to their needs as specified in:
 - i. Family Stream Work instructions (see [WF](#)); or
 - ii. Student instructions for dependants (see [U8](#)); or
 - iii. Visitor instructions for dependants (see [V3.10](#), [V3.15](#) and [V3.125](#)); or
 - iv. Special work visas for partners of holders of military visas (see [WI8](#)).
- c. A partner may only be granted a temporary entry class visa, if an immigration officer is satisfied that:
 - i. they are living together with their partner in a genuine and stable partnership (see [E4.5.25](#) and [E4.5.30](#)); and
 - ii. they comply with the minimum requirements for recognition of partnerships (see [E4.5.15](#) and [F2.15](#)); and
 - iii. their partner supports the application; and
 - iv. their partner meets the character requirements for partners supporting 'partnership-based temporary entry applications' set out at [E7.45](#); and
 - v. if their partner is a New Zealand citizen or residence class visa holder, their partner will be eligible to support a partnership-based residence class visa application within 12 months of the grant of the visa (see [F2.10.10](#)).
- d. In each case the onus of proving that a partnership is genuine and stable lies with the couple involved.

E4.5.10 Evidential requirements for dependent children

If dependent children are included in an application, or are applying in their own right as the dependent child of a temporary entry class visa holder, New Zealand citizen, or residence class visa holder, evidence of their relationship to the parent must be provided in the following form:

- a. the original birth certificate showing the names of the parent(s); or
- b. original adoption papers showing that the child has been legally adopted (see [R3.5.1](#)) by the principal applicant or partner, or temporary entry class visa holder, New Zealand citizen, or residence class visa holder; or
- c. in the case of a child adopted by custom, a declaration by the adoptive parent(s) separate from, and in addition to, any similar declaration made on an application form. (The declaration must state that the child has been adopted by the adoptive parent(s), as well as the date of the adoption, and the country in which the adoption took place.)

E4.5.15 Minimum requirements for recognition of partnerships

For the purposes of these instructions, a partnership meets the minimum requirements for recognition of partnerships if an immigration officer is satisfied that:

- a. the couple were both aged 18 years or older at the time the application for a temporary entry class visa was made, or if aged 16 or 17 years old have their parent'(s) or guardian'(s) support for the application being lodged; and
- b. the couple have met prior to the application being made; and
- c. they are not close relatives (see [F2.15\(d\)](#)).

E4.5.20 Evidential requirements for partners

- a. If a partner is included in an application, or is applying in their own right as the partner of a temporary entry class visa holder, a New Zealand citizen, or residence class visa holder, the following must be provided:
 - i. evidence of their relationship, and
 - ii. evidence that demonstrates they are living together with that partner in a genuine and stable relationship (E4.5.35 sets out the types of evidence that are required).
- b. Where a person is applying for a temporary entry class visa on the basis of partnership, their partner must provide a completed *Form for Partners Supporting Partnership-based Temporary Entry Applications* (INZ 1146).
- c. Despite (a) above for the purposes of visitor visa instructions, where an application includes a partner as a secondary applicant, a declaration from both parties may be accepted as evidence that they are living together in a genuine and stable partnership (see E4.5.35(b)).

E4.5.25 Definition of 'genuine and stable' partnership

A partnership is genuine and stable if an immigration officer is satisfied that it:

- a. is genuine, because it has been entered into with the intention of being maintained on a long-term and exclusive basis; and
- b. is stable, because it is likely to endure.

E4.5.30 Definition of 'living together'

For the purposes of these instructions:

- a. the principal applicant and their partner are considered to be living together if they are sharing the same home as partners (as defined in [E4.1.20](#)).
- b. Living together does not include:
 - i. time spent in each other's homes while still maintaining individual residences; or
 - ii. shared accommodation during holidays together; or
 - iii. flatmate arrangements; or
 - iv. any other living arrangements that are not reflective of the factors set out at E4.5.35(a).

E4.5.35 Determining if the couple are living together in a partnership that is genuine and stable

- a. Factors that have a bearing on whether two people are living together in a partnership that is genuine and stable may include, but are not limited to:
 - i. the duration of the parties' relationship;
 - ii. the existence, nature, and extent of the parties' common residence;
 - iii. the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
 - iv. the common ownership, use, and acquisition of property by the parties;
 - v. the degree of commitment of the parties to a shared life;
 - vi. children of the partnership, including the common care and support of such children by the parties;
 - vii. the performance of common household duties by the partners; and
 - viii. the reputation and public aspects of the relationship.
- b. Evidence that the couple are living together may include, but is not limited to, original or certified copies of documents showing a shared home, such as:
 - i. joint ownership of residential property
 - ii. joint tenancy agreement or rent book or rental receipts
 - iii. correspondence (including postmarked envelopes) addressed to both principal applicant and partner at the same address.
- c. Evidence about whether the partnership is genuine and stable may include, but is not limited to, original or certified copies of documents and any other information, such as:

- i. a marriage certificate for the parties;
 - ii. a civil union certificate for the parties;
 - iii. birth certificates of any children of the parties;
 - iv. evidence of communication between the parties;
 - v. photographs of the parties together;
 - vi. documents indicating public recognition of the partnership;
 - vii. evidence of the parties being committed to each other both emotionally and exclusively, such as evidence of:
 - o joint decision making and plans together
 - o sharing of parental obligations
 - o sharing of household activities
 - o sharing of companionship/spare time
 - o sharing of leisure and social activities
 - o presentation by the parties to outsiders as a couple.
 - viii. evidence of being financially interdependent, such as evidence of:
 - o shared income
 - o joint bank accounts operated reasonably frequently over a reasonable time
 - o joint assets
 - o joint liabilities, such as loans or credit to purchase real estate, cars, major home appliances
 - o joint utilities accounts (electricity, gas, water, telephone)
 - o mutually agreed financial arrangements.
- d. Satisfactory and sufficient proof (from documents, other corroborating evidence, or interviews) of all four of the following elements being met:
- i. 'Credibility': the principal applicant and the partner both separately and together, must be credible in any statements made and evidence presented by them.
 - ii. 'Living together': the principal applicant and partner must be living together unless there are genuine and compelling reasons for any period(s) of separation (see E4.5.35(f) and E4.5.35(g) below).
 - iii. 'Genuine partnership': the principal applicant and partner must both be found to be genuine as to their:
 - iv. reasons for marrying, entering a civil union or entering into a de facto relationship; and
 - v. intentions to maintain a long term partnership exclusive of others.
 - vi. 'Stable partnership': the principal applicant and partner must demonstrate that their partnership is likely to endure.
- e. A temporary entry class visa must not be granted unless the immigration officer is satisfied, having considered each of the four elements in E4.5.35(d) above (both independently and together) that the couple is living together in a partnership that is genuine and stable.
- f. If a principal applicant and their partner have lived apart for periods during their partnership, the application should not automatically be declined. Instead, immigration officers should determine whether there are genuine and compelling reasons for any period(s) of separation:
- i. either partner's family, education or employment commitments;
 - ii. the duration of the partnership and the length of time the couple has spent apart;
 - iii. the extent to which the couple has made efforts to be together during the time apart.
- g. Despite E4.5.35(f) above, immigration officers will only consider whether there are genuine and compelling reasons for any period(s) of separation if the couple is able to satisfactorily demonstrate that they have lived together prior to the period(s) of separation.

The presence or absence of any of the documents, information or evidence listed at E4.5.35(b) and (c) above is not determinative. Each case will be decided on the basis of all the evidence provided. Evidence about these matters may also be obtained at interview and can be considered up until the date of final decision.

Appendix 2: Amendments to Residence instructions effective on and after 22 May 2017

RW8 Residence instructions for holders of work visas granted under South Island Contribution work instructions

Holders of visas granted under the South Island Contribution work instructions may be granted a residence class visa where:

- a. they have held a work visa granted under the South Island Contribution work instructions for a period of at least 24 months; and
- b. during the currency of that visa they have been employed:
 - i. in a full-time role (at least 30 hours per week), in the region and industry specified on their visa throughout a period of 24 months; and
 - ii. by 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 R5.110 and Appendix 10); and
- c. they have current employment or an offer of employment which:
 - i. is full-time (at least 30 hours per week); and
 - ii. is genuine; and
 - iii. is ongoing and sustainable (permanent or indefinite, or for a stated term of at least 24 months); and
 - iv. is in the region and industry specified by their South Island Contribution work visa; and
 - v. has terms and conditions that are not less than the those of the New Zealand labour market; and
 - vi. is with an employer who has no significant adverse record with Immigration New Zealand or the Labour Inspectorate, and is not included on a list of non-compliant employers maintained by the Labour Inspectorate (see R5.110 and Appendix 10); 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).

RW8.5 Resident visa subject to conditions

See also Immigration Act 2009 ss 49, 50

Resident visas may be granted to a principal applicant (and any accompanying partner and dependent children) subject to the conditions that the principal applicant:

- a. remains in full-time employment in the region specified by their South Island Contribution work visa for 24 months from the date their resident visa is granted; and
- b. informs INZ of any changes of residential address while they are subject to visa conditions; and
- c. submits evidence to INZ that they have met the requirement of RW8.5(a) within 30 months of the date their resident visa is granted.

