



7 December 2020

**IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2020-54**

**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 Appendix 1 from the effective dates.

**Note**

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

Information about these changes will shortly be available on our website:

[www.immigration.govt.nz](http://www.immigration.govt.nz)

## **Description of changes**

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### **Implementing the New Zealand Government response to COVID 19**

#### ***A4.25 Medical and Chest X-ray Certificates***

##### ***A5.5 Character checks***

Changes have been made to immigration instructions to remove the requirement for applicants for SSE work visas for the 2020/21 season (i.e. expiring on or before 30 June 2021) to provide medical certificates (including chest x-ray certificates) and police certificates. Medical or police certificates may still be requested on a case by case basis by an immigration officer if for example, there are specific health or character alerts or warnings which indicate concerns.

##### ***WH1.5 Recognised Seasonal Employer (RSE)***

Changes have been made to immigration instructions to introduce a new requirement for employers seeking RSE status. RSEs must now take all reasonable steps to find full time employment for RSE workers for the duration of their RSE visa, including with other RSE employers if there is insufficient work with the current employer.

##### ***WH3.5 Supplementary Seasonal Employment (SSE) – Approval in Principle***

Minor changes have been made to update references under these instructions.

##### ***WH3.10 Supplementary Seasonal Employment (SSE) work visa instructions***

Changes have been made to clarify that medicals and police certificates are not required for SSE visas granted with an expiry date up until 30 June 2021.

These instructions are effective from 1 December 2020.

Additions to immigration instructions are highlighted for ease of reference.

**Appendix 1: Amendments to temporary entry instructions effective from 1 December 2020**

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#### A4.25 Medical and Chest X-ray Certificates: temporary entry class visa applications

- a. Applications for temporary entry class visas from applicants intending a stay in New Zealand of more than 12 months must include a completed Medical Certificate and a Chest X-ray Certificate (see A4.25(k)) which have been issued less than three months before the date the application is made, for every person included in the application, unless (c), (d) or (e) below apply.
- b. The Medical Certificate and Chest X-ray Certificate that may be required with a temporary entry visa application; include:
  - i. General Medical Certificate (INZ 1007)
  - ii. Chest X-ray Certificate (INZ 1096)
  - iii. Limited Medical Certificate (INZ 1201)
  - iv. Recognised Seasonal Employer Scheme Supplementary Medical Certificate (INZ 1143)

**Note:** Unless specified otherwise in A4.25(e), applicants should provide the General Medical Certificate (INZ 1007) and the Chest X-ray Certificate (INZ 1096).

- c. Applicants for a temporary entry class visa do not ordinarily need to provide a Medical Certificate and a Chest X-ray Certificate if:
  - i. they have provided a Medical Certificate and a Chest X-ray Certificate with an earlier visa application; and
  - ii. they were assessed as having an acceptable standard of health based on those certificates; and
  - iii. those certificates were issued less than 36 months prior to the current application.
- d. Medical Certificates and Chest X-ray Certificates do not need to be provided by the following types of temporary entry class visa applicants:
  - i. Applicants for a student visa as a fee paying foreign student (see [U4.10](#)) (except for students holding a New Zealand scholarship administered by the Ministry of Foreign Affairs and Trade (see [U11](#))), unless (f) below or A4.25.1 applies.
  - ii. Applicants for a Working Holidaymaker Extension visa (see [WH2](#)).
  - iii. Applicants (and their partner and dependent child(ren), if any) who have been recognised as having refugee or protection status in New Zealand and are eligible to apply for a permanent resident visa.
  - iv. Applicants for a Supplementary Seasonal Employment (SSE) visa for the 2020/21 season (ie for SSE visas granted with an expiry date on or before 30 June 2021).
- e. Applicants for a temporary entry class visa who have a claim for refugee or protection status in New Zealand under consideration (and their partner and dependent child(ren)) do not ordinarily need to provide a Medical Certificate with their temporary visa application (see E8.10.1). These applicants must provide a completed Chest X-Ray Certificate.
- f. Applicants who must provide a Medical Certificate other than the General Medical Certificate (INZ 1007) are set out below:
  - i. Partners of New Zealand citizens and residence class visa holders must provide a Limited Medical Certificate (INZ 1201) and a Chest X-ray Certificate (INZ 1096) if they are intending a stay in New Zealand of more than 12 months, and they meet the criteria for residence under the Partnership Category (see [F2.5\(a\)](#)), unless [E7.50](#) applies.
  - ii. Dependent children of New Zealand citizens or residence class visa holders must provide a Limited Medical Certificate (INZ 1201) and a Chest X-ray Certificate (INZ 1096) if they are intending a stay in New Zealand of more than 12 months and they meet the criteria for residence under the Dependent Child Category (see [F5.1\(a\)](#)), unless [E7.50](#) applies.
  - iii. Recognised Seasonal Employment limited visa applicants must provide a Chest X-ray Certificate (INZ 1096) where A4.25.1(b) applies and a Recognised Seasonal Employer Scheme Supplementary Medical Certificate (INZ 1143) where [WH1.15.15](#) applies.
- g. Despite (c), (d)(i),(ii),(iv) and (f)(iii) above, an immigration officer may require a Medical Certificate and a Chest X-ray Certificate if they consider this is necessary to establish whether the applicant has an acceptable standard of health.
- h. Risk factors which may indicate that an applicant should be asked to provide a Medical Certificate or Chest X-ray Certificate, where not otherwise required, may include:
  - i. the applicant declaring they have a medical condition; or
  - ii. INZ having knowledge of an applicant's medical condition; or
  - iii. a recommendation from an INZ medical assessor that a future application be accompanied by an updated Medical Certificate and a Chest X-ray Certificate; or
  - iv. where A4.25.1(e) applies.
- i. Applicants must provide a Chest X-ray Certificate and specified tests, if:
  - i. A4.25(a) applies; and
  - ii. the applicant did not provide a Chest X-ray Certificate or specified tests with a Medical Certificate provided in the past 36 months because of their age, or because they were pregnant; and

