



13 December 2017

IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2017/13

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 and 2 on and after 15 January 2018.

Note

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

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

Summary of contents

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

- The *Description of changes* section contains a summary of the changes to immigration instructions.
- Appendix 1 contains amended *Residence instructions* effective on and after 15 January 2018.
- Appendix 2 contains amended *Temporary Entry instructions* effective on and after 15 January 2018.

Description of changes

Remuneration thresholds for the Skilled Migrant Category

SM1.10 Points for employability and capacity building factors

SM6.10 Skilled Employment

SM6.20 Calculating remuneration

SM6.60 Bonus points for high remuneration

Skilled Migrant Category instructions have been amended to adjust the remuneration thresholds in line with the New Zealand median income. The threshold for 'skilled employment' is now employment earning \$24.29 per hour (or the equivalent annual salary) for ANZSCO 1-3 occupations and \$36.44 for ANZSCO 4-5 occupations (or occupations not included in ANZSCO). To earn bonus points, the employment must earn \$48.58 per hour. Other minor clarifications have been made.

Remuneration thresholds for Essential Skills instructions

WK3.5 Acceptable employment applicants

WK3.5 has been amended to adjust the remuneration thresholds in line with the New Zealand median income. The following thresholds will now apply for employment to be considered lower, mid, or higher-skilled.

- Lower-skilled:
 - Less than \$20.65 per hour, for any ANZSCO level occupation, or
 - Less than \$36.44 per hour, for ANZSCO 4-5 occupations.
- Mid-skilled: Between \$20.65 and \$36.43 per hour (inclusive), for ANZSCO 1-3 occupations.
- Higher-skilled: \$36.44 or higher, for any ANZSCO level occupation.

A clarification has been made that each hour of work must be paid at or above the remuneration threshold to be assessed within a particular skill-band.

Appendix 1: Amendments to Residence instructions effective on and after 15 January 2018

SM1.10 Points for employability and capacity building factors

Factors		Points	Criteria
Age (20 to 55 years)	20-39	30	SM5
	40-44	20	
	45-49	10	
	50-55	5	
Skilled employment	Current skilled employment in New Zealand or an offer of skilled employment in New Zealand	50	SM6
Bonus points for skilled employment	Current skilled employment in New Zealand or an offer of skilled employment in New Zealand in an area of absolute skills shortage	10	SM6.40
	Current skilled employment or an offer of skilled employment outside the Auckland region	30	SM6.50
	Current skilled employment or an offer of skilled employment with remuneration of least \$48.58 per hour, or the equivalent annual salary	20	SM6.60
Skilled work experience	2 years	10	SM7
	4 years	20	
	6 years	30	
	8 years	40	
	10 years	50	
Additional bonus points if skilled work experience is in New Zealand	1 year or more	10	SM7.25
Additional bonus points for skilled work experience in an area of absolute skills shortage	2 to 5 years	10	SM7.30
	6 years or more	15	
Qualifications	Recognised level 3 qualification if included on the List of Qualifications Exempt from Assessment (LQEA)	40	SM8
	Recognised level 4-6 qualification (e.g. trade qualification, diploma)	40	
	Recognised level 7 or 8 qualification (e.g. bachelor's degree, bachelor's degree with Honours)	50	
	Recognised level 9 or 10 post-graduate qualification	70	

	(Master's degree, Doctorate)		
Bonus points for qualifications gained in New Zealand	2 years of full-time study in New Zealand completing a recognised bachelor degree (level 7) New Zealand qualification; or	10	SM8.25
	1 year of full-time study in New Zealand completing a recognised post-graduate New Zealand qualification; or	10	
	2 years of full-time study in New Zealand completing a recognised post-graduate New Zealand qualification	15	
Bonus points for partner's skilled employment	Partner's current skilled employment in New Zealand or offer of skilled employment in New Zealand.	20	SM9.5
Bonus points for partner's qualification (either)	Recognised qualification at level 7 or 8; or	10	SM9.10
	Recognised qualification at level 9 or above	20	

SM6.10 Skilled Employment

- a. Skilled employment is employment that meets a minimum remuneration threshold and requires specialist, technical or management expertise obtained through:
 - i. the completion of recognised relevant qualifications; or
 - ii. relevant work experience; or
 - iii. the completion of recognised relevant qualifications and/or work experience.
- b. Assessment of whether employment is skilled for the purposes of the Skilled Migrant Category is primarily based on the Australian and New Zealand Standard Classification of Occupations (ANZSCO) which associates skill levels with each occupation, and the level of remuneration for the employment.