RW8.5.1 Compliance with conditions

When an applicant under this category satisfies an immigration officer that the conditions on their resident visa under section 49(1) have been complied with, the immigration officer will cancel the conditions on their resident visa and the resident visa of any accompanying family members.

RW8.10 South Island Contribution resident visas for Filipino dairy workers who have provided false documents

- a. These instructions apply to people who:
 - i. are nationals of the Philippines;
 - ii. are subject to A5.25(i) 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 regarding their work experience that was false, misleading or forged;
 - iii. were granted an Essential Skills work visa to work on a dairy farm prior to 1 September 2015; and
 - iv. are applying for a South Island Contribution resident visa and have ongoing employment, or an offer of employment, on a dairy farm.
- b. Despite the requirement that applicants be of good character (RW8(e)), applicants who meet the requirements of RW8.10(a) may still be granted a South Island Contribution resident visa if they:
 - i. have not subsequently withheld information or provided further false information to Immigration New Zealand; and
 - ii. meet all other criteria for the grant of a South Island Contribution resident visa.

BJ2.1 Investor 1 Category

To be approved under this category a principal applicant must:

- a. meet requirements for health and character; and
- b. invest NZ\$10 million in New Zealand in an acceptable investment for a three year period.

BJ2.5 Investor 2 Category

- a. A person who is interested in applying for a resident visa under the Investor 2 Category may complete an Expression of Interest (EOI) form in the prescribed manner.

Note: Applications can be made under Investor 1 Category without the need to submit an EOI or be invited to apply.

- b. EOIs that meet prerequisites for health, character, English language, age, business experience and investment funds, and have a minimum point score of 20, are entered into the Investor 2 Category EOI Pool (see BJ4.10).
- c. EOIs in the Investor 2 Category EOI Pool are selected from that Pool periodically on the Government's behalf by the Ministry of Business, Innovation and Employment.
- d. Points for age, business experience, English language ability and investment funds, including bonus points for growth investments, are claimed by a person expressing interest in accordance with the requirements set out in the Investor 2 Category (see BJ4).

BJ2.5.5 Selection of Expressions of Interest and Invitations to Apply

- a. EOIs will be ranked in order of points and those that score highest may be periodically selected from the Pool, according to their points ranking, in quantities sufficient to fulfil the annual approval cap stipulated at BJ2.10.
- b. Entry into the Pool does not guarantee that an EOI will be selected for consideration or that an Invitation to Apply will be issued.
- c. A selected EOI may result in an Invitation to Apply (ITA) for a resident visa under the Investor 2 Category, subject to:
 - i. an assessment of the credibility of the information provided in the EOI; and
 - ii. whether the EOI indicates the presence of any health or character issues that may adversely affect the ability of the person expressing interest to be granted a resident visa under the Investor 2 Category; and
 - iii. whether the EOI indicates that the person expressing interest will not meet the Investor 2 Category criteria.
- d. Only a person with an ITA may apply for a resident visa under the Investor 2 Category.

BJ2.5.10 Assessing residence applications

- a. The issue of an ITA does not guarantee that a resident visa will be granted.
- b. If a person is invited to apply, information provided in the EOI, and any further evidence, information and submissions will form the basis for determination of a subsequent application for a resident visa under the Investor 2 Category.
- c. Applications for a resident visa resulting from an ITA must include:
 - i. information and evidence to support the claims made in the EOI; and
 - ii. information concerning any relevant fact (including any material change in circumstances that occurs after the EOI was submitted) if that fact or change in circumstances could affect the decision on the application. Such a relevant fact or change in circumstances may relate to the principal applicant or another person included in the application, and may relate to any matter relevant to the Investor 2 Category.
- d. To be approved under the Investor 2 Category, a principal applicant must:
 - i. meet requirements for health and character (see A4 and A5); and
 - ii. qualify for the points for English language, age, business experience and nominated investment funds on the basis of which their EOI was selected from the Pool; and
 - iii. invest a minimum of NZ\$3.0 million in New Zealand.

BJ2.10 Applications available under the Investor 2 Category

- a. Up to 400 applications can be approved annually under the Investor 2 Category. These sit within the total number of places available under the Skilled/Business stream of the New Zealand Residence Programme (NZRP).
- b. The Minister of Immigration may review and adjust the number of applications that can be approved periodically, provided the adjustment is within the NZRP.

BJ2.15 Approval in principle

Under both of the Migrant Investment Categories where an application is approved in principle the principal applicant will be required to provide acceptable evidence of having transferred and invested the nominated funds in accordance with the relevant requirements of the category under which they have applied, before a resident visa is granted.

BJ2.20 Resident visas granted with conditions

See also Immigration Act 2009 s 49

- a. Under the Migrant Investment Categories, a resident visa is granted to a principal applicant and accompanying partner and dependent children subject to conditions under section 49(1) of the Immigration Act 2009. All resident visas granted in accordance with these instructions must specify that the visa will be subject to the following conditions under section 49(1).
- b. The conditions **of the Migrant Investor Categories** are that:
 - i. the principal applicant retains an acceptable investment in New Zealand for a minimum of three years (Investor 1 Category) or four years (Investor 2 Category) and spends a minimum period of time in New Zealand during the required investment period (see BJ9); and
 - ii. the principal applicant informs the nearest office of INZ of any changes of New Zealand address during the required investment period; and
 - iii. a principal applicant who was awarded 1 point for English language ability (see BJ5.35) under the Investor 2 Category, must complete a minimum 20 hours of English language tuition with a New Zealand Qualifications Authority registered education provider in New Zealand within the four year investment period; and
 - iv. at the two-year anniversary of the investment period, the principal applicant submit evidence that they:
 - are retaining an acceptable investment in New Zealand; and
 - meeting minimum period of time in New Zealand requirements; and
 - v. within 3 months after the expiry date of the required investment period, the principal applicant submit evidence to INZ that they have met conditions (i) and (iii) if applicable.
- c. Any accompanying partner and dependent children of a principal applicant granted a resident visa will be subject to the condition that the principal applicant complies with the conditions of their visa.

BJ2.20.1 Imposing conditions

- a. Principal applicants are advised of the conditions of their visa in a letter that states:
 - i. the conditions; and
 - ii. that failure to comply with the conditions may result in the visa holder becoming liable for deportation under section 159 of the Immigration Act 2009.
- b. The letter will also specify the date on which the required investment period begins (see BJ7.25).

BJ2.25 Verification

- a. Business immigration specialists must be satisfied that all documents provided as evidence are genuine and accurate, and may take any steps they determine necessary to verify such documents and the information they contain.
- b. All documentation provided should be independent and verifiable to a business immigration specialist's satisfaction.
- c. A business immigration specialist may interview, or ask another office of Immigration New Zealand to interview, the principal applicant in order to determine whether or not the information provided in an application is genuine and accurate.

Note: A business immigration specialist is an immigration officer.

BJ3.10 Investment funds

- a. The principal applicant must invest a minimum of NZ\$10 million in New Zealand for a period of three years.
- b. The principal applicant must:
 - i. nominate funds and/or assets equivalent in value to NZ\$10 million; and
 - ii. demonstrate ownership of these funds and/or assets (see BJ3.10.1); and
 - iii. demonstrate that the nominated funds and/or assets have been earned or acquired legally (see BJ3.10.1 (c) below).
- c. All invested funds must meet the conditions of an acceptable investment as set out under BJ3.10.25.

BJ3.10.1 Ownership of nominated funds and/or assets

- a. Nominated funds and/or assets may be owned either:
 - i. solely by the principal applicant; or
 - ii. jointly by the principal applicant and partner and/or dependent children who are included in the resident visa application, provided a business immigration specialist 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 and R2.1.15.1 (b) and R2.1.15.5 (a)(i)). If so, the principal applicant may claim the full value of such jointly owned funds or assets for assessment purposes.
- b. If nominated funds and/or assets are held jointly by the principal applicant and a person other than their partner or dependent child, the principal applicant may only claim the value of that portion of funds and/or assets for which they provide evidence of ownership.
- c. The principal applicant may only nominate funds and/or assets that they earned or acquired legally, including funds and/or assets which have been gifted to them unconditionally and in accordance with local law. Where nominated funds and/or assets have been gifted to the principal applicant a business immigration specialist must be satisfied that the funds and/or assets being gifted were earned lawfully by the person/s gifting the funds and/or assets.
- d. The nominated funds and/or assets must be unencumbered.
- e. The nominated funds and/or assets must not be borrowed.

BJ3.10.5 Definition of 'funds earned or acquired legally'

- a. Funds and/or assets earned or acquired legally are funds and/or assets earned or acquired in accordance with the laws of the country in which they were earned or acquired.
- b. Business immigration specialists have discretion to decline an application if they are satisfied that, had the funds and/or assets been earned or acquired in the same manner in New Zealand, they would have been earned or acquired contrary to the criminal law of New Zealand.

BJ3.10.10 Definition of 'unencumbered funds'

Unencumbered funds are funds that are not subject to any mortgage, lien, charge and/or encumbrance (whether equitable or otherwise) or any other creditor claims.