- iii. their age would now require them to undertake the specified tests or provide a Chest X-ray Certificate, or they are no longer pregnant.
- j. Applicants who intend to stay in New Zealand for a total of more than 12 months include those:
  - i. already in New Zealand for up to 12 months seeking a further visa to be in New Zealand for longer than 12 months; or
  - ii. applying for visas who indicate their intention is to remain in New Zealand for longer than 12 months; or
  - iii. applying for student visas and who are defined as domestic students (see [U3.35](#)), or who are students holding a New Zealand scholarship administered by the Ministry of Foreign Affairs and Trade (see [U11](#)), for a course or courses of study that are longer in total than 12 months.
- k. Applicants who intend to stay in New Zealand for more than 12 months are also subject to the provisions of A4.25.1(h) and (i).
- l. Evidence of completion of a Medical Certificate and Chest X-ray Certificate includes:
  - i. a completed Medical Certificate and Chest X-ray Certificate; or
  - ii. an eMedical reference code (NZER); or
  - iii. confirmation in the applicant's visa application form that a physician is directly submitting the applicant's Medical Certificate and Chest X-ray Certificate to Immigration New Zealand

**Notes:**

~ Pregnant women and children under 11 years of age are not required to have an X-ray examination.  
 ~The issue date of a Medical Certificate is the date of the declaration by the examining physician concerning the overall findings of the medical examination or the date that the Medical Certificate was submitted to INZ if submitted by the physician electronically.  
 ~The issue date of a Chest X-ray Certificate is the date of the declaration made by the radiologist, or the date that the Chest C-ray Certificate was submitted by the physician electronically.

**A4.25.1 Requirement to undergo screening for tuberculosis for people with risk factors**

- a. Applicants for temporary entry class visas who intend to be in New Zealand more than six months, and not more than 12 months, and are considered to have risk factors for tuberculosis (TB), must undergo TB screening unless:
  - i. they are pregnant; or
  - ii. they are under 11 years of age.
- b. All Recognised Seasonal Employer limited visa applicants (regardless of the length of time they intend to stay in New Zealand) who are considered to have risk factors for TB must undergo TB screening unless they are pregnant.
- c. Applicants required to undergo TB screening must provide:
  - i. a completed Immigration New Zealand Chest X-ray Certificate (INZ 1096); and
  - ii. any associated radiologist report.
- d. A Chest X-ray Certificate and the associated report must be less than three months old at the time the application is made unless:
  - i. the applicant has provided a Chest X-ray Certificate with an earlier visa application; and
  - ii. they were assessed as having an acceptable standard of health based on that certificate; and
  - iii. that certificate was issued less than 36 months prior to the current application.
- e. Applicants who have spent six consecutive months in any one or more countries not listed in A4.25.10, since their previous Chest X-ray Certificate was issued, must provide a Chest X-ray Certificate which is less than three months old with their application, despite (d) above.

**Note:**The issue date of a Chest X-ray Certificate is the date of the declaration by the radiologist, or the date that the Chest X-ray Certificate was submitted to INZ if submitted by the physician electronically.

- f. Despite (a) and (d) above, an immigration officer may require a Chest X-ray Certificate if they consider this is necessary to establish whether the applicant has an acceptable standard of health.
- g. Applicants who intend to stay in New Zealand for a total of more than six months include those:
  - i. already in New Zealand for up to six months seeking a further visa to be in New Zealand for longer than six months; or
  - ii. applying for visas who indicate their intention is to remain in New Zealand for longer than six months; or
  - iii. applying for student visas for a course or courses of study that are longer in total than six months.
- h. Where an applicant in New Zealand has applied for a further temporary entry class visa and is assessed as having TB (excluding latent TB), their application must be declined on the basis that they do not have an acceptable standard of health. A limited visa should be granted for an initial period of one month for the express purpose of undergoing immediate medical treatment to render the disease non-infectious and to travel out of New Zealand. The limited visa should be granted using the delegated power to grant a visa of a different type from that for which an application is made (see [A15.5](#)).

