

30 November 2015

**IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2015/10**

**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 in Appendix 1 and operate in accordance with the amended instructions on and after 7 December 2015.

All immigration officers dealing with immigration applications should read the amendments in Appendix 2 and operate in accordance with the amended instructions on and after 1 January 2016.

**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 residence instructions effective on and after 7 December 2015**

### ***S4.10 Refugee Family Support Category***

Afghan interpreters, their partners and dependent children are now eligible sponsors under these instructions

### ***SM3.15 Selection of Expressions of Interest***

The current Expression of Interest additional selection criteria under the Skilled Migrant Category has been maintained for the next six month period, from 31 January 2016 to 31 August 2016.

### ***SM8.10 Employment in an identified future growth area***

A letter from an applicant's employer is no longer mandatory to confirm that the skilled employment is in an identified future growth area under the Skilled Migrant Category.

### ***S1.10 Samoan Quota Scheme***

#### ***S1.11 Residual Quota Places Category***

#### ***S1.40 Pacific Access Category***

#### ***S1.41 Residual PAC Places Category***

Applicants for residence under the Samoan Quota and Pacific Access Category schemes will be referred to the appropriate guide, rather than form, for detailed information about registration requirements.

## **Changes to temporary entry instructions effective on and after 7 December 2015**

### ***BB3.10 Points scale for an Entrepreneur Work Visa***

A reference to Cabinet processes has been removed.

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

Instructions have been amended to allow an immigration officer to accept a partner included in an application for a visitor visa as living with the principal applicant in a genuine and stable partnership based on a declaration made by both parties.

### ***WD1.10 Qualification requirements***

Instructions have been amended to ensure students on a study to work pathway are not disadvantaged by changes made by the New Zealand Qualifications Authority to level 4 programmes of study.

### ***WH1.10.1 Requirements for an ATR***

A requirement has been added that recognised seasonal employers ensure migrant workers have access to legal and reputable remittance services as part of their pastoral care.

### ***U14 Pathway student visas pilot***

An 18 month pathway student visa pilot has been implemented that will enable international students to undertake a pathway of up to three consecutive programmes of study on a single visa.

### ***U15 Multiple short-term English language programmes of study***

Applicants may be granted a student visa to undertake multiple short-term English language programmes of study for a maximum period of six months.

### ***Appendix 9 - Foreign Charter Vessels - Crew Employment Agreements***

To provide for the direct contact of crew by the Labour Inspectorate, the Foreign Charter Vessel Crew employment agreement must include a crew member's contact details.

### **Changes to residence and temporary entry instructions effective on and after 7 December 2015**

#### ***Immigration fees and levy changes***

A number of changes have been made throughout the Operational Manual to:

- replace references to 'migrant levy' with 'immigration levy'
- remove reference to the \$92 "settlement information" discount given to some applications
- introduce a new immigration levy for certain visa applicants, and
- exempt specific visa applicants from the requirement to pay the levy.

#### ***Appendix 1 - List of countries using panel physicians***

Macau and Yemen have been removed from the aligned panel physician network.

#### ***Miscellaneous Changes***

A number of minor amendments are proposed to correct or clarify immigration instructions, as follows:

- clarify in *A13.5 Translations* that translations must be provided when police certificates are not in English
- reflect a change in name of the Injury Prevention, Rehabilitation and Compensation Act to the Accident Compensation Act 2001 in the following instructions:
  - *SM7.20 Requirements for employers*
  - *WH1.5 Recognised Seasonal Employer (RSE)*
  - *WH3.5 Supplementary Seasonal Employment (SSE) - Approval in Principle*
  - *WR1.25 Requirements for accreditation*
- reflect name changes to organisations responsible for ensuring compliance with employment and immigration at *WR1.25 Requirements for accreditation*
- clarify the funds required by applicants under *WI2.120 Peru Working Holiday Scheme* instructions

- clarify at *WK2.20 Instructions on duration of Essential Skills work visas* that lower skilled employees of labour hire employers are only eligible for work visas up to a maximum of three years if the employer holds accreditation
- clarify *WI13 China Skilled Workers Instructions* so required qualifications are no higher than those required for the equivalent occupation on the Long Term Skills Shortage List, and reflect the change in name of the New Zealand Teachers Council to Education Council of Aotearoa New Zealand
- update cross reference in *WI17.5 Generic Requirements*
- update the definition of a New Zealand Ship in *WJ5.45.10 Employment Agreements* to better reflect the Ship Registration Act 1992
- clarify at *U13.15 Work conditions for students enrolled at a tertiary institution or private training establishment* that students of tertiary institutions and private training establishments are eligible for work rights.