BJ3.10.15 Funds already held in New Zealand

- a. Funds held in New Zealand at the time the application is made may be included in investment funds. However, periods of investment in New Zealand before approval in principle cannot be taken into account when calculating the three-year investment period.
- b. Funds held in New Zealand must originally have been transferred to New Zealand through the banking system, or a foreign exchange company that uses the banking system from the country or countries in which they were earned or acquired legally, or have been earned or acquired lawfully in New Zealand (see BJ7.10).

BJ3.10.20 Evidence of the principal applicant's nominated funds and assets

- a. Principal applicants must provide evidence of net funds and/or assets to the value of the required investment funds.
- b. Principal applicants must provide evidence to the satisfaction of a business immigration specialist that the nominated funds and/or assets were earned or acquired legally.
- c. All documents provided as valuations of assets must be:
 - i. no more than three months old at the date the resident visa application is made; and
 - ii. produced by a reliable independent agency.
- d. A business immigration specialist may seek further evidence if they:
 - i. are not satisfied that the nominated funds and/or assets were earned or acquired legally; or

- ii. consider that the nominated funds and/or assets may have been gifted or borrowed without being declared; or
- iii. are not satisfied with the valuation provided; or
- iv. consider that the nominated funds and/or assets fail in some other way to meet the rules for investment funds.

BJ3.10.25 Definition of 'acceptable investment'

- a. An acceptable investment means an investment that:
 - i. is capable of a commercial return under normal circumstances; and
 - ii. is not for the personal use of the applicant(s) (see BJ5.50.1); and
 - iii. is invested in New Zealand in New Zealand currency; and
 - iv. is invested in lawful enterprises or managed funds (see BJ5.50.5) that comply with all relevant laws in force in New Zealand; and
 - v. has the potential to contribute to New Zealand's economy; and
 - vi. is invested in either one or more of the following:
 - o bonds issued by the New Zealand government or local authorities; or
 - o bonds issued by New Zealand firms traded on the New Zealand Debt Securities Market (NZDX); or
 - o bonds issued by New Zealand firms with at least a BBB- or equivalent rating from internationally recognised credit rating agencies (for example, Standard and Poor's); or
 - o equity in New Zealand firms (public or private including managed funds and venture capital funds); or
 - o bonds issued by New Zealand registered banks; or
 - o equities in New Zealand registered banks; or
 - o residential property development(s) (see BJ5.50.10); or
 - o commercial property (see BJ5.50.20); or
 - o bonds in finance companies (see BJ5.50 (c)); or
 - o eligible New Zealand venture capital funds (see BJ5.50.15); or
 - o philanthropic investment (see BJ5.40.1); or
 - o 'Angel funds or networks' investments.

Note: New Zealand registered banks are defined by the New Zealand Reserve Bank Act 1989.

- b. For private equity investments to be acceptable, the business immigration specialist must be satisfied that the funds being invested are to be actively used by the company to, for example, fund company growth, pay down company debt or purchase capital items.
- c. Notwithstanding (a) above, where an investment fails to meet one of the acceptable investment requirements, a business immigration specialist may consider, on a case by case basis, whether the failure was beyond the control of the principal applicant and if satisfied that this was the case, may consider the investment acceptable.
- d. A Business Immigration Specialist may consider bonds in finance companies as an acceptable investment where the finance company:
 - i. is a wholly-owned subsidiary of,
 - ii. raises capital solely for, and
 - iii. has all its debt securities unconditionally guaranteed by a New Zealand Stock Exchange listed company or a local authority.

Note: The value of an investment is based on the net purchase price (for example, less any accrued interest, commission, brokerage and/or trade levy), not on the face value of the investment.

BJ3.10.30 Personal use of investment funds

Personal use includes investment in assets such as a personal residence, car, boat or similar.

BJ3.10.35 Managed funds

- a. For the purposes of these instructions managed funds are defined as either:
 - i. a managed fund investment product offered by a financial institution; or

- ii. funds invested in equities that are managed on an investor's behalf by a fund manager or broker.
- b. In order to be acceptable as a form of investment managed funds must be invested only in New Zealand companies. Managed fund investments in New Zealand with international exposure are acceptable only for the proportion of the investment that is invested in New Zealand companies.

Example: Only 50% of a managed fund that equally invests in New Zealand and international equities would be deemed to be an acceptable investment as set out in BJ3.10.

BJ3.10.40 Residential property development

For the purposes of these instructions, residential property development(s) is defined as property(ies) in which people reside and is subject to the following conditions:

- a. the residential property must be in the form of new developments on either new or existing sites; and
- b. the residential property(ies) cannot include renovation or extension to existing dwellings; and
- c. the new developments must have been approved and gained any required consents by any relevant regulatory authorities (including local authorities), or if consents are not yet granted, evidence must be submitted that consents have been requested; and
- d. the purpose of the residential property investments must be to make a commercial return on the open market; and
- e. neither the family, relatives, nor anyone associated with the principal investor, may reside in the development.

BJ3.10.45 Venture capital funds

- a. For the purposes of these instructions, a venture capital fund is defined as a fund that invests capital in an early-stage or start-up (or seed) company or companies in exchange for an equity stake in that company or companies.
- b. In order for a venture capital fund investment to be deemed acceptable by a business immigration specialist, nominated funds can be placed in approved on-call accounts or venture capital funds, subject to the following conditions:
 - i. applicants must have entered into a binding fund investment contract with an approved venture capital fund manager and into an approved fund structure (for example a New Zealand limited partnership), to supply an agreed amount of funds as committed capital; and
 - ii. the committed funds are a fixed commitment, managed on an applicant's behalf by a fund manager or broker, to be drawn down over a stated period; and
 - iii. nominated funds can either be committed to an acceptable investment or placed into on-call accounts which meet the specifications in BJ3.10.45(e); and
 - iv. applicants must maintain a level of funds in any approved on-call account equal to the nominated amount minus any funds already committed to the venture capital fund; and
 - v. applicants must be able to demonstrate that all funds placed into on-call accounts are in those accounts pending call-up by their nominated venture capital fund.
- c. In order to be approved, all on-call accounts or venture capital funds must be managed on an applicant's behalf by a fund manager or broker and held in New Zealand in New Zealand dollars.
- d. Funds and fund administrators or managers must be able to provide confirmation that both funds and managers are fully compliant with any legislative and regulatory obligations, applicable codes of practice and licensing or registration requirements under New Zealand law, including any requirements imposed by the Financial Markets Authority.
- e. For the purposes of these instructions, acceptable on-call accounts are defined as an investment that can be liquidated to meet the needs of the venture capital fund, including trusts, bonds, or shares in equities.

BJ3.15 Definitions

BJ3.15.1 Growth investments

For the purposes of these instructions, growth investments are defined as acceptable investments, see (BJ3.10.25), other than:

- a. bonds; and
- b. philanthropic investments.

Note: For the purpose of growth investments, convertible notes are considered to be bonds.

BJ3.15.5 Commercial Property

For the purposes of Investor 1 Category instructions, commercial property is considered to be an acceptable investment if:

- a. the property(ies) is not residential or for domestic use; and
- b. the property(ies) is used for business purposes, in that it is:
 - i. capable of a commercial return; and
 - ii. not used for land banking ; and
- c. the purpose of the commercial property investments must be to make a commercial return on the open market; and
- d. neither the family, relatives, nor anyone associated with the principal applicant may reside in the development; and
- e. if a new development, the property(ies) must have been approved and gained any required consents by any relevant regulatory authorities (including local authorities).

Note: Commercial property can include empty land if plans for development are submitted to regulatory authorities and/or work has commenced.

BJ3.15.10 Philanthropic Investments

- a. For Philanthropic investments to be considered acceptable, a Business Immigration Specialist must be satisfied the investment is genuine (see (b) below) and is in:
 - i. a registered charity with at least two years annual returns and Inland Revenue donee status; or
 - ii. a not-for-profit organisation that provides social, cultural or economic benefits approved by the Business Migration Branch Operations Manager.
- b. In determining whether a philanthropic investment is genuine, the factors a Business Immigration Specialist may consider include, but are not limited to:
 - i. the length of time the entity has been operating; and
 - ii. the constitutional arrangement of the entity; and
 - iii. the entity's track record.

BJ4.1 Expressing interest in being invited to apply under the Investor 2 Category

See also Immigration Act 2009, s 92

- a. People notify their interest in being invited to apply for a resident visa under the Investor 2 Category by tendering an Expression of Interest (EOI) to Immigration New Zealand in the prescribed manner. The prescribed manner for completing and submitting an EOI is that the person expressing interest submits to a business immigration specialist:
 - i. a completed Investor 2 Category Expression of Interest Form (INZ 1165); and
 - ii. the appropriate fee.
- b. Through completion of an EOI, a person:
 - i. provides information regarding their: identity (see A2), health (see A4), character (see A5) and ability to meet the fit and proper person requirements (see BM1); and
 - ii. provides information about their English language ability in accordance with the requirements for English language ability set out at BJ5.15 and BJ5.35 of these instructions; and
 - iii. claims points for age, business experience, English language and investment funds, **including bonus points for proposed growth investments** (in accordance with requirements set out in BJ4 of the Investor 2 Category).
- c. It is the responsibility of the person submitting the EOI to ensure that it is correct in all material respects.