- i. Pregnant applicants who intend to be in New Zealand for more than six months, and are considered to have risk factors for TB (see A4.25.5) but otherwise meet immigration instructions for the grant of a temporary entry visa, may only be granted a visa within the limitations of [E3.10.1](#).

**Note:** A limited visa may be granted to a refugee or protection status claimant or a refugee or protected person only if that person is at the time a holder of a current limited visa.

#### A4.25.5 Definition of person with risk factors for TB

- a. A person is considered to have risk factors for TB if:
- i. they hold a passport issued by a country not listed in A4.25.10; or
  - ii. in the five years prior to application they have spent a combined total of three or more months in any one or more countries not listed in A4.25.10.
- b. Despite (a)(i) above, if an applicant provides evidence that satisfies an immigration officer they have never lived or spent time in the country that issued their passport, and (a)(ii) does not apply, they will not be considered to have risk factors for TB and the requirement to undergo TB screening and provide a Chest X-ray Certificate will not apply.

#### A4.25.10 Low TB Incidence Countries, Areas and Territories

The following countries are deemed for the purpose of immigration instructions to be countries with a low incidence of TB.

American Samoa	France	(New Zealand)
Andorra	Germany	Norway
Antigua and Barbuda	Greece	Oman
Australia	Grenada	Puerto Rico
Austria	Iceland	Saint Kitts and Nevis
Barbados	Ireland	Saint Lucia
Belgium	Israel (including the Occupied Palestinian Territory, and including East Jerusalem)	San Marino
Bermuda	Italy	Slovakia
British Virgin Islands	Jamaica	Slovenia
Canada	Jordan	Sweden
Cayman Islands	Libya	Switzerland
Costa Rica	Liechtenstein	Trinidad and Tobago
Cuba	Luxembourg	Turks and Caicos
Cyprus	Malta	United Kingdom
Chile	Monaco	United States of America
Czech Republic	Montserrat	United States Virgin Islands
Denmark	Netherlands Antilles	Vatican City
Dominica	Netherlands	
Finland		

## A5.5 Character checks

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 Regs 5(2)(d)(iii), 6(2)(d)(iv), 10(2)(e)(iii)*

- a. Character checks must be carried out for the following categories of applicant:
  - i. those aged 17 and over applying for residence class visas; and
  - ii. those aged 17 and over applying for temporary entry class visas who intend to stay in New Zealand for 24 months or longer; and
  - iii. other applicants for temporary entry class visas who warrant a character check if the immigration officer decides it is necessary.

**Note:** the 24-month period in A5.5(a)(ii) above includes time already spent in New Zealand prior to the application being made.

- b. It is a mandatory requirement (see [R2.40](#)) for first time applicants for a residence class visa aged 17 and over to obtain a police or similar certificate from:
  - i. the applicant's country of citizenship; and
  - ii. each country in which the applicant has lived for 12 months or more (whether on one visit or intermittently) in the last 10 years (but see [A5.10.1](#)).

Applicants for a further residence class visa under [RV2](#) or [RV4](#) will not usually need to submit a police or similar certificate, unless specifically asked to by an immigration officer. Applicants for a further residence class visa applying under any other category are required to submit a police or similar certificate as if they were applying for residence for the first time.

**Note:** the requirement in A5.5(b) above does not apply to Australian citizens, holders of a current Australian permanent residence visa and holders of a current Australian resident return visa, applying for a resident visa at an immigration control area.

- c. If required, applicants aged 17 and over applying for a temporary entry class visa must obtain a police or similar certificate from:
  - i. their country of citizenship; and
  - ii. from any country in which they have lived for five or more years (whether on one visit or intermittently) since attaining the age of 17 years.
- d. Despite (c) above, student visa applicants do not have to provide a police or similar certificate until they are aged 20 or over if they:
  - i. held a student visa when they turned 17; and
  - ii. have held consecutive student visas (or interim visas with study conditions) since the date they turned 17; and
  - iii. are applying for a further student visa.
- e. Despite (c) above, applicants for a Supplementary Seasonal Employment (SSE) visa for the 2020/21 season (ie for SSE visas granted with an expiry date on or before 30 June 2021) do not have to provide a police or similar certificate.
- f. Despite (d) and (e) above, a police or similar certificate is required if an immigration officer decides it is necessary.