Note: The ANZSCO is available at www.immigration.govt.nz/ANZSCO

SM6.10.5 Skilled employment in an occupation included in the ANZSCO

Current employment in New Zealand or an offer of employment in New Zealand will be assessed as skilled if:

- a. the occupation is described in the ANZSCO as:
 - i. a skill level 1, 2 or 3 occupation and the remuneration for that employment is \$24.29 per hour or above (or the equivalent annual salary); or
 - ii. a skill level 4 or 5 occupation and the remuneration for that employment is \$36.44 per hour or above (or the equivalent annual salary); and
- b. the principal applicant can demonstrate that their employment substantially matches the description for that occupation as set out in the ANZSCO (see SM6.10.5.1); and
- c. the employment is full-time (employment is full-time if it amounts to, on average, 30 hours per week over an agreed pay period); and
- d. the applicant is suitably qualified by training and/or experience for that occupation, as set out in SM6.10.20 or SM6.10.25; and
- e. an immigration officer is satisfied that the employment is:
 - i. genuine; and
 - ii. ongoing; and
 - iii. sustainable by the employer at the specified level of remuneration (see SM6.30.10).

SM6.10.5.1 Assessment of 'substantial match'

- a. For the purpose of SM6.10.5 (b) above, assessment of 'substantial match' involves a determination of whether the applicant's employment is substantially consistent with the ANZSCO 'Occupation' (6-digit) level description for that occupation and with the tasks listed at the ANZSCO 'Unit Group' (4-digit) level description for that occupational group, excluding any tasks which are not relevant to the 'Occupation' description.
- b. To be considered a substantial match to an occupation, the tasks that are relevant to the applicant's employment role must comprise most of that role.

For example: An applicant's employment in the occupation 'Disabilities service officer' (411712) is not required to include the task set out at the ANZSCO Unit Group (4-digit) classification level for 'Welfare support workers' of "supervising offenders on probation and parole". Other listed tasks that are relevant to the role of a "Disabilities services officer" must comprise most of their role.

Note: Where no description is stated at the ANZSCO Occupation (6-digit) level, an immigration officer should refer to the ANZSCO Unit Group (4-digit) description or higher ANZSCO group (3-digit or 2-digit) level as necessary to determine a substantial match with the stated occupation. Similarly, where no ANZSCO core tasks are listed at the ANZSCO Unit Group (4-digit) level, an immigration officer should refer to a higher ANZSCO group (3-digit or 2-digit) level as necessary to locate core tasks ANZSCO associates with the stated occupation.

Note: Determining whether an applicant's employment substantially matches an ANZSCO occupation description may require consideration of the scope and scale of the employer's organisation and operation (the size of the operation, the number of staff and managers, and whether management functions are centralised at a head office or undertaken by other managers).

SM6.10.15 Occupations not included in the ANZSCO

Where an immigration officer is satisfied that an applicant's employment has no corresponding description in the ANZSCO, the employment may be assessed as skilled if:

- a. the remuneration for that employment is \$36.44 per hour or above (or the equivalent annual salary); and
- b. the employment is full-time because it amounts to, on average, at least 30 hours per week over an agreed pay period; and
- c. the applicant is suitably qualified by training and/or experience for that occupation, as set out in SM6.10.25; and

- d. an immigration officer is satisfied that the employment is:
 - i. genuine; and
 - ii. ongoing; and
 - iii. sustainable by the employer at the specified level of remuneration (see [SM6.30.10](#)).