BJ4.10 Submission of Expressions of Interest to the Pool

See also Immigration Act 2009 s 92

Expressions of Interest submitted in the prescribed manner may be entered into a Pool of Expressions of Interest (the Pool) if the person expressing interest:

- a. has confirmed that health and character requirements for entry to the Pool have been met because none of the people included in their Expression of Interest are people who:
 - i. would not be granted a medical waiver (see A4.60); or
 - ii. are described in sections 15 and 16 of the Immigration Act 2009 (see A5.20); and
- b. has claimed at least one point for English language ability (see BJ5.35); and
- c. has confirmed that they are aged 65 years or younger (see BJ5.25); and
- d. has claimed points for a minimum of three years of business experience (see BJ5.30); and
- e. has claimed points for a minimum of NZ\$3.0 million investment funds (see BJ5.40); and
- f. has confirmed that they meet fit and proper person requirements (see BM1).

BJ4.15 Selection of Expressions of Interest

- a. As Expressions of Interest (EOI) are entered into the Pool they will be ranked on the basis of total points claimed for age, business experience, English language ability and investment funds, including bonus points for proposed growth investments, in accordance with the points allocated to these factors under the Investor 2 Category. The ranking of EOIs relative to each other will change as EOIs enter, or are withdrawn from, the Pool, or as the points claimed by EOIs already in the Pool change.
- b. Expressions of Interest may be selected from the Pool according to their points ranking in quantities sufficient to fulfil the annual approval cap stipulated at BJ2.10.

BJ4.20 Currency of an Expression of Interest

- a. An Expression of Interest (EOI) is current for a period of six months from the date of initial submission to the Pool unless no Pool selection of EOIs has occurred within that six-month period. Where this is the case, the EOI is current until such time as a selection from the Pool has occurred.
- b. An EOI that is no longer current will be withdrawn from the Pool.
- c. An EOI will also be withdrawn from the Pool if it is rejected after selection because it does not meet prerequisites for entry to the Pool and as a result no Invitation to Apply is issued.

BJ4.25 Invitation to Apply for a resident visa under the Investor 2 Category

See also Immigration Act 2009 s 94

- a. People whose Expressions of Interest (EOI) have been selected from the Pool may be issued with an Invitation to Apply (ITA) for a resident visa under the Investor 2 Category if:
 - i. the information provided does not indicate the presence of any health, character or fit and proper person (BM1) issues which may adversely affect their ability to be granted a resident visa under the Investor 2 Category; and
 - ii. a business immigration specialist considers the person's claims in regards to points for age, business experience, English language ability and investment funds, **including bonus points for proposed growth investments which were the basis for selection from the Pool, are credible.**
- b. A business immigration specialist may seek further evidence, information or submissions from a person whose EOI has been selected from the Pool, for the purpose of determining whether to issue them with an ITA under the Investor 2 Category.
- c. A business immigration specialist's decision to issue an ITA for a resident visa under the Investor 2 Category (based on information, evidence and submissions provided prior to application) does not guarantee:
 - i. that the points claimed by the applicant will be awarded; or
 - ii. a positive assessment in respect of health, character, English language, or any other requirements, of any subsequent application for a resident visa; or
 - iii. that the person will be granted a resident visa.
- d. The selection of an EOI from the Pool may not result in an ITA for a resident visa under the Investor 2 Category.

BJ5.5 Approval of applications under the Investor 2 Category

- a. Principal applicants under the Investor 2 category are assessed against:
 - i. age, health, character and English language requirements; and
 - ii. investment requirements; and
 - iii. business experience requirements.
- b. For an application under the Investor 2 category to be approved:
 - i. the principal applicant and family members included in the application must meet health and character requirements; and
 - ii. the principal applicant must qualify for the points on the basis of which their EOI was selected from the Pool; and
 - iii. the principal applicant must be aged 65 years or younger; and
 - iv. the principal applicant must have a minimum of three years of business experience; and
 - v. the principal applicant must qualify for at least 1 point for English language ability (see BJ5.35); and
 - vi. the principal applicant must nominate investment funds and/or assets equivalent in value to at least **NZ\$3.0 million**; and
 - vii. the principal applicant must demonstrate ownership of the nominated funds and/or assets and that they have been legally earned or acquired; and
 - viii. the principal applicant must meet fit and proper person requirements (see BM1).
- c. Despite BJ5.5(b)(ii) above, if a principal applicant does not qualify for the points for business experience and nominated investment funds on the basis of which their EOI was selected from the Pool (see **BJ4.15**), a business immigration specialist may, on a case by case basis, determine that the application may nevertheless be approved, where the principal applicant has satisfied a business immigration specialist that there was a reasonable basis for making the claim for points in the Expression of Interest and that in making that claim there was no fraud, or intent to provide false or misleading information.

BJ5.15 English language requirements

- a. Principal applicants under the Investor 2 Category must meet a minimum standard of English (see BJ5.35).
- b. Any partner or dependent children aged 16 years and over who are included in **an** Investor 2 Category application must meet a minimum standard of English or pre-purchase ESOL tuition (see BF1.1).

BJ5.25 Age

- a. Principal applicants under the Investor 2 Category must be aged 65 years or younger at the time of application.
- b. A principal applicant's age under the Investor 2 Category qualifies for points as follows:

Age	Points
60 - 65	0
50 - 59	5
40 - 49	10
30 - 39	15
<30	20

BJ5.25.1 Evidence of age

Evidence of age may include, but is not limited to, original or certified copies of:

- a. a birth certificate; or
- b. a passport or other travel document; or
- c. an identity document (from countries which require these and where birth details are confirmed before the document is issued).

BJ5.30 Business experience

- a. Principal applicants must have a minimum of three years of recognised business experience.
- b. Recognised business experience qualifies for points as set out below:

Business Experience years	Points
3	9
4	12
5	15
6	18
7	21
8	24
9	27
10	30
11	33
12	36
13	39
14	42
15+	45

BJ5.30.1 Basic rules for business experience

- a. Business experience is recognised for the award of points if it was acquired through ownership of or management level experience in, a lawful business enterprise that has at least five full-time employees or an annual turn-over of NZ\$1 million. Factors a Business Immigration Specialist may take into account to determine whether experience can be recognised may include the degree to which the applicant was involved in: planning, organisation, control, senior change-management, direction-setting and mentoring.
- b. A principal applicant is considered to own a business if they own at least 25% of a business.
- c. A lawful business enterprise is an organisation that:
 - i. operates lawfully in a commercial environment with the goal of returning a profit; and
 - ii. is not set up primarily for passive or speculative purposes.

BJ5.30.5 Length of business experience

- a. The length of business experience is determined on the basis of full-time business experience of at least 30 hours per week. Credit for part-time business experience may be given on a proportional basis.

Example: Business experience gained over eight years for 15 hours per week would equal four years' business experience based on a 30-hour week.

- b. Credit is given for 30 hour weeks only, even where a principal applicant has worked more than 30 hours in any week.

BJ5.30.10 Evidence of the principal applicant's business experience

- a. Documents submitted as evidence of the principal applicant's business experience must show the position(s) and the responsibilities held.

- b. Evidence of the principal applicant's business experience can include, but is not limited to, original or certified copies of the following documents as are necessary to allow a business immigration specialist to make a decision:
 - i. business registration
 - ii. company financial accounts
 - iii. company tax returns and tax records
 - iv. shareholder certificates or proof of ownership of business
 - v. job specifications
 - vi. job assessments
 - vii. personal tax returns
 - viii. letters of appointment
 - ix. certificates of service
 - x. strategic planning documents
 - xi. references from employers on company letterhead, stating the occupation and dates of employment, and giving the contact phone number and address of the employer.
- c. A business immigration specialist may require additional documents, evidence and information as they consider necessary to determine an application.
- d. Evidence of part-time business experience includes that listed in paragraph (b) above, but must show actual weekly hours worked.

Notes:

- Documents provided as evidence of business experience must, in combination, demonstrate experience of all the elements contained within the requirements for recognition of the business experience (see BJ5.30.1).
- New Zealand business experience must be lawfully gained.

BJ5.35 English language ability

- a. Principal applicants must qualify for a minimum of 1 point for English language ability.
- b. English language ability qualifies for points as follows:

Test	Required Score	Points
International English Language Testing System (IELTS) - General or Academic Module	Overall score of 3.0 or more but less than 4.0	1
IELTS - General or Academic Module	Overall score of 4.0 or more but less than 5.0	4
TOEFL iBT	Overall score of 31 to 34	
PTE Academic	Overall score of 29 to 35	
FCE or FCE for Schools	Overall score of 142 to 153	
OET	Grade D in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 5.0 or more	10
TOEFL iBT	Overall score of 35 or more	
PTE Academic	Overall score of 36 or more	
FCE or FCE for Schools	Overall score of 154 or more	
OET	Grade C or higher in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 6.0 or more	13
TOEFL iBT	Overall score of 60 or more	
PTE Academic	Overall score of 50 or more	
FCE or FCE for Schools	Overall score of 169 or more	
OET	Grade C or higher in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 7.0 or more	17
TOEFL iBT	Overall score of 94 or more	
PTE Academic	Overall score of 65 or more	
FCE or FCE for Schools	Overall score of 185 or more	
OET	Grade B or higher in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 8.0 or more	20
TOEFL iBT	Overall score of 110 or more	

PTE Academic	Overall score of 79 or more	
FCE or FCE for Schools	Overall score of 200 or more	
OET	Grade A or higher in all four skills (Listening, Reading, Writing and Speaking)*	

* A score in all four skills is required for the OET as there is no overall grade in this test.