### A5.5.1 Impact of the Criminal Records (Clean Slate) Act 2004

- a. When assessing whether a person meets an applicable character requirement, an immigration officer must be aware that New Zealand convictions may be covered by the Criminal Records (Clean Slate) Act 2004 (Clean Slate Scheme) and that if so, an eligible individual is not required to declare New Zealand convictions.
- b. If Immigration New Zealand (INZ) holds any information that a person has these New Zealand convictions, and that person is an eligible individual under the Clean Slate Scheme, this information cannot be used when assessing whether the person meets the applicable character requirements.
- c. The information referred to in (b), above, includes any prior police certificates, any information INZ holds in its records (including its Application Management System), and any other information which may have been gathered from a public source.
- d. If a person is an eligible individual under the Clean Slate Scheme, immigration officers cannot, under any circumstances, request or require that an individual disregard the effect of the Clean Slate Scheme when answering questions about his or her New Zealand criminal record, or disregard the effect of the Clean Slate Scheme and disclose, or give consent to the disclosure of, his or her criminal record. Doing so is an offence under the Criminal Records (Clean Slate) Act 2004. However, if the persons voluntarily declares criminal convictions that are subject to the Clean Slate Scheme, this information can be used to assess whether the person meets the applicable character requirements.

## WH1.5 Recognised Seasonal Employer (RSE)

For the purpose of these instructions, a Recognised Seasonal Employer (RSE) is a New Zealand employer whose core area of business is horticulture or viticulture and who has had an application for RSE status approved by INZ. An RSE is able to apply for an Agreement to Recruit (ATR) that will allow them to recruit workers who are not New Zealand citizens or residence class visa holders under the RSE Instructions.

### WH1.5.1 Definition of a New Zealand employer under RSE Instructions

A New Zealand employer for the purposes of RSE Instructions is an employer who:

- a. has the power to enter into employment agreements; and
- b. is a natural person who is ordinarily resident in New Zealand; or
- c. is a company that is incorporated in New Zealand and carries on business in New Zealand; or
- d. is an overseas company that is registered under the Companies Act 1993 and carries on business in New Zealand; or
- e. is an incorporated society that is incorporated in New Zealand.

### WH1.5.5 Requirements for RSE status

- a. RSE status may be granted where INZ is satisfied that an employer:
  - i. is a New Zealand employer as set out at WH1.5.1; and
  - ii. is in a sound financial position; and
  - iii. has human resource policies and practices which are of a high standard, promote the welfare of workers, and include dispute resolution processes; and
  - iv. has a demonstrable commitment to recruiting New Zealanders; and
  - v. has a demonstrable commitment to training New Zealanders; and
  - vi. has good workplace practices and a history of compliance with New Zealand immigration and employment law (see W2.10.5), including meeting the requirements of the following legislation:
    - o Accident Compensation Act 2001; and
    - o Employment Relations Act 2000; and
    - o Equal Pay Act 1972; and
    - o Health and Safety at Work Act 2015; and
    - o Holidays Act 2003; and
    - o Immigration Act 2009; and
    - o Minimum Wage Act 1983; and
    - o Parental Leave and Employment Protection Act 1987; and
    - o Wages Protection Act 1983; and
- b. will meet the requirements set out at (d) below.
- c. To ensure that INZ can verify an employer's ability to meet the requirements in (a) above, applicants must consent to INZ seeking information from other services of the Ministry of Business, Innovation and Employment, the Ministry of Social Development, Inland Revenue, the Accident Compensation Corporation, the New Zealand Council of Trade Unions, and any relevant unions, agencies, and industry bodies. Where such consent is not given an application for RSE status may be declined.
- d. RSEs must:
  - i. take all reasonable steps to recruit and train New Zealanders for available positions before seeking to recruit non-New Zealand citizen or residence class visa holder workers; and
  - ii. not use a recruitment agent who seeks a commission from workers in exchange for securing an employment agreement, to recruit non-New Zealand citizen or residence class visa holder workers; and
  - iii. pay for half the return airfare between New Zealand and the worker's country of residence for each worker recruited under the RSE instructions, unless the worker is a citizen of Tuvalu or Kiribati who is normally resident in Tuvalu or Kiribati (in which case the employer must pay for half the return airfare between Nadi (Fiji) and New Zealand), or WH1.15.5(a) applies; and
  - iv. comply with the requirements for employment agreements including the minimum remuneration and pay deduction requirements as set out at WH1.20; and
  - v. make available appropriate pastoral care (including food and clothing and access to health services and suitable accommodation) to their non-New Zealand citizen or residence class visa holder workers at a reasonable cost during the period of the workers' RSE limited visas; and
  - vi. promptly notify INZ if any of their non-New Zealand citizen or residence class visa holder workers breach the conditions of their visas; and
  - vii. promptly notify INZ of any dispute with the holder of an RSE limited visa that has resulted in the suspension or dismissal of the worker; and