SM6.10.20 Suitably qualified by training and/or experience: skill level 1, 2 and 3 occupations

- a. Where the applicant's employment is in an occupation described in the ANZSCO as at skill level 1, 2 or 3 the applicant will be assessed as being suitably qualified by training and/or experience if:
 - i. they hold a relevant recognised qualification that is at, or above, the qualification level on the New Zealand Qualifications Framework (NZQF) (see [SM8.10](#)) that corresponds to the indicative skill level described for their skill level 1, 2 or 3 occupation in the ANZSCO; or
 - ii. they have the relevant work experience that the ANZSCO indicates may substitute for the required qualification; or
 - iii. the employment is in an occupation included on the Long Term Skill Shortage List (LTSSL) (see [Appendix 4](#)) and the applicant meets the relevant requirements specified in column three of the LTSSL for that occupation; or
 - iv. the employment is in an occupation that requires New Zealand registration by law to be undertaken and is included at SM10.5 and the applicant holds evidence of full or provisional registration in that occupation in New Zealand.
- b. Despite (a) (ii) above, applicants in skill level 1 occupations may substitute the required qualification with five years of relevant work experience.
- c. Despite (a)(i) and (ii) and (b) above, applicants employed as 'Pharmacy technicians' (ANZSCO 311215) will only be awarded points for skilled employment in New Zealand in that occupation if they hold the required New Zealand qualification (a National Certificate in Pharmacy (Technician)), as required by reg 42 of the Medicines Regulations 1984.

SM6.10.25 Suitably qualified by training and/or experience: other occupations

Where the applicant's employment is in an occupation described in the ANZSCO as a skill level 4 or 5 occupation, or their employment is assessed under the provisions of SM6.10.15, they will be assessed as being suitably qualified by training and/or experience if:

- a. they hold a relevant recognised qualification which is at, or above, the level of a NZQF Level 4 Certificate (see [SM8.10](#)); or
- b. they hold a relevant recognised NZQF level 3 qualification included on the List of Qualifications Exempt from Assessment (see [Appendix 3](#)); or
- c. they have three years of relevant work experience; or
- d. the employment is in an occupation included on the LTSSL (see [Appendix 4](#)) and the applicant meets the relevant requirements specified in column three of the LTSSL for that occupation; or
- e. the employment is in an occupation that requires New Zealand registration by law to be undertaken and is included at [SM10.5](#) and the applicant holds evidence of full or provisional registration in that occupation in New Zealand.

SM6.20 Calculating remuneration

- a. Remuneration will be calculated on the basis of payment per hour.
- b. For the purpose of determining whether remuneration meets the requirements of SM6.10.5 (a) (i) and (ii) or SM6.10.15 (a) and SM6.60, evidence must be provided of hours of work in the employment agreement.
- c. If the employment agreement specifies payment by salary, the payment per hour will be calculated by dividing the annual salary by 52 weeks, followed by the number of hours that will be worked each week.
- d. If the employment agreement specifies payment other than by hour (including payment by salary) and the hours of work are variable, an immigration officer may request evidence of the range of hours to be worked to determine whether the variance in the hours worked would result in the per hour rate of pay being below the applicable remuneration threshold.
- e. Hours of work per week will be considered variable if the employment agreement contains a provision allowing the employer to request or require the employee to work additional hours from time to time.
- f. Where evidence of the range of hours is provided in terms of (d) above, or where the employment agreement specifies a range of hours, the maximum hours will be used to calculate whether the relevant remuneration threshold is met.
- g. Each hour of work must be paid at or above the applicable per hour remuneration threshold.
- h. For the purposes of SM6.10.5 (a) (i) and (ii) and SM6.10.15 (a) and SM6.60 (a) 'remuneration' includes:
 - i. the agreed value of any reasonable deduction from the applicant's salary or wages for goods or services; and
 - ii. in the case of accommodation provided in connection with the employment:
 - o the agreed value of any reasonable deduction from the applicant's salary or wages for that accommodation; or
 - o if accommodation is provided by the employer, and there is no deduction from the applicant's salary or wages for that accommodation, the market rental value of the accommodation provided; or
 - o if an accommodation allowance is provided, the amount of that allowance.
- i. 'Remuneration' excludes any other employment-related allowances (for example tool or uniform allowances) and bonuses which are dependent on performance.