BJ5.35.1 Evidence of English language ability

- a. Principal applicants claiming 1 or 4 points under BJ5.35(b) must provide English language test results (no more than 2 years old at the time the application is lodged) with a score that qualifies for 1 or 4 points.
- b. Principal applicants claiming 10 points under BJ5.35(b) must provide one of the following:
 - i. English language test results (no more than 2 years old at the time the application is lodged) with a score that qualifies for 10 points; or
 - ii. evidence that they have an English-speaking background (see BF2.1) which is accepted by a business immigration specialist as meeting the standard of English for which 10 points can be awarded; or
 - iii. other evidence which satisfies a business immigration specialist that, taking account of that evidence and all the circumstances of the application, the person meets the standard of English for which 10 points can be awarded. Evidence may include but is not limited to:
 - o the country in which the applicant currently resides;
 - o the country(ies) in which the applicant has previously resided;
 - o the duration of residence in each country;
 - o the nature of the applicant's current or previous employment (if any) and whether it required or was likely to have required skill in English language;
 - o the nature of the applicant's qualifications (if any) and whether the obtaining of those qualifications was likely to have required skill in English language.
- c. In any case under (b) (ii) or (iii), a business immigration specialist may require an applicant to provide English language test results in terms of paragraph (b)(i). In such cases, the English language test results will be used to determine whether the applicant can be awarded 10 points for English language ability.

Note: The tests recognised by Immigration New Zealand as set out at BJ5.35 provide an assessment of ability in English, including performance in listening, reading, writing and speaking.

BJ5.40 Investment funds

- a. The principal applicant must nominate a minimum of NZ\$3.0 million to invest in New Zealand.
- b. Points can be claimed for the amount of funds the principal applicant intends to invest in New Zealand.
- c. The principal applicant must:
 - i. nominate funds and/or assets equivalent to the amount that they wish to invest in New Zealand; and
 - ii. demonstrate ownership of the nominated funds and/or assets (see BJ5.40.5); and
 - iii. demonstrate that the nominated funds and/or assets have been earned or acquired legally (see BJ5.40.5(c) below).
- d. All invested funds must meet the conditions of an acceptable investment set out in BJ5.50.
- e. Investment funds qualify for points as follows:

Investment Amount (NZ\$M)	Points	Investment Amount (NZ\$M)	Points
\$3	10	\$6.5	80
\$3.25	15	\$6.75	85
\$3.5	20	\$7	90
\$3.75	25	\$7.25	95
\$4	30	\$7.5	100
\$4.25	35	\$7.75	105
\$4.5	40	\$8	110
\$4.75	45	\$8.25	115
\$5	50	\$8.5	120
\$5.25	55	\$8.75	125
\$5.5	60	\$9	130
\$5.75	65	\$9.25	135
\$6	70	\$9.5	140
\$6.25	75	\$9.75	145

BJ5.40.1 Definition of 'Philanthropic Investment'

- a. For Philanthropic investments to be considered acceptable, a Business Immigration Specialist must be satisfied the investment is genuine (see (b) below) and is in:
 - i. a registered charity with at least two years annual returns and Inland Revenue donee status; or
 - ii. a not-for-profit organisation that provides social, cultural or economic benefits approved by the Business Migration Branch Operations Manager.
- b. In determining whether a philanthropic investment is genuine, the factors a Business Immigration Specialist may consider include, but are not limited to:
 - i. the length of time the entity has been operating; and
 - ii. the constitutional arrangement of the entity; and
 - iii. the entity's track record.

BJ5.40.5 Ownership of nominated funds and/or assets

- a. Nominated funds and/or assets may be owned either:
 - i. solely by the principal applicant; or
 - ii. jointly by the principal applicant and partner who are included in the resident visa application, provided a business immigration specialist 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 and R2.1.15.1 (b) and R2.1.15.5 (a)(i)); or
 - iii. jointly by the principal applicant and dependent children who are included in the resident visa application.

If so, the principal applicant may claim the full value of such jointly owned funds or assets for assessment purposes.

- b. If nominated funds and/or assets are held jointly by the principal applicant and a person other than their partner or dependent child, the principal applicant may only claim the value of that portion of funds and/or assets for which they provide evidence of ownership.
- c. The principal applicant may only nominate funds and/or assets that they earned or acquired legally, including funds and/or assets which have been gifted to them unconditionally and in accordance with local law. Where nominated funds and/or assets have been gifted to the principal applicant a business immigration specialist must be satisfied that the funds and/or assets being gifted were earned lawfully by the person/s gifting the funds and/or assets.
- d. The nominated funds and/or assets must be unencumbered.
- e. The nominated funds and/or assets must not be borrowed.

BJ5.40.10 Definition of 'funds earned or acquired legally'

- a. Funds and/or assets earned or acquired legally are funds and/or assets earned or acquired in accordance with the laws of the country in which they were earned or acquired.
- b. Business immigration specialists have discretion to decline an application if they are satisfied that, had the funds and/or assets been earned or acquired in the same manner in New Zealand, they would have been earned or acquired contrary to the criminal law of New Zealand.

BJ5.40.15 Definition of 'unencumbered funds'

Unencumbered funds are funds that are not subject to any mortgage, lien, charge and/or encumbrance (whether equitable or otherwise) or any other creditor claims.

BJ5.40.20 Funds already held in New Zealand

- a. Funds held in New Zealand at the time the application is made may be included in investment funds, however, periods of investment in New Zealand before approval in principle cannot be taken into account when calculating the four-year investment period.
- b. Funds held in New Zealand must originally have been transferred to New Zealand through the banking system, or a foreign exchange company that uses the banking system from the country or countries in which they were earned or acquired legally, or have been earned or acquired legally in New Zealand.

BJ5.40.25 Evidence of the principal applicant's nominated funds and assets

- a. Principal applicants must provide evidence of net funds and/or assets to the value of the required investment funds.
- b. Principal applicants must provide evidence to the satisfaction of a business immigration specialist that the nominated funds and/or assets were earned or acquired legally.
- c. All documents provided as valuations of assets must be:
 - i. no more than three months old at the date the resident visa application is made; and
 - ii. produced by a reliable independent agency.
- d. A business immigration specialist may seek further evidence if they:
 - i. are not satisfied that the nominated funds and/or assets were earned or acquired legally; or
 - ii. consider that the nominated funds and/or assets may have been gifted or borrowed; or
 - iii. are not satisfied with the valuation provided; or
 - iv. consider that the nominated funds and/or assets fail in some other way to meet the rules for investment funds.

BJ5.45 Growth Investments

- a. Principal applicants who are assessed as meeting the requirements under the Investor 2 Category and who propose to invest a minimum of NZ\$750,000 (25% of NZ\$3.0 million) of nominated investment funds in 'growth investments' will be eligible to:
 - i. spend a minimum time period in New Zealand of 438 days over four years from first arrival in New Zealand as a resident, or the grant of a resident visa while in New Zealand; and
 - ii. qualify for 20 bonus points.
- b. Principal applicants who are assessed as meeting the requirements under the Investor 2 Category and who propose to invest a minimum of NZ\$1.5 million (50% of NZ\$3.0 million) of nominated investment funds in 'growth investments' will be eligible to:
 - i. spend a minimum time period in New Zealand of 438 days over four years from first arrival in New Zealand as a resident, or the grant of a resident visa while in New Zealand; and
 - ii. qualify for 20 bonus points; and
 - iii. qualify for a reduction of NZ\$0.5 million of the investment amount.

BJ5.45.1 Definition of 'Growth Investments'

- a. For the purposes of these instructions, growth investments are defined as acceptable investments, see (BJ5.50) other than:
 - i. bonds; and
 - ii. philanthropic investments.
- b. All invested funds must meet the conditions of an acceptable investment set out in BJ5.50.

Note: For the purpose of growth investments, convertible notes are considered to be bonds.

BJ5.50 Definition of 'acceptable investment'

- a. An acceptable investment means an investment that:
- i. is capable of a commercial return under normal circumstances; and
 - ii. is not for the personal use of the applicant(s) (see BJ5.50.1 below); and
 - iii. is invested in New Zealand in New Zealand currency; and
 - iv. is invested in lawful enterprises or managed funds (see BJ5.50.5) that comply with all relevant laws in force in New Zealand; and
 - v. has the potential to contribute to New Zealand's economy; and
 - vi. is invested in either one or more of the following:
 - o bonds issued by the New Zealand government or local authorities; or
 - o bonds issued by New Zealand firms traded on the New Zealand Debt Securities Market (NZDX); or
 - o bonds issued by New Zealand firms with at least a BBB- or equivalent rating from internationally recognised credit rating agencies (for example, Standard and Poor's); or
 - o equity in New Zealand firms (public or private including managed funds and venture capital funds); or
 - o bonds issued by New Zealand registered banks; or
 - o equities in New Zealand registered banks; or
 - o residential property development(s) (see BJ5.50.10) or
 - o **commercial property (see BJ5.50.20); or**
 - o bonds in finance companies (see BJ5.50 (c)); or
 - o eligible New Zealand venture capital funds (see BJ5.50.15); or
 - o **philanthropic investment (see BJ5.40.1); or**
 - o **'Angel funds or networks' investments.**

Note: New Zealand registered banks are defined by the New Zealand Reserve Bank Act 1989.