- viii. not engage the services of a contractor, who does not have good workplace practices as outlined at WH1.5.5(a)(vi) and who employs non New Zealand citizen or residence class visa holder workers; and
  - ix. have direct responsibility for the daily work output and supervision of non-New Zealand citizen or residence class visa holder workers recruited under RSE instructions, except where (e) below applies; and
  - x. pay to the Ministry of Business, Innovation and Employment any costs reasonably incurred by the Ministry, to a maximum of NZ\$3000 per worker, in relation to the repatriation (including any maintenance and accommodation) of any non-New Zealand citizen or resident worker who requires repatriation as a result of a breach of the terms and conditions of their RSE limited visa; and
  - xi. on request disclose to representatives of the Ministry of Business, Innovation and Employment all payments received from RSE workers (including payments for airfares, accommodation and other pastoral care); and
  - xii. take all reasonable steps to find full time work for the duration of an RSE worker's visa, including by finding work opportunities with other RSE employers if necessary.
- e. An RSE is not required to have direct responsibility for the daily work output and supervision of non-New Zealand citizens and residence class visa holder workers recruited under RSE instructions when the workers are temporarily working on the worksite or worksites of another RSE (the recipient RSE), and the recipient RSE has agreed to take on these responsibilities. The RSE who employed the workers under RSE instructions (the first RSE) remains accountable for all other responsibilities under RSE instructions. This arrangement may only occur where:
- i. the total period of work on the recipient RSE's worksite or worksites is of one month or less;
  - ii. the worksite or worksites of the recipient RSE is within the same region as that specified in the ATR held by the first RSE; and
  - iii. the first RSE has notified INZ in advance of the workers starting work at the recipient RSE's worksite or worksites.
- f. Employers are considered to not have a history of compliance with employment law if they fail to meet the requirements set out at [W2.10.15](#) or if they are included on a list of non-compliant employers maintained by the Labour Inspectorate (see [Appendix 10](#)).

**Note:** For the purposes of instructions, the return airfare is defined as the total cost of travel from the worker's country of residence (or from Nadi (Fiji) for a worker who is a citizen of Tuvalu or Kiribati) to New Zealand and back, including all associated taxes and fees.

#### **WH1.5.10 Determining applications for RSE status**

- a. In determining whether employers may be granted RSE status, INZ will assess applications and associated documents taking into account such factors as:
- i. the period for which the employing organisation has been established as a going concern; and
  - ii. whether the employer has engaged with the Ministry of Social Development - Work and Income; and
  - iii. whether the employer has engaged with the relevant Industry Training Organisation; and
  - iv. whether the employer is a member of any relevant industry bodies (eg Horticulture New Zealand, New Zealand Kiwifruit Growers Inc., Pipfruit New Zealand, Hawkes Bay Fruitgrowers Association, New Zealand Wine, Rural and Associated Contractors Federation or a regional contractors association); and
  - v. whether the employer is certified by any quality standard organisation (eg New Zealand GAP); and
  - vi. whether the criteria in WH1.5.5(a) and (b) have been met by the employer; and
  - vii. whether INZ is satisfied that the requirements in WH1.5.5(c) will be met by the employer; and
  - viii. where there has been any previous breach of the requirements of immigration instructions (regardless of whether or not that resulted in RSE status being rescinded), whether any evidence has been provided to satisfy INZ that the cause and consequence of that breach has been remedied.
- b. INZ must be satisfied that the information and documents included in an application for RSE status are genuine and accurate, and may take any steps it determines necessary to verify such documents and the information they contain.
- c. Representatives of the Ministry of Business, Innovation and Employment may, where it is deemed necessary, conduct a site visit to the employer's premises.
- d. INZ may consult with other services of the Ministry of Business, Innovation and Employment, the Ministry of Social Development, Inland Revenue, the Accident Compensation Corporation, WorkSafe New Zealand, the New Zealand Council of Trade Unions, and any relevant unions, agencies, and industry bodies when determining whether an employer has been compliant with relevant statutory law and policies, and has a demonstrable commitment to recruiting and training New Zealanders.
- e. Where any information is identified by the employer as commercially sensitive and:
- i. that information is provided in confidence to INZ; and
  - ii. INZ considers that disclosure of that information is necessary for the determination of an application,
- INZ will seek the consent of the employer for the disclosure of that information. Where such consent is not given, an application for RSE status may be declined.

- f. Where INZ, in consulting with other agencies, receives information that may be prejudicial to the positive outcome of an employer's application for RSE status, that adverse information will be put to the employer for comment before a decision is made on their application.
- g. INZ will decline an application for RSE status where it considers granting RSE status to the employer would create unacceptable risks to the integrity of New Zealand's immigration or employment laws or policies.