### **Changes to temporary entry instructions effective on and after 01 January 2016**

#### ***WK2.5 Applications for work visas under Essential Skills work instructions***

#### ***WK2.15 Evidence required from employers under Essential Skills work instructions***

#### ***WK2.25 Labour hire employers accreditation***

Accreditation will be compulsory for labour hire companies in the construction sector in Canterbury seeking to employ workers on Essential Skills work visas.

Additionally, instructions have been amended to clarify that:

- any third party to whom an accredited labour hire company hires out a migrant worker has good workplace practices, and
- the employer conditions specified in an approval in principle (AIP) apply to an individual Essential Skills application lodged for the positions covered by the AIP, regardless of whether the AIP has lapsed or is still valid.

**APPENDIX 1: AMENDED IMMIGRATION INSTRUCTIONS EFFECTIVE ON AND AFTER 7  
DECEMBER 2015**

## A6 Fees and Immigration levy

### A6.1 Application fees and immigration levy for holders of diplomatic and official passports

Holders of diplomatic or official passports who are listed below are exempt from the requirement to pay a visa fee and immigration levy.

#### A6.1.1 Fee and immigration levy exempt

Applicants listed below are exempt from the requirement to pay a visa fee and immigration levy, holders of diplomatic or official passports who are:

- a. Diplomatic consular and official staff and accompanying dependants immune from jurisdiction under the Diplomatic Privileges and Immunity Act 1968 and the Consular Privileges and Immunity Act 1971, as confirmed by the Protocol Division of the Ministry of Foreign Affairs and Trade (see [H: Special Temporary Visas](#)).
- b. Officials of government entities travelling to New Zealand to conduct business with New Zealand Ministers of the Crown or New Zealand central Government Ministries or Departments. Applicants will be required to provide evidence of the purpose of their visit.
- c. Entering or transiting New Zealand en route to or returning from, a Diplomatic posting in a country other than New Zealand. Applicants will be required to provide evidence of the purpose of their visit.
- d. Officials of government entities entering or transiting New Zealand en route to or returning from a third country where the purpose of the visit to that country is to conduct official government to government business. Applicants will be required to provide evidence of the purpose of their visit.
- e. Individuals entering or transiting New Zealand in order to assist the operations of their Embassy or Consulate in New Zealand or elsewhere. Applicants will be required to provide evidence of the purpose of their visit.

#### A6.1.5 Fee and immigration levy payable

Applicants listed below are required to pay the appropriate visa fee and immigration levy:

- a. Holders of diplomatic and official passports who are visiting or transiting New Zealand for the purposes of tourism or private business.
- b. Holders of diplomatic and official passports who are visiting New Zealand for the purposes of official business, but who are not conducting business with New Zealand Ministers of the Crown or New Zealand central Government Ministries/Departments.

**Note:** Diplomats and officials from countries with which New Zealand has a visa waiver agreement (see [E2.1](#)), do not need to apply for a visa to travel for the purposes outlined in this section.

## A6.5 Bilateral fee waivers

a. New Zealand has bilateral fee waiver agreements with several countries. These agreements were set up to facilitate and recognise New Zealand's international relationships and obligations. The fee waivers do not apply to the English language fee or transfer fee (where a visa stamp or label is transferred from one passport or certificate of identity to another). Until further notice, visa fees for citizens of the following countries should be waived as specified below.

b. The principal applicant for a visa specified below is exempt from paying the immigration levy (see A6.20).