- b. **For private equity investments to be acceptable, the business immigration specialist must be satisfied that the funds being investigated are to be actively used by the company to, for example, fund company growth, pay down company debt or purchase capital items.**
- c. Notwithstanding (a) above, where an investment fails to meet one of the acceptable investment requirements, a business immigration specialist may consider, on a case by case basis, whether the failure was beyond the control of the principal applicant and if satisfied that this was the case, may consider the investment acceptable.
- d. A Business Immigration Specialist may consider bonds in finance companies as an acceptable investment where the finance company:
- i. is a wholly-owned subsidiary of,
 - ii. raises capital solely for, and
 - iii. has all its debt securities unconditionally guaranteed by a New Zealand Stock Exchange listed company or a local authority.

Note: The value of an investment is based on the net purchase price (for example, less any accrued interest, commission, brokerage and/or trade levy), not on the face value of the investment.

BJ5.50.1 Personal use of investment funds

Personal use includes investment in assets such as a personal residence, car, boat or similar.

BJ5.50.5 Managed funds

- a. For the purposes of these instructions, managed funds are defined as either:
- i. a managed fund investment product offered by a financial institution; or
 - ii. funds invested in equities that are managed on an investor's behalf by a fund manager or broker.
- b. In order to be acceptable as a form of investment managed funds must be invested only in New Zealand companies. Managed fund investments in New Zealand with international exposure are acceptable only for the proportion of the investment that is invested in New Zealand companies.

Example: Only 50% of a managed fund that equally invests in New Zealand and international equities would be deemed to be an acceptable investment as set out in BJ5.50.5

BJ5.50.10 Residential property development

For the purposes of these instructions, residential property development(s) is defined as property(ies) in which people reside and is subject to the following conditions:

- a. the residential property must be in the form of new developments on either new or existing sites; and
- b. the residential property(ies) cannot include renovation or extension to existing dwellings; and
- c. the new developments must have been approved and gained any required consents by any relevant regulatory authorities (including local authorities), or if consents are not available, evidence must be submitted that consents have been requested; and
- d. the purpose of the residential property investments must be to make a commercial return on the open market; and
- e. neither the family, relatives, nor anyone associated with the principal applicant, may reside in the development.

BJ5.50.15 Venture capital funds

- a. For the purposes of these instructions, a venture capital fund is defined as a fund that invests capital in an early-stage or start-up (or seed) company or companies in exchange for an equity stake in that company or companies.
- b. In order for a venture capital fund investment to be deemed acceptable by a business immigration specialist, nominated funds can be placed in approved on-call accounts or venture capital funds, subject to the following conditions:
 - i. applicants must have entered into a binding fund investment contract with an approved venture capital fund manager and into an approved fund structure (for example a New Zealand limited partnership), to supply an agreed amount of funds as committed capital; and
 - ii. the committed funds are a fixed commitment, managed on an applicant's behalf by a fund manager or broker, to be drawn down over a stated period; and
 - iii. nominated funds can either be committed to an acceptable investment or placed into on-call accounts which meet the specifications in BJ5.50.15(e); and
 - iv. applicants must maintain a level of funds in any approved on-call account equal to the nominated amount minus any funds already committed to the venture capital fund; and
 - v. applicants must be able to demonstrate that all funds placed into on-call accounts are in those accounts pending call-up by their nominated venture capital fund.
- c. In order to be approved, all on-call accounts or venture capital funds must be managed on an applicant's behalf by a fund manager or broker and held in New Zealand in New Zealand dollars.
- d. Funds and fund administrators or managers must be able to provide confirmation that both funds and managers are fully compliant with any legislative and regulatory obligations, applicable codes of practice and licensing or registration requirements under New Zealand law, including any requirements imposed by the Financial Markets Authority.
- e. For the purposes of these instructions, acceptable on-call accounts are defined as an investment that can be liquidated to meet the needs of the venture capital fund, including trusts, bonds, or shares in equities.

BJ5.50.20 Definition of 'Commercial Property'

Business Immigration Specialists may consider 'commercial property' to be an acceptable investment where:

- a. the property(ies) is not residential or for domestic use; and
- b. the property(ies) is used for business purposes, in that it is:
 - i. capable of a commercial return; and
 - ii. not used for land banking ; and
- c. the purpose of the commercial property investments must be to make a commercial return on the open market; and
- d. neither the family, relatives, nor anyone associated with the principal applicant may reside in the development; and
- e. if a new development, the property(ies) must have been approved and gained any required consents by any relevant regulatory authorities (including local authorities).

Note: Commercial property can include empty land if plans for development are submitted to regulatory authorities and/or work has commenced.

BJ6 Summary of points for the Investor 2 category

Age	Points
60 - 65	0
50 - 59	5
40 - 49	10
30 - 39	15
<29	20

Business Experience years	Points
3	9
4	12
5	15
6	18
7	21
8	24
9	27
10	30
11	33
12	36
13	39
14	42
15+	45

Test	Required Score	Points
International English Language Testing System (IELTS) - General or Academic Module	Overall score of 3.0 or more but less than 4.0	1
IELTS - General or Academic Module	Overall score of 4.0 or more but less than 5.0	4
TOEFL iBT	Overall score of 31 to 34	
PTE Academic	Overall score of 29 to 35	
FCE or FCE for Schools	Overall score of 142 to 153	
OET	Grade D in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 5.0 or more	10
TOEFL iBT	Overall score of 35 or more	
PTE Academic	Overall score of 36 or more	
FCE or FCE for Schools	Overall score of 154 or more	
OET	Grade C or higher in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 6.0 or more	13
TOEFL iBT	Overall score of 60 or more	
PTE Academic	Overall score of 50 or more	
FCE or FCE for Schools	Overall score of 169 or more	
OET	Grade C or higher in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 7.0 or more	17
TOEFL iBT	Overall score of 94 or more	
PTE Academic	Overall score of 65 or more	
FCE or FCE for Schools	Overall score of 185 or more	
OET	Grade B or higher in all four skills (Listening, Reading, Writing and Speaking)*	
IELTS - General or Academic Module	Overall score of 8.0 or more	20
TOEFL iBT	Overall score of 110 or more	
PTE Academic	Overall score of 79 or more	

FCE or FCE for Schools	Overall score of 200 or more	
OET	Grade A or higher in all four skills (Listening, Reading, Writing and Speaking)*	

* A score in all four skills is required for the OET as there is no overall grade in this test.

Investment Amount (NZ\$M)	Points	Investment Amount (NZ\$M)	Points
\$3	10	\$6.5	80
\$3.25	15	\$6.75	85
\$3.5	20	\$7	90
\$3.75	25	\$7.25	95
\$4	30	\$7.5	100
\$4.25	35	\$7.75	105
\$4.5	40	\$8	110
\$4.75	45	\$8.25	115
\$5	50	\$8.5	120
\$5.25	55	\$8.75	125
\$5.5	60	\$9	130
\$5.75	65	\$9.25	135
\$6	70	\$9.5	140
\$6.25	75	\$9.75	145

Investment in Growth Investments	Bonus points
Investment of NZ\$750,000 or more in growth investments	20

BJ7.5 Approval in principle

Principal applicants who are assessed as meeting the requirements under either the Investor 1 Category (see BJ3(b) i – iv) or the Investor 2 Category (see BJ5.5(b) i - ix) will be advised that:

- a. their application has been approved in principle; and
- b. resident visas may be granted once they:
 - i. provide acceptable evidence of having transferred and invested the nominated funds (less any discount for investment in 'growth investments', see (BJ5.45)) in accordance with the relevant instructions; and
 - ii. provide a New Zealand address at which they can be contacted by mail, after they arrive in New Zealand; and
 - iii. submit evidence that any applicant aged 16 or over in the Investor 2 Category meets the English language requirement, if applicable; and
- c. resident visas will be granted subject to conditions under section 49(1) of the Immigration Act 2009.

BJ7.10 Transfer of the nominated investment funds

- a. When their application is approved in principle, the principal applicant will be required to transfer the nominated investment funds to New Zealand. These funds must:
- i. be the funds initially nominated, or the funds that result from the sale of the same assets as those initially nominated, in the resident visa application; or
 - ii. be funds, in the case of the Investor 1 Category as agreed to by a business immigration specialist, secured against the nominated assets in the resident visa application and as approved in accordance with (b) below; and
 - iii. be transferred through the banking system directly from the principal applicant's bank account(s) to New Zealand; or
 - iv. be transferred by a foreign exchange company to New Zealand through the banking system. Business immigration specialists may not accept the transferred funds if the applicant cannot provide satisfactory evidence of the following:
 - o the nominated investment funds have been transferred to the foreign exchange company directly from the principal applicant's bank account(s); and
 - o the nominated investment funds have not been transferred through the foreign exchange company contrary to the laws of New Zealand; and
 - o nominated investment funds transferred are traceable; and
 - o cash transactions were not made; and
 - o the foreign exchange company is not suspected of, or proven to have committed fraudulent activity or financial impropriety in any country it operates from or in.