#### **WH1.5.15 Evidential requirements**

- a. Set out below are examples of evidence that may be provided in support of an application for recognition. The provision or non-provision of any of these examples of evidence will not be determinative.
- b. Evidence that an employer is in a sound financial position includes but is not limited to:
  - i. a signed statement of creditworthiness from the applicant stating that the business seeking RSE status is financially viable and the applicant knows of no adverse credit matters affecting the business;
  - ii. a statement from a chartered accountant confirming the business is financially sound and is able to meet all outstanding obligations;
  - iii. an authenticated set of accounts showing a sound financial position.
- c. Evidence of an employer's human resource policies and practices includes but is not limited to:
  - i. a copy of the business's human resource manual or guidelines;
  - ii. a written statement describing the employer's human resource policies and practices such as information on:
    - o how the business recruits workers;
    - o what checks are carried out on prospective New Zealand and non-New Zealand citizen or residence class visa holder workers, including any checks done by a recruitment agent on behalf of an employer;
    - o what remuneration structure is in place;
    - o any internal disputes resolution policies, including any performance management processes;
    - o health and safety practices, including any provision of health and safety equipment for workers.
- d. Evidence of an employer's commitment to training New Zealand citizens and residence class visa holders includes but is not limited to:
  - i. records of in-house training and development programmes;
  - ii. involvement with any New Zealand Industry Training Organisation;
  - iii. records of funding provided to workers to allow attendance at training courses by external training providers.
- e. Evidence of an employer's commitment to recruiting New Zealand citizens and residence class visa holders includes but is not limited to:
  - i. a written description of the steps taken in the previous 12 months to recruit workers;
  - ii. evidence of previous advertising;
  - iii. a letter of support from an industry body confirming the employer's commitment to recruiting New Zealanders;
  - iv. records of any previous communication with Work and Income regarding the recruitment of workers.
- f. Evidence (if applicable) of an employer's previous attempts to find full time work for the duration of an RSE worker's visa, including by finding work opportunities with other RSE employers.
- g. Where any previous breach of the requirements of immigration instructions has occurred (regardless of whether or not that breach resulted in RSE status being rescinded) the employer must provide evidence to satisfy INZ that the cause and consequence of that breach has been remedied.

#### **WH1.5.20 Rescinding RSE status**

- a. INZ may rescind an employer's RSE status where:
  - i. there is any breach of RSE or ATR requirements other than of a minor nature; or
  - ii. the conduct of that employer has created an unacceptable risk to the integrity of New Zealand's immigration or employment laws or policies.
- b. Where an employer's RSE status has been rescinded, INZ will not approve any further applications for RSE status from the employer that are made within one year of the date their RSE status was rescinded.
- c. Any decision to rescind RSE status must be approved by an INZ Head of Operations in consultation with their National Manager.

#### **WH1.5.25 Reconsideration process for applications for RSE status which are declined**

- a. There is no statutory right of appeal against the decision to decline an application for RSE status.
- b. INZ may reconsider a declined application for RSE status where the reconsideration request is made in writing and any new information (not amounting to a completely new application) is promptly provided.

### **WH1.5.30 Currency of RSE status and subsequent applications**

- a. If an initial application for RSE status is successful, RSE status may be granted for a period of two years.
- b. If a subsequent application for RSE status is successful and the employer has previously held RSE status, and that status was not rescinded, the subsequent RSE status may be granted for a period of three years.
- c. Where an employer holds RSE status at the time a subsequent RSE application is accepted for consideration by INZ, their current RSE status will continue until the date their subsequent application is decided, unless their RSE status is rescinded during that interim period.

### **WH1.5.35 Applying to become an RSE**

An application for RSE status must be:

- a. made in New Zealand; and
- b. made on the Application for Recognised Seasonal Employer Status (INZ 1140) form; and
- c. accompanied by the prescribed fee; and
- d. supported by evidence that demonstrates the employer meets the requirements set out at WH1.5.5.

### WH3.5 Supplementary Seasonal Employment (SSE) - Approval in Principle

SSE approval in principle is an approval for employers in the horticulture and viticulture industries to offer employment (to plant, maintain, harvest or pack crops) to workers who hold SSE work visas (see WH3.10).

#### WH3.5.1 Requirements for SSE approval in principle

Employers applying for SSE approval in principle must:

- a. provide the details of the available employment including:
  - i. the number of workers required; and
  - ii. the nature of each position (planting, maintaining, harvesting, or packing crops); and
  - iii. the period for which each position is available; and
  - iv. the location(s) in which the work is to be undertaken; and
- b. ensure that workers recruited under SSE instructions will have access to suitable accommodation for the duration of their employment; and
- c. have taken steps to obtain suitable and available New Zealand citizen or residence class visa holder workers for the vacant position(s) through Work and Income; and
- d. provide a copy of the employment agreement that will be offered to the workers recruited under SSE instructions that meets the requirements set out in WH3.5.15; and
- e. comply with the employer requirements under Generic work visa provisions (see [W2.10.5](#)); and
- f. satisfy INZ that they will:
  - i. make ongoing genuine efforts to recruit New Zealand citizen or residence class visa holder workers throughout the period for which the SSE approval in principle applies, including regular contact with Work and Income; and
  - ii. comply with any request from the Ministry of Business, Innovation and Employment to audit the employer against SSE instructions and the conditions set out in the employment agreements; and
  - iii. have direct responsibility for the daily work output and supervision of non-New Zealand citizen or residence class visa holder workers recruited by them under SSE instructions; and
  - iv. promptly notify INZ if they become aware that a worker is breaching or has breached the conditions of his or her SSE work visa; and
  - v. employ no more than the number of SSE workers stated on their approval in principle at any given time.

**Note:** The employment agreement provided to workers must be the same as that which is provided to INZ with the employer's application for SSE approval in principle, unless the terms and conditions of the employment agreement provided to the worker are more beneficial to the worker.

#### WH3.5.5 Determining an application for SSE approval in principle

- a. SSE approval in principle will only be granted where:
  - i. INZ is satisfied that an employer is a New Zealand employer as set out at [WH1.5.1](#); and
  - ii. INZ is satisfied that an employer meets the requirements set out at WH3.5.1 above; and
  - iii. INZ is satisfied that the employer has established a relationship with the appropriate regional Work and Income office(s) concerning their seasonal labour requirements; and
  - iv. INZ, in consultation with MSD and relevant industry bodies, is satisfied that there are no suitable New Zealand citizen or residence class visa holder workers available to undertake the work; and
  - v. INZ is satisfied the employer has complied with the conditions of any previous SSE approval in principle that has been granted to the employer.
- b. Where INZ is not satisfied that the number of positions requested in the SSE approval in principle is appropriate for the work required, or considers that the number of non-New Zealand citizen or residence class visa holder workers the employer proposes to recruit exceeds the forecast labour shortage for the region and period requested, INZ may approve the recruitment of a lesser number of positions, or the recruitment of workers for a lesser period of work than requested.
- c. INZ may consult with other groups of the Ministry of Business, Innovation and Employment, WorkSafe New Zealand, the Inland Revenue Department, the Accident Compensation Corporation, the New Zealand Council of Trade Unions, and any relevant unions, agencies, and industry bodies when determining whether an employer meets the requirements set out at WH3.5.1.
- d. INZ will decline an application for SSE approval in principle where it considers such approval would create unacceptable risks to the integrity of New Zealand's immigration or employment laws or policies.
- e. INZ will decline an application for SSE approval where the employer has a history of non-compliance with immigration or employment law, including if they fail to meet the requirements set out at [W2.10.15](#) or are currently included on a list of non-compliant employers maintained by the Labour Inspectorate (see [Appendix 10](#)).

**Note:** To ensure that accurate information is available on the availability of suitable New Zealand citizen and residence class visa holder workers in the region, a decision will not be made on an SSE approval in principle significantly in advance of the period requested.

### **WH3.5.10 Minimum requirements for employment agreements under SSE instructions**

Employment agreements between employers with SSE approval in principle and non-New Zealand citizen or residence class visa holder workers must:

- a. be genuine; and
- b. be for planting, maintaining, harvesting or packing crops in the horticulture or viticulture industry; and
- c. be for a period of work of no more than six months; and
- d. specify a 'per hour' rate (the per hour rate for any training period must be specified separately in the employment agreement); and
- e. where piece rates apply to the work to be performed by the worker, also specify the piece rate(s); and
- f. provide that the worker will be paid no less than the market rate (see WH3.5.20); and
- g. comply with all relevant employment law in force in New Zealand, such as the requirements of the Accident Compensation Act 2001; the Wages Protection Act; the Minimum Wage Act; the Health and Safety at Work Act 2015; the Employment Relations Act; the Equal Pay Act 1972 and the Holidays Act.

### **WH3.5.15 Market Rates for SSE**

For the purpose of SSE instructions, 'market rate' is the typical rate a New Zealand citizen or residence class visa holder is paid for doing the equivalent work or training, in the same period, in the same region. The 'market rate' may be expressed in terms of a 'per hour' rate or a piece rate.

### **WH3.5.20 Reconsideration process for applications for SSE approval in principle which are declined**

There is no statutory right of appeal against the decision to decline a request for SSE approval in principle, however, INZ may reconsider a declined application where new information is promptly provided.

### **WH3.5.25 INZ may impose further restrictions after grant of SSE approval in principle**

Where INZ, in consultation with MSD, considers that the number of positions or period of work approved in the SSE approval in principle is no longer appropriate to the labour market conditions in the region (for example, if suitable New Zealand citizen or residence class visa holder workers become available due to a redundancy situation), further restrictions may be imposed on the number of positions or period of work that had been approved in the SSE approval in principle.