Country	Type of Visa/Endorsement/Condition
AUSTRIA	<p>Offshore applications for a:</p> <ul style="list-style-type: none"> <li>• residence class visa</li> <li>• visitor visa.</li> </ul> <p>Onshore and offshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a resident visa</li> <li>• permanent resident visa</li> <li>• second or subsequent resident visa</li> <li>• endorsement indicating New Zealand citizenship</li> <li>• variation of travel conditions on a visitor visa.</li> </ul>
FINLAND	Onshore and offshore applications for any type of visa, endorsement or variation of travel conditions (except transfers).
GREECE	<p>Offshore applications for a visitor visa.</p> <p>Onshore and offshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a resident visa</li> <li>• permanent resident visa</li> <li>• second or subsequent resident visa</li> <li>• endorsement indicating New Zealand citizenship</li> <li>• variation of travel conditions on a visitor visa.</li> </ul>
ICELAND	Onshore and offshore applications for any type of visa, endorsement or variation of travel conditions (except transfers).
ISRAEL	<p>Offshore applications for a visitor visa.</p> <p>Onshore and offshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a resident visa</li> <li>• permanent resident visa</li> <li>• second or subsequent resident visa</li> <li>• endorsement indicating New Zealand citizenship</li> <li>• variation of travel conditions on a visitor visa.</li> </ul>
ITALY	<p>Offshore applications for a visitor visa.</p> <p>Onshore and offshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a resident visa</li> <li>• permanent resident visa</li> <li>• second or subsequent resident visa</li> <li>• endorsement indicating New Zealand citizenship</li> <li>• variation of travel conditions on a visitor visa.</li> </ul>
JAPAN	<p>Offshore applications for any type of visa, endorsement or travel condition (except transfers).</p> <p>Onshore and offshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a resident visa</li> <li>• permanent resident visa</li> <li>• second or subsequent resident visa</li> <li>• endorsement indicating New Zealand citizenship</li> <li>• variation of travel conditions on a temporary visa.</li> </ul>

MEXICO	<p>Offshore applications for a:</p> <ul style="list-style-type: none"> <li>• visitor visa</li> <li>• work visa</li> <li>• student visa.</li> </ul>
PHILIPPINES	<p>Offshore applications for a:</p> <ul style="list-style-type: none"> <li>• visitor visa (for visits not exceeding 59 days)</li> <li>• student visa (for visits not exceeding 59 days).</li> </ul> <p>Onshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a visitor visa (where the visitor visa does not exceed 59 days)</li> <li>• variation of travel conditions on a student visa (where the student visa does not exceed 59 days).</li> </ul>
RUSSIA	<p>Offshore applications for a:</p> <ul style="list-style-type: none"> <li>• visitor visa</li> <li>• student visa (where period of stay does not exceed three months).</li> </ul>
TURKEY	<p>Offshore applications for a visitor visa.</p> <p>Onshore and offshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a resident visa</li> <li>• permanent resident visa</li> <li>• second or subsequent resident visa</li> <li>• endorsement indicating New Zealand citizenship</li> <li>• variation of travel conditions on a visitor visa.</li> </ul>
USA	<p>Offshore applications for a:</p> <ul style="list-style-type: none"> <li>• visitor visa</li> <li>• work visa</li> <li>• student visa.</li> </ul> <p>Onshore applications for a:</p> <ul style="list-style-type: none"> <li>• variation of travel conditions on a visitor visa</li> <li>• variation of travel conditions on a work visa</li> <li>• variation of travel conditions on a student visa.</li> </ul>

## A6.10 Fees payable to INZ when making applications and requests

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

- a. The Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 prescribe when fees may be payable to INZ or its agents and the amounts payable. For details of fees payable see [www.immigration.govt.nz/fees](http://www.immigration.govt.nz/fees).
- b. Fees may be payable to INZ regardless of whether the action requested of INZ requires completion of a prescribed application form or not. All fees are payable at the time an application or request is made to INZ or its agents.
- c. Different fees are payable for applications and requests based on the citizenship of the principal applicant. The respective fees apply regardless of the office at which the application is actually lodged.

**Example:** An Indian citizen resident in Bahrain who lodges a residence application with London office will be required to pay the fee payable by citizens of India.

The only exception to this rule is that if a principal applicant is in New Zealand, the fee payable for the application or request is the fee payable for applications lodged in New Zealand, regardless of the principal applicant's citizenship.

- d. In the case of requests for approval in principle to employ foreign workers (see WK2.1 and WJ3), as long as the positions offered are with the same employer then only one fee is payable regardless of the number of foreign workers for whom approval is being sought.

## **A6.11 Immigration levy**

### **A6.11.1 Objective**

*See also Immigration Act s 399*

- a. The objective of the immigration levy is to fund:
  - i. the provision of programmes intended to assist the successful settlement of migrants or categories of migrants
  - ii. the carrying out of research into settlement issues and the impacts of immigration
  - iii. the infrastructure required for, and the operation of, the immigration system, including (without limitation) for the following purposes:
    - o establishing and verifying the identity of persons;
    - o managing risk to the integrity of the immigration system;
    - o managing immigration risk to the safety and security of New Zealand;
    - o managing compliance with the immigration system;
  - iv. activities aimed at attracting migrants to New Zealand; and
  - v. the Immigration Advisers Authority, to the extent that it is not otherwise funded.