Note: For Investor 2, the transfer of funds will be less any discount for investment in 'growth investments' see (BJ5.45)

- b. Under the Investor 1 Category, a business immigration specialist may consider, on a case by case basis, borrowed funds as acceptable investment funds where the principal applicant is able to demonstrate that:
- i. they own net assets equal or greater in value to the required investment amount; and
 - ii. the borrowed investment funds will be from a bank or commercial lending institution acceptable to a business immigration specialist and will be secured against the assets identified under (i); and
 - iii. it is not economically viable or practical to liquidate the nominated assets. eg sell a business.
- c. The investment funds that are transferred to New Zealand and subsequently into an acceptable investment must be from the same source of funds as nominated in the resident visa application.

Note: Nominated funds held in a country other than the country in which they were earned or acquired legally must have been originally transferred through the banking system, or a foreign exchange company that uses the banking system from that country.

BJ7.15 Evidence of the transfer of the nominated funds to New Zealand

- a. Acceptable evidence of the transfer of the nominated funds must be provided by way of the transfer documentation together with a current bank statement showing the transfer(s).
- b. A business immigration specialist may request any other information to satisfy them that the above requirements have been met.

BJ7.20 Timeframe for investing funds in New Zealand

- a. Principal applicants must meet the requirements for transferring and investing the nominated funds within 12 months of the date of the letter advising of approval in principle.
- b. Principal applicants may request an extension to the 12-month transfer and investment period (see BJ7.20.1).
- c. Applications for a resident visa must be declined if principal applicants do not transfer and invest the nominated funds within 12 months (or up to a maximum of 24 months for Investor 1 applicants, or 18 months for Investor 2 applicants if an extension is granted, see BJ7.20.1 below) from the date of approval in principle.
- d. Principal applicants must provide acceptable evidence of having transferred and invested the nominated funds to the Business Migration Branch no later than three months after the expiry of the approved timeframe to transfer and invest the funds (i.e. three months after the 12-, 18- or 24-month timeframe from the date of approval in principle).

BJ8.1 Grant of resident visas

- a. Resident visas may only be granted once principal applicants have:
 - i. met the transfer requirements set out at BJ7.10; and
 - ii. placed the funds into an acceptable investment; and
 - iii. paid any applicable ESOL tuition fee(s) (see BF3.15).
- b. A business immigration specialist must also be satisfied the applicant continues to meet the fit and proper person requirements set out at BM1.
- c. Resident visas will be granted subject to conditions under section 49(1) of the Immigration Act 2009 in accordance with the instructions set out at BJ8.10.

BJ8.10 Resident visas subject to conditions under section 49(1) of the Immigration Act

See also Immigration Act 2009 s 49

All resident visas granted under one of the Migrant Investment Categories **are** subject to the following conditions under section 49(1) of the Immigration Act 2009:

- a. that the principal applicant retains an acceptable investment in New Zealand for a minimum of three years under the Investor 1 Category or four years under the Investor 2 Category; and
- b. **that the principal applicant spends a minimum period of time in New Zealand during the required investment period (see BJ8.15); and**
- c. that the principal applicant informs the nearest office of INZ of any changes of New Zealand address during the investment period; and
- d. that a principal applicant who was awarded 1 point for English language ability (see BJ5.35) under the Investor 2 Category, must complete a minimum 20 hours of English language tuition with a New Zealand registered school or tertiary education provider as defined in the Education Act 1989 within the four year investment period; and
- e. **within three months of** the two-year anniversary of the investment period, the principal applicant submits evidence that they **are retaining an acceptable investment in New Zealand;** and
- f. **within 3 months after the expiry date of the investment period, the principal applicant submit evidence to INZ that they have met requirements (a) and (d) if applicable.**
- g. **that the principal applicant must provide evidence that 'growth investments' have been retained for the investment period.**

BJ8.15 Section 49(1) condition: minimum period of time in New Zealand

As set out at BJ8.10(a), the principal applicant under each category of the Migrant Investment Categories must spend a minimum period of time in New Zealand during the required investment period. The time periods are:

a. Investor 1 Category:

- i. 12% of each of the final two years of the three year investment period (44 days per year); or
- ii. 88 days over the three year investment period if a minimum of \$2.5 million (25% of the NZ\$10 million investment amount) is invested in 'growth investments' (see BJ3.15.1).

b. Investor 2 Category:

- i. 40% of each of the final three years of the four year investment period (146 days per year); or
- ii. 438 days over four years from their first day in New Zealand as a resident if a minimum of NZ\$750,000 (50% of NZ\$3 million) is invested in 'growth investments' (see BJ5.45).

BJ9.1 Reminder from Immigration New Zealand to provide evidence of section 49(1) conditions being met

- a. Immigration New Zealand will attempt to contact the principal applicant:
 - i. during the three months before the two-year anniversary; and
 - ii. during the three months before the expiry of the required investment period requesting evidence that section 49(1) conditions are being met.
- b. Evidence for all requirements must be provided no later than three months after the date of request.

BJ9.10 Retention of acceptable investment

- a. The principal applicant will need to show that they have retained an acceptable investment in New Zealand for the required investment period.
- b. Suitable evidence will include documentation from a reliable independent professional (for example, a solicitor or chartered accountant) stating:
 - i. the full name of the investor; and
 - ii. the amount invested; and
 - iii. the date the investment was lodged; and
 - iv. the type of investment (in the case of shares or bonds, the names of the companies invested in and the number of shares or bonds purchased must be listed); and
 - v. confirmation that the funds were invested in New Zealand for the full investment period or, if transferred, the date of lodgement and withdrawal of the investment.
- c. If the principal applicant has established or purchased a shareholding or bonds in more than one business this information should be provided for each of the businesses.
- d. If the principal applicant has transferred funds between several organisations during the investment period, principal applicants should provide letters from every organisation they have invested with. Lodgement and withdrawal dates will be checked to ensure that funds have been held continuously in New Zealand for the required investment period.
- e. A business immigration specialist may request any other information in order to be satisfied that the above requirements have been met.
- f. Evidence that the requirements have been met includes:
 - i. submission of the evidence required by paragraphs (b) to (f) no later than three months after the two-year anniversary and the expiry date of the required investment period; and
 - ii. subsequent written confirmation on file (by a business immigration specialist) that the investment requirements have been met.

Note: The principal applicant must retain any nominated percentage in growth investments for the period of investment

R2.1 Who may be included in an application

See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 20

- a. Each principal applicant (see R2.1.1 below) must make a separate application.
- b. The following people may be included in a residence class visa application, regardless of whether they are living in the same country as the principal applicant:
 - i. The partner of a principal applicant (see R2.1.10 below); and
 - ii. The biological or adopted (see R3) dependent children of the principal applicant and/or partner (if the partner is included in the application) (see R2.1.30 below).

R2.1.1 Definition of 'principal applicant'

- a. The principal applicant is the person who is declared to be the principal applicant on the residence class visa application form.
- b. When the application is assessed, the principal applicant will be the person first assessed against the criteria in residence instructions, unless the instructions indicate otherwise.

R2.1.5 Definition of 'applicant'

An applicant is a person included in an application for a residence class visa and includes the principal applicant and secondary applicants (if any). All persons included in an application will be individually assessed against the criteria for the grant of residence in the residence instructions that apply to them.

R2.1.10 Definition of 'partner'

- a. For the purpose of inclusion in a residence class visa application, 'partner' means a person who:
 - i. is legally married to the principal applicant; or
 - ii. is in a civil union partnership with the principal applicant; or
 - iii. is in a de facto relationship with the principal applicant.
- b. References to 'partner' in residence instructions mean 'partner' as defined in (a) above.
- c. A partner who does not meet the criteria in (a) above may not be included in a principal applicant's application and must apply for residence as a principal applicant in their own right.

R2.1.15 When may partners included in an application be granted a residence class visa?

- a. For a 'partner' included in an application to be granted a residence class visa an immigration officer must be satisfied that they meet 'partnership' instructions which are:
 - i. that the principal applicant and partner are living together in a genuine and stable partnership (see F2.10.1); and
 - ii. that the couple have been living together in such a relationship for 12 months or more at the time the application is assessed; and
 - iii. that the partnership meets the minimum requirements for the recognition of partnerships set out at F2.15 in that:
 - o the couple were both aged 18 years or older at the time the application for residence class visa was made, or if aged 16 or 17 years old have the support of their parent(s) or guardian(s); and
 - o the couple have met prior to the application being made; and
 - o they are not close relatives (see F2.15(d)).
- b. When assessing if the duration of the partnership requirement in a. ii above is met immigration officers may include any period immediately prior to any marriage where they are satisfied the couple was living together in an interdependent partnership akin to a marriage.