Note: In relation to SM6.20 (h) (ii) above, the meaning of accommodation, and the value of accommodation that is included in the definition of 'remuneration', reflects the definition of accommodation and the value of accommodation that forms part of a person's income under section CE 1 of the Income Tax Act 2007.

- j. The remuneration requirements set out in SM6.10.5 (a) (i) and (ii) and SM6.10.15 (a) and SM6.60 (a) will be updated in November each year based on New Zealand income data.

SM6.20.5 Payment on a per activity basis

- a. Despite SM6.20 (g) above, an applicant with employment in a position that is not an ANZSCO skill level 1, 2 or 3 occupation whose employment agreement specifies an hourly rate of pay that is below the remuneration threshold set out at SM6.10.15 (a) may be assessed as meeting that remuneration threshold if they are additionally paid on a per activity basis and if:
 - i. they provide evidence, taking into account their payment on a per activity basis, that they were paid at or above \$36.44 per hour, on average, for prior work undertaken in the same occupation in New Zealand for at least two years; and
 - ii. that work on average amounts to at least 30 hours per week in each of those two years.
- b. For the purposes of this provision 'payment on a per activity basis' excludes:
 - i. payment based on the time taken to complete a task or the number of hours worked
 - ii. payment on commission (a commission is where an employee is paid based on sales they have made or other targets they have met)
 - iii. payment on an incentive or productivity basis (where remuneration is reliant on the variable rate of production of a good or the variable rate of sale of a service)
 - iv. payment based on a piece rate (piece rate is a commission where the employee is paid for the number of pieces they worked on, for example, being paid for the number of bins of fruit picked, or the number of garments sewn).

SM6.60 Bonus points for high remuneration

- a. Recognised current skilled employment or an offer of skilled employment qualifies for 20 bonus points if the remuneration for that employment is \$48.58 per hour or above (or the equivalent annual salary); and
- b. the assessing officer is satisfied that the employment is genuine; and
- c. the assessing officer is satisfied that the employment is sustainable by the employer at the specified level of remuneration (see [SM6.30.10](#)).

Appendix 2: Amendments to Temporary Entry instructions effective on and after 15 January 2018

WK3.5 Acceptable employment

- a. To grant an Essential Skills work visa, an immigration officer must be satisfied that:
 - i. the offer of employment meets the requirements set out at [W2.10.10](#); and
 - ii. the employment offered is genuine, sustainable and full-time for the duration of the employment period specified in the employment agreement; and
 - iii. payment is by wages, or salary; and
 - iv. the rate of pay is not less than the market rate for New Zealand workers in that occupation (regardless of whether the occupation is on one of the Essential Skills in Demand Lists);
- b. An immigration officer will assess the employment offered to determine the skill-band of that employment (WK3.5.1) based on the remuneration and the skill level of the occupation as set out in the Australian and New Zealand Standard Classification of Occupations (ANZSCO).
- c. Applications for visas under Essential Skills instructions for self-employment must be declined.
- d. Applications for visas under Essential Skills instructions related to planting, maintaining, harvesting or packing crops in the horticulture or viticulture industries must be declined.

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

WK3.5.1 Determining the skill-band of employment

- e. Employment will be assessed as higher-skilled where the remuneration offered is **\$36.44** per hour **or above**, regardless of the ANZSCO occupation.
- f. Employment will be assessed as mid-skilled where:
 - i. the remuneration offered is between **\$20.65** per hour and **\$36.43** per hour (inclusive); and
 - ii. the employment substantially matches the description for a skill level 1, 2 or 3 occupation as set out in the ANZSCO.
- g. Employment will be assessed as lower-skilled where:
 - i. the remuneration offered is less than **\$20.65** per hour, regardless of the ANZSCO occupation; or
 - ii. the remuneration offered is less than **\$36.44** per hour and the employment substantially matches the description for a skill level 4 or 5 occupation as set out in the ANZSCO.

WK3.5.5 Calculating remuneration

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

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

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

WK3.5.10 Assessment that employment substantially matches an ANZSCO occupation

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