### **A6.11.5 Who must pay the immigration levy**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 4B*

- a. Principal applicants applying for a visa outside of an immigration control area, for one of the following categories must pay an immigration levy, unless exempt:
  - i. temporary visas
    - o work visas; or
    - o student visas; or
    - o visitor visas, except group visitor visas; or
  - ii. limited visas; or
  - iii. resident visas, except second and subsequent resident visas under RV4.
- b. All applicants applying for a group visitor visa must pay the immigration levy, unless exempt.

**Note:** Applicants who made an application under the residence instructions made prior to 7 December 2015 must pay the migrant levy, as per R5.1 Applications determined by INZ officers.

### **A6.11.15 Immigration levy payable to INZ when making an application for a visa**

- a. The Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 prescribe when an immigration levy is payable to INZ and the amounts payable.
- b. An immigration levy is payable at the time an application for a visa is made to INZ or its agents.
- c. Different immigration levy rates are payable for applications based on the type of visa being applied for. Details of the immigration levy payable are available at [www.immigration.govt.nz/fees](http://www.immigration.govt.nz/fees).

### **A6.11.20 Exempt from immigration levy**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 4C*

Principal applicants are exempt from paying the immigration levy if the applicant is:

- a. a person to whom a visa waiver to travel to New Zealand applies (see E2.1); or
- b. a diplomatic, consular and official staff and accompanying partners and dependent children (see A6.1.1); or
- c. a person applying for a visa where there is a bilateral fee waiver for that visa (see A6.5); or
- d. a citizen of Samoa applying for a residence class visa; or
- e. a claimant, refugee, or protected person; or
- f. a person applying for a residence class visa on the basis of the person's relationship with a refugee or protected person; or
- g. a person applying for a visa:
  - i. under the special instructions for Victims of People Trafficking; or
  - ii. under the special instructions for Victims of Domestic Violence; or
  - iii. under the Skilled Migrant Category job search instructions.

## **A6.15 Other fees and immigration levy information**

*See also Immigration Act 2009 s 394*

### **A6.15.1 Recovery of courier costs**

INZ can charge or recover the cost of the courier delivery of documents to applicants.

### **A6.15.5 Fee for a reconsideration of a temporary class visa application**

- a. Where applicants wish to have their visa application reconsidered, they can submit a new application and pay the reconsideration fee.
- b. If, on reconsideration of the application, INZ finds that the initial decision was made in error, then the reconsideration fee may be refunded using existing discretionary powers by an immigration officer with the appropriate delegation.

### **A6.15.10 Fee for applications granted after consideration under Section 61 of the Immigration Act 2009**

- a. Temporary class visas granted after consideration under Section 61 of the Immigration Act 2009 will incur the appropriate Section 61 temporary class visa fee, instead of the visitor, student or work visa fee.
- b. Residence class visas granted after consideration under Section 61 of the Immigration Act 2009 will incur the appropriate Section 61 residence class visa fee.

### **A6.15.15 Use of call out fee**

- a. Where an immigration officer with Schedule 1-3 delegations considers there are compelling reasons for an application to be treated as urgent, and this requires the office to be opened after hours, the call out fee should be applied.
- b. In cases where the call out fee is used, the fee may be partially waived where the actual costs associated with the processing of the application are lower than the fee specified on the fees schedule.
- c. The call out fee specified in the fee schedule is the maximum amount that can be charged in these situations.

### **A6.15.20 Offshore fees and immigration levy**

The Ministry of Business, Innovation and Employment Corporate Finance function completes a quarterly assessment of the fees and immigration levy in relation to foreign currencies, and adjusts them where there are significant currency fluctuations.

### A13.5 Translations

- a. Applicants must provide a certified translation for all documents not written in English which are provided in support of an application for a residence class visa.
- b. Applicants must provide a certified translation for all police certificates and medical certificates not written in English which are provided in support of an application for a temporary entry class visa **despite (d) below**.
- c. If requested by an immigration officer, applicants must provide a certified translation for any other documents not written in English and provided in support of an application for a temporary entry class visa.
- d. Immigration officers may translate documents **provided in support of temporary applications (other than police and medical certificates as per (b) above)** where they have the appropriate language skills.
- e. Translations must:
  - i. not be prepared by an applicant, any member of their family or an immigration adviser assisting with the application; and
  - ii. be accompanied by the original documents or certified copies, unless legible copies are acceptable under [A13.1](#); and
  - iii. be paid for by the applicant; and
  - iv. be certified as a correct translation made by a person familiar with both languages and competent in translation work; and
  - v. bear the stamp or signature of the translator or translation business; and
  - vi. if applicable, be on the official letterhead of the translation business.
- f. Translations may be prepared by:
  - i. the Translation Service of the Department of Internal Affairs, or
  - ii. reputable people within the community who are known to translate documents accurately, with the exception of those listed in A13.5(e)(i) or
  - iii. embassies or high commissions (if the translation is endorsed with the appropriate embassy or high commission seal), or
  - iv. any other private or official translation business.
- g. An immigration officer may request a translation:
  - i. of the complete document where the translation is of a selected part(s) of the document, and/or
  - ii. by a different (specified) translation service where they are not satisfied by the initial translation.
- h. Where uncertified copies of original documents have been provided with translations, an immigration officer may request to see the original documents before making a decision on the application.

**Note:** If a translation by a different (specified) translation service is requested the reason(s) behind the request must be clearly documented and conveyed to the applicant by INZ.

## R2.40 Mandatory requirements for lodging an application for a residence class visa

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 5*

Unless RV1.10.10 applies, an application for a residence class visa made outside an immigration control area must be:

- a. made on an approved form; and
- b. completed in English; and
- c. signed by the applicant (unless the applicant is less than 18 years old, in which case it must be signed by a parent or guardian of the applicant); and
- d. given to an immigration officer together with the following material:
  - i. the applicant's passport or certificate of identity, or if this is unavailable, his or her original full birth certificate (or a certified copy) or other identity document (or a certified copy); and
  - ii. two passport-sized photographs of the applicant's head and shoulders; and
  - iii. an original or certified copy of the applicant's full birth certificate or, if this is unobtainable, an original or certified copy of an identity card; and
  - iv. the appropriate fee **and immigration levy**(if any); and
  - v. any information and evidence required by the relevant immigration instructions that shows that the principal applicant fits the category or categories of residence instructions under which the application is being made; and
  - vi. a completed Medical Certificate for the applicant that is less than three months old, unless A4.20(d) applies; and
  - vii. a completed Chest X-ray Certificate for the applicant that is less than three months old (except for pregnant women and children under the age of 11), unless A4.20(d) applies;
  - viii. a police or similar certificate, less than 6 months old, indicating the applicant's record of convictions or lack of convictions for their country of citizenship and for each country in which they have lived for 12 months or more during the past 10 years (except for applicants under 17 and except where the authorities of any such country will not generally provide certificates), unless A5.10(d)(iii) applies; and
  - ix. any other information, evidence and submissions that the principal applicant considers show fully that they are eligible to be granted a residence class visa in terms of the applicable residence instructions.

**Note:** Medical and Chest X-ray Certificates may be submitted directly to Immigration New Zealand by the physician who completed the examination.

### R2.40.1 Mandatory requirements for lodging an application for a resident visa at an immigration control area

*See also Immigration Act 2009 ss 4, 28*

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Regs 7, 8*

- a. An application for a resident visa can be made at an immigration control area by:
  - i. an Australian citizen;
  - ii. a holder of Australian permanent residence visas (including a resident return visa)
  - iii. a person who previously held a resident visa.
- b. An application for a resident visa made by a person described in (a) at an immigration control area must:
  - i. be made on the approved form; and
  - ii. relate to only one person; and
  - iii. be completed in English; and
  - iv. be signed by the applicant, unless the applicant is less than 18 years old, in which case it must be signed by a parent or guardian (if the applicant is accompanied by a parent or guardian), or it is not required to be signed (if the applicant is not accompanied by a parent or guardian); and
  - v. be given to an immigration officer together with the applicant's passport or certificate of identity.
- c. A person who meets (a)(i) or (ii) above and is eligible to use the automated electronic system, may meet the requirements at (b)(v) above by giving their passport to the automated electronic system.

### R2.40.5 Definition of 'current'

'Current' means, in relation to any document provided in support of an application or Expression of Interest, to meet:

- a. mandatory requirements for lodgement of an application; or
- b. other evidential requirements of residence instructions,

that, at any relevant stage during the life of an application or an Expression of Interest (e.g. at the time an application or Expression of Interest is lodged, during assessment of the application or Expression of Interest and at the date of final decision on an application), that document is not expired.

#### **R2.40.10 Authority to waive mandatory requirements**

Immigration officers may only waive those mandatory requirements for which they have delegated authority to make a special direction.

#### **R2.40.15 Requests for applications to be lodged otherwise than on an approved form**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Regs 21, 22*

- a. The Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 allow for applications to be made otherwise than on the approved form. The purpose of these provisions is to allow for applications for visas to be processed rapidly, where the decision to grant or refuse a visa is straightforward and in an immigration officer's view any verification requirements are minor in nature.
- b. Because of the complex nature of residence class visa applications and the high level of verification required, requests to lodge residence class visa applications otherwise than on the approved form will normally be refused.

#### **R2.40.20 Evidence of identity**

- a. Mandatory requirements (see R2.40 above) relating to proof of identity require applications to include full birth certificates for every applicant, which usually state:
  - i. the applicant's name; and
  - ii. their date of birth; and
  - iii. their place of birth; and
  - iv. the names and occupations of their parents.
- b. If a full birth certificate is unobtainable, the applicant may submit an original or certified copy of an identity card.
- c. A full birth certificate is considered to be obtainable even if there is a possible delay or expense in obtaining it.

## R2.60 Payment of the fee and immigration levy

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

- a. Principal applicants must pay the fee specified for that type of application at the time the application is lodged, unless:
  - i. the fee is waived by an officer with schedule 1-3 delegations, who has the authority to grant a special direction under section 395 (2) of the Immigration Act 2009; or
  - ii. the principal applicant is a citizen of a country with which New Zealand has a fee waiver agreement covering visas (see [A6.5](#)).
- b. Principal applicants must pay the immigration levy specified for that type of visa application at the time the application is lodged, unless:
  - i. the immigration levy is waived by an officer with schedule 1-3 delegations, who has the authority to grant a special direction under section 399(3A) of the Immigration Act 2009; or
  - ii. the principal applicant is exempt from paying the immigration levy (see [A6.20](#)).
- c. A receiving office is an INZ office or authorised New Zealand Visa Application Centre (VAC) or MFAT post designated for receiving applications from particular countries. Receiving Offices can be found on the INZ website.
- d. The fee payable for an application is determined by the principal applicant's country of citizenship.
- e. If a principal applicant is resident in a country other than their country of citizenship, they may lodge their application at the office designated for receiving applications from the country in which they are residing, but the fee payable will be determined by their country of citizenship.
- f. If the principal applicant is in New Zealand and lodges an application in New Zealand, the fee payable for the application is the fee payable for applications lodged in New Zealand, regardless of the principal applicant's citizenship.
- g. Fees and the immigration levy may be paid for by bank cheque, as well as by money order (from registered banks), credit card or EFTPOS (Electronic Funds Transfer Point of Sale), if these forms of payment are acceptable to the INZ office or VAC or MFAT office at which an application is lodged.
- h. Cash is not an acceptable form of payment, with the exception of the following INZ offices: Beijing, Dubai, Jakarta, Moscow, and Shanghai.
- i. Bank cheques for applications lodged at INZ offices in New Zealand should be made out to 'Immigration New Zealand'.

## R5.50 Lapsing an application

### R5.50.1 Lapsing an application on the grounds that the applicant has failed to provide their travel document to INZ

- a. Unless paragraph (b) applies, an application will be considered to be lapsed, and must be declined, if a principal applicant has not provided their travel document to INZ for the grant of a residence class visa within 6 months from the date of advice that the application has met the requirements for approval.
- b. Immigration officers must consider any relevant circumstances in deciding whether or not to lapse and then decline an application, including but not limited to:
  - i. the death of a family member,
  - ii. illness,
  - iii. loss or theft of documentation,and they may, if appropriate, extend the 6-month period referred to in paragraph (a) above.
- c. Any application lapsed under this provision will not result in the refund of the application fee and/or immigration levy.

### **R5.70 Newborn children of residence class visa holders**

- a. Children born outside New Zealand to applicants who hold residence class visas but have not yet travelled to New Zealand on those visas, may be included in their parents' application, provided that the child's name is added to the application form and the following documents are submitted:
  - i. a full birth certificate; and
  - ii. 2 passport-sized photographs; and
  - iii. a completed General Medical Certificate (INZ 1007); and
  - iv. an acceptable travel document.

## **BA2.1 Residence class categories**

The following business immigration categories are part of residence instructions:

- Entrepreneur Residence Category (see BH)
- Employees of Relocating Businesses Category (see BE)
- Migrant Investment Categories (see BJ)
  - Investor 1 Category (see [BJ3](#))
  - Investor 2 Category (see [BJ4](#) – [BJ5](#))

### **BA2.1.1 Generic provisions**

The residence class categories have generic provisions covering the following matters:

- English language requirements (see [BF](#))
- Health and character requirements (see [A4](#) and [A5](#))

## BB2.1 Entrepreneur Work Visas

- a. The Entrepreneur Work Visas is a category of temporary entry class visa with conditions that allow self-employment in New Zealand.
- b. Applicants for an Entrepreneur Work Visa may be approved, if they meet the following conditions:
  - i. a minimum capital investment of NZ\$100,000, excluding working capital (as defined in [BB6.1.50](#)), unless this requirement is waived under [BB3.5.1\(b\)](#); and
  - ii. meeting or exceeding the pass mark (as set out in [BB3.10](#)) on a scale which awards points for factors relating to the likely success of the proposed business and its value to New Zealand.
- c. Applicants and any partner or dependent child/ren accompanying them must meet health and character requirements for residence as set out at [A4](#) and [A5](#).
- d. Applicants and any partner or dependent child/ren accompanying them must also meet all requirements under Generic Temporary Entry Instructions.

### BB2.1.1 Currency of Entrepreneur Work Visas

- a. An Entrepreneur Work Visa may be granted for a total period of up to 3 years, encompassing an Entrepreneur Start-Up stage and Entrepreneur Balance stage. Only one fee and one immigration levy will be charged for an Entrepreneur Work Visa.
- b. The Entrepreneur Start-Up stage is the first 12 months of the Entrepreneur Work Visa (though a business immigration specialist may extend the Entrepreneur Start-Up stage under [BB4.5.5](#)). During the Entrepreneur Start-Up stage, the holder of the Entrepreneur Work Visa is expected to establish and commence the operation of an agreed business in New Zealand.
- c. If the holder does not meet the requirements in [BB4.5\(a\)](#) during the Entrepreneur Start-Up stage, the visa expires at the end of the Entrepreneur Start-Up stage.
- d. If the holder does meet the requirements in [BB4.5\(a\)](#), the visa will be valid for the balance of the 3 year period. This is the Balance stage of the Entrepreneur Work Visa.
- e. A further Entrepreneur Work Visa (also known as a Renewal) may be granted beyond the 3 year period, if the conditions at [BB4.10](#) are met, the application is approved by a business immigration specialist, and the prescribed fee is paid.

### BB2.1.5 Conditions of Entrepreneur Work Visas

- a. The conditions specified on an Entrepreneur Work Visa will include the following conditions relating to work:
  - i. As: Self-employed
  - ii. For: (Business type and trading name of business)
  - iii. At: (Location of business)
- b. The travel conditions on the visa will give permission to travel to New Zealand for multiple journeys.
- c. Entrepreneur Work Visas and any other temporary visas granted to the holder of an Entrepreneur Work Visa's partner or dependent child/ren are subject to the condition that the holder must not apply for and be granted welfare assistance under the Social Security Act 1964 while in New Zealand during the currency of their Entrepreneur Work Visas or any visa gained through their relationship with a holder of an Entrepreneur Work Visa.

#### BB4.10 Grant of further Entrepreneur Work Visas beyond three years

- a. A further Entrepreneur Work Visa (or Renewal) may be granted beyond the initial 3 year work visa (for periods not exceeding 3 years) where a business immigration specialist is satisfied that there are valid reasons for the principal applicant needing a further Entrepreneur Work Visa to meet the requirements to apply for or be granted residence under the Entrepreneur Residence Visa Category.
- b. In order to be granted a further Entrepreneur Work Visa, the application must be approved by a business immigration specialist, and the prescribed fee **and immigration levy** paid.
- c. Further Entrepreneur Work Visas will be granted only where a business immigration specialist is satisfied that:
  - i. any time in New Zealand has been spent setting up and operating the original business proposal;
  - ii. any change to the original business proposal was granted by a business immigration specialist in accordance with BB5; and
  - iii. the principal applicant intends to spend the further period in New Zealand either implementing the original business proposed or a business proposal for which a business immigration specialist has given consent; and
  - iv. the principal applicant has, in addition to investment capital, sufficient funds:
  - v. to finance their business; and
  - vi. for their own maintenance and accommodation and that of any partner or dependent child/ren accompanying them; and
  - vii. the principal applicant and any partner or dependent child/ren accompanying them have not drawn on the New Zealand welfare system (see [BB2.1.5\(c\)](#)); and
  - viii. the principal applicant and any partner or dependent child/ren accompanying them meet health and character requirements for residence (see [A4](#) and [A5](#)).

**Note:** Applicants can only be granted one further Entrepreneur Work Visa beyond the initial 3 year work visa. If they still wish to run their business beyond the period of the further (or renewed) Entrepreneur Work Visa, they will need to make a new application under the Entrepreneur Work Visa instructions, or any other applicable category, in force when they apply.

## **BE2.20 Payment of fee and immigration levy**

Applicants applying under the Employees of Relocating Businesses Category are required to pay the appropriate fee and immigration levy.

## **BE5 General rules for approval in principle and relocation of business**

Principal applicants who meet the criteria of the Employees of Relocating Businesses category will be advised that:

- a. their application has been approved in principle; and
- b. resident visas may be granted once the following requirements have been met:
  - i. the principal applicant provides acceptable evidence that the business has relocated to New Zealand; and
  - ii. the principal applicant provides the New Zealand address at which the business operates; and
  - iii. the principal applicant submits evidence that they and any partner or dependent children aged 16 or over meets the English language requirements (see [BE5.1](#) and [BF1.1](#)); and
- c. resident visas will be granted subject to conditions under section 49(1) of the Immigration Act 2009.

## **BH2.20 Payment of fee and immigration levy**

- a. Applicants applying under the Entrepreneur Residence Visa Category are required to pay the appropriate fee and immigration levy.

## **BH7.1 General rules for approval in principle**

Principal applicants who meet the criteria of the Entrepreneur Residence Category will be advised that:

- a. their application has been approved in principle; and
- b. resident visas may be granted once the principal applicant submits evidence that they and any partner or dependent children aged 16 or over meet the English language requirements (see [BF](#)); and
- c. applications for a resident visa may be declined if principal applicants do not present the requirements listed in the approval in principle letter within the timeframe specified by a business immigration specialist.

### **BH7.1.1 Approval in principle for applicants under BH2.1(a)(ii)**

Principal applicants who meet the criteria under [BH2.1\(a\)\(ii\)](#) will also be advised (in addition to the requirements as set out at BH7.1) that their resident visas will be granted subject to conditions under section 49(1) of the Immigration Act 2009.

### **BJ7.5 Approval in principle**

Principal applicants who are assessed as meeting the requirements under either the Investor 1 Category (see [BJ3 \(b\) i - iii](#)) or the Investor 2 Category (see [BJ5.5\(b\) i - viii](#)) 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 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.

### **BJ8.1 Issue 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. 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](#).

## F3.25 Approval in principle and transfer of funds

### F3.25.1 Aim and intent

The instructions regarding the nominated investment funds and/or assets and the method of transfer of those funds to New Zealand is designed to ensure:

- a. the legitimacy and lawful ownership of the nominated funds and/or assets; and
- b. the direct transfer of the investment funds through a structured and prescribed process to guarantee on-going legitimacy and lawful ownership of the funds invested in New Zealand.

### F3.25.5 Approval in principle

Principal applicants who are assessed as meeting the requirements under the Parent Retirement Category 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 in accordance with the relevant requirements set out in instructions; and
  - ii. provide a New Zealand address at which they can be contacted by mail, after they arrive in New Zealand; and
- c. resident visas will be granted subject to conditions under section 49(1) of the Immigration Act 2009.

### F3.25.10 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, 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 criminal law 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.
- b. 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.

### F3.25.15 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 telegraphic 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.

### **F3.25.20 Time frame 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. Applications for residence must be declined if principal applicants do not present acceptable evidence of having transferred and invested the nominated funds within 12 months from the date of approval in principle.
- c. 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-month timeframe from the date of approval in principle).

### **F3.25.25 When the investment period begins**

- a. If the investment already meets the investment requirements, the required investment period begins on the date of the letter advising approval in principle.
- b. If the investment is made after approval in principle, the required investment period will begin on the date the investment requirements are met.
- c. The date the investment period begins is specified in the letter to the successful principal applicant that advises of the conditions on their resident visa (see [F3.30.10](#)).

### **F3.25.30 Evidence of the principal applicant's investment**

- a. Principal applicants must submit the following information and documentation as evidence of having invested funds:
  - i. the full name of the investor; and
  - ii. the amount invested in New Zealand dollars; and
  - iii. the date the