R2.1.15.1 What happens if an immigration officer is not satisfied that a couple are living together in a partnership that is genuine and stable?

If an immigration officer is not satisfied the principal applicant and partner included in the application are living together in a partnership that is genuine and stable, then:

- a. the partner will not be granted a residence class visa; and
- b. if the principal applicant is reliant on:
 - i. the attributes of their partner included in the application; or
 - ii. the family relationship of their partner included in the application

those attributes or relationships will not be taken into account when determining eligibility of the principal applicant under residence instructions.

Examples:

- ~ Under the Skilled Migrant Category (see SM10.10(c)) a principal applicant's partner's skilled employment in New Zealand will not qualify for points.
- ~ Under the Sibling and Adult Child Category instructions (see F6.1(c)) where a principal applicant and partner included in the application have combined income as evidence of meeting the required minimum income

requirement only the principal applicant's income may be taken into account when determining the total family income per year.

R2.1.15.5 What happens if the partnership is considered to be genuine and stable but is less than the 12 months required?

- a. If an immigration officer is satisfied the principal applicant and partner included in the application are living together in a partnership that is genuine and stable, but the duration of that partnership is less than the 12 months required, then:
 - i. in any case where the grant of a residence class visa to a principal applicant is reliant on the relationship with or attributes of their partner the application must be declined under residence instructions; or
 - ii. in any case where the grant of a residence class visa to a principal applicant is not reliant on the relationship with or attributes of their partner the immigration officer may proceed with processing the principal applicant for the residence class visa but defer the final decision on the partner to enable the qualifying period to be met.
- b. If a partner's application for a residence class visa has been deferred as described in (a)(ii) above they may be granted a work visa (once an application has been made) for a period sufficient to enable the qualifying period to be met and any further assessment of their residence class visa application to be completed (see WF2.20).

R2.1.20 Evidence of relationship with partner

Principal applicants must provide:

- a. evidence of their relationship with their partner included in the application; and
- b. evidence that their partnership is genuine and stable. (F2.20.15 sets out the types of evidence that are required).

Note: In each case where a person relies on being the partner of a principal applicant for the purposes of inclusion in an application (and subsequent grant of a residence class visa), the onus of proving that the person included is the partner of the principal applicant, that their partnership is genuine and stable, and of the required duration lies with the principal applicant and their partner (see F2.5(c)).

R2.1.25 Polygamous marriages and relationships

As an exception to the exclusivity requirement which forms part of the definition of a genuine and stable partnership (see F2.10) principal applicants in polygamous marriages or relationships (i.e. marriages or relationships with more than one partner) may have only one partner included in their application for a residence class visa.

R2.1.27 When may dependent children be included in an application and be granted a residence class visa?

For a 'dependent child' to be included in an application to be granted a residence class visa, an immigration officer must be satisfied that they are a dependent child.

R2.1.30 Definition of 'dependent child'

See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Regs, 4, 20

For the purpose of inclusion in an application, and despite the definition in section 4 of the Immigration Act 2009, a child is dependent if they:

- a. are:
 - i. aged 21 to 24, with no child(ren) of their own; and
 - ii. single (see F5.5); and
 - iii. totally or substantially reliant on the principal applicant and/or the principal applicant's partner for financial support, whether living with them or not; or
- b. are:
 - i. aged 18 to 20, with no child(ren) of their own; and
 - ii. single (see F5.5); or
- c. are:
 - i. aged 17 or younger; and
 - ii. single (see F5.5); or
- d. are applying for a South Island Contribution resident visa and were previously determined to be dependent under WR7.20.1.
- e. When determining whether a child of 21 to 24 years of age is totally or substantially reliant on the principal applicant and/or the principal applicant's partner for financial support immigration officers must consider the whole application, taking into account all relevant factors including:
 - o whether the child is in paid employment, whether this is full time or part time, and its duration;
 - o whether the child has any other independent means of financial support;

- whether the child is living with its parents or another family member, and the extent to which other support is provided;
- whether the child is studying, and whether this is full time or part time.

R2.1.35 Evidence of dependence

- a. Children up to 17 years of age are presumed to be dependent if they are single.
- b. Children aged 18 to 20 years of age are presumed to be dependent if they are single and have no child(ren) of their own.
- c. For children aged 21 to 24 years of age, evidence of actual dependence may be required.

R2.1.40 Evidence of relationship with dependent children

The principal applicant must provide one of the following documents as evidence of the relationship of the principal applicant and/or partner included in the application with any dependent child included in the application:

- a. the original birth certificate showing the names of the parent(s); or
- b. original adoption papers showing that the child has been legally adopted by the principal applicant or partner; or
- c. in the case of a child adopted by custom, a declaration by the adoptive parent(s) separate from, and in addition to, any similar declaration made on an application form (see R3.5.1).

R2.1.45 Children under 16 whose parents are separated or divorced

- a. If the parents of a child aged under 16 included in an application for a residence class visa are separated or divorced, the applicant parent must have the right to remove the child from the country in which rights of custody or visitation have been granted; or if no such rights have been granted, from the country of residence.
- b. Such children cannot be included in an application unless the applicant parent produces satisfactory evidence of their right to remove the child from the country in which the rights of custody or visitation have been granted or if no such rights have been granted, from the country of residence.
- c. Except where (d) applies, evidence of the right to remove the child from the country in which rights of custody or visitation have been granted must include original or certified copies of:
 - i. legal documents showing that the applicant has custody of the child and the sole right to determine the place of residence of the child, without rights of visitation by the other parent, or
 - ii. a court order permitting the applicant to remove the child from its country of residence; or
 - iii. legal documents showing that the applicant has custody of the child and a signed statement from the other parent, witnessed in accordance with local practice or law, agreeing to allow the child to live in New Zealand if the application is approved.
- d. Where an immigration officer is satisfied that:
 - i. by virtue of local law, the applicant parent has the statutory right to custody of the child; and
 - ii. it is not possible or required under that local law to obtain individualised legal documents to verify that custodial right, the child may be included in the application.

R2.1.50 Children under 16 with only one parent included in the application for a residence class visa.

- a. If one of the parents of a child aged under 16 is not included in the application for a residence class visa, the applicant parent must have the right to remove the child from its country of residence.
- b. Such children cannot be included in an application unless the applicant parent produces satisfactory evidence of their right to remove the child from its country of residence.
- c. Except where (e) applies, evidence of the right to remove the child from its country of residence in cases where one parent is not included in the application for a residence class visa, but the parents are not separated or divorced, must include original or certified copies of:
 - i. a written statement confirmed by both parents at interview; or
 - ii. a court order permitting the applicant to remove the child from its country of residence.
- d. If, because of the death of one of the parents of a child aged under 16, only one parent is included in the application, the death certificate of the other parent must be provided.
- e. The child may be included in the application where an immigration officer is satisfied that:
 - i. by virtue of local law, the applicant parent has the statutory right to custody of the child; and
 - ii. it is not possible or required under that local law to obtain individualised legal documents to verify that custodial right.

R2.1.55 Situation of dependent of partners included in an application

- a. Any dependent child who is reliant on inclusion in an application solely by virtue of being the dependent child of the principal applicant's partner included in an application (i.e. they are not a child of the principal

applicant) may not be granted a residence class visa unless their parent partner is granted a residence class visa.

- b. If their parent partner is granted a work visa as provided for in R2.1.15.5 (b) above then they may also be granted a temporary visa of a type appropriate to their needs (once an application has been made) for the same period.

Example: a dependent child intending to attend school in New Zealand must apply for a student visa.

**Appendix 3: Immigration instructions to be rescinded on and after
22 May 2017**

BJ5.45 Settlement funds

BJ5.45.1 Aim and Intent

Principal applicants under the Investor 2 Category must demonstrate that they have the ability to support themselves, their partner, and/or dependent children (see [R2.1.30](#)) who are included in the resident visa application during the four year investment period in New Zealand.

BJ5.45.5 Requirement for settlement funds

Principal applicants must demonstrate ownership of a minimum of NZ\$1 million in addition to their nominated investment funds.

BJ5.45.10 Ownership of settlement funds

- a. Funds may be owned either:
 - i. solely by the principal applicant; or
 - ii. jointly by the principal applicant and partner and/or dependent children (see [R2.1.30](#)) who are included in the resident visa application.
- b. The principal applicant may claim the full value of jointly owned funds or assets for assessment purposes provided a business immigration specialist is satisfied the principal applicant and partner have been living together for 12 months or more in a genuine and stable partnership (see [R2.1.15](#), [R2.1.15.1 \(b\)](#) and [R2.1.15.5 \(a\) \(i\)](#)).
- c. If funds or assets are held jointly by the principal applicant and a person other than their partner or dependent child, the principal applicant may only claim the value of that portion of the funds or assets for which they provide evidence of ownership.

BJ5.45.15 Evidence of settlement funds

Evidence of settlement funds may include, but is not limited to:

- a. funds held in a New Zealand bank account(s); and/or
- b. funds held in an offshore bank account(s), together with evidence that the funds can be accessed from New Zealand; and/or
- c. acceptable evidence of net assets (either in New Zealand or offshore).