INZ will notify an employer in writing of any further restrictions imposed on the number of positions or period of work that had been approved in the employer's SSE approval in principle.

**Note:** Any further restrictions on the number of positions or period of work will only apply from the date of the written notification from INZ. The employment of non-New Zealand citizen or residence class visa holder workers who commenced employment under SSE instructions with the employer before that date will not be affected by the further restrictions.

### **WH3.5.30 Applying for SSE approval in principle**

Application for SSE approval in principle must be:

- a. made in New Zealand; and
- b. made on the Application for Supplementary Seasonal Employment (SSE) Approval in Principle form; and
- c. accompanied by the prescribed approval in principle fee; and
- d. supported by evidence that demonstrates the employer meets the requirements set out at WH3.5.1.

### WH3.10 Supplementary Seasonal Employment (SSE) work visa instructions

People holding work visas granted under the Supplementary Seasonal Employment (SSE) instructions may undertake seasonal work in the horticulture and viticulture industries (which is planting, maintaining, harvesting or packing crops) for an eligible employer (see WH3.10.15).

#### WH3.10.1 Who is eligible for an SSE work visa?

- a. Applicants for SSE work visa must:
  - i. be aged 18 or older; and
  - ii. meet health and character requirements as set out at [A4](#) and A5; and
  - iii. meet the requirements for bona fide applicants as set out at [E5](#); and
  - iv. hold a return ticket to their home country, or provide evidence of sufficient funds to purchase a return ticket, unless their application is submitted before 30 June 2021.
- b. To be granted a visa under SSE instructions an applicant must:
  - i. be the holder of a current temporary entry class visa in New Zealand; and
  - ii. not have previously held a TRSE or SSE work visa, unless their application is submitted before 30 June 2021; and
  - iii. not have held any type of work visa since their most recent entry to New Zealand, unless their application is submitted before 30 June 2021; and
  - iv. satisfy an immigration officer that they have a genuine intention to work for an eligible employer in the horticulture and viticulture industries (see WH3.10.15).
- c. SSE work visas will only be granted where there are available positions of employment, as determined by INZ in consultation with the Ministry of Social Development.
- d. Evidence that the applicant meets the requirement in (b)(iv) above may include but is not limited to:
  - i. a job offer from an SSE employer;
  - ii. arrangements for travel to or accommodation in regions where SSE employers are located;
  - iii. evidence of the horticulture and viticulture work the applicant intends to complete, such as information on SSE employers, crops and regions or a harvest trail plan;
  - iv. correspondence with the relevant region's seasonal coordinator(s) to obtain information on SSE employers; or
  - v. evidence of contact with SSE employer(s) whose details are available on the Immigration New Zealand website.
- e. Despite (d) above, applications submitted before 30 June 2021 must include an offer of employment from an eligible employer (see WH3.10.15).

#### WH3.10.5 Currency and conditions of SSE work visas

- a. Applicants who have not previously held a TRSE or SSE work visa, and who have not held any type of work visa since their most recent entry to New Zealand, will be granted an SSE work visa for a period of six months, or with an expiry date of 30 June 2021, whichever is the longer duration.
- b. All other applicants will be granted an SSE work visa with an expiry date of 30 June 2021.
- c. Work visas granted under SSE instructions will be subject to the condition that the holder may undertake work planting, maintaining, harvesting or packing crops in the horticulture or viticulture industry only, for an eligible employer (see WH3.10.15).
- d. SSE Work visas will not include travel conditions.
- e. Despite (a) above, applicants may not be granted a visa with an expiry date after 30 June 2021 if they have not submitted required medical or x-ray certificates in accordance with [A4.25\(a\)](#), or required police certificates in accordance with [A5.5\(a\)\(ii\)](#) and [A5.5\(c\)](#).

#### WH3.10.10 Applying for a work visa under SSE instructions

Applications for an SSE work visa must:

- a. be made on the form SSE Work Application (INZ 1153); and
- b. meet all the requirements under Generic Temporary Entry instructions for lodging an application for a temporary entry class visa as set out at E4; and
- c. meet all the requirements for eligibility under WH3.10.1.

#### WH3.10.15 Eligible employers

- a. An eligible employer in the horticulture and viticulture industry is:
  - i. an employer who holds an SSE Approval in Principle; or
  - ii. until 30 June 2021, a Recognised Seasonal Employer (RSE) with an approved Agreement to Recruit where places have been unable to be filled by RSE workers; or

- iii. until 30 June 2021, any employer for the specified role for a specified region for the specified period, as published by the Ministry of Social Development (MSD) on the Work and Income website.

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**Note:** The list of specified roles, regions and periods published by MSD can be found on the Work and Income website at <https://www.workandincome.govt.nz/about-work-and-income/news/2020/supplementary-seasonal-employer-visa.html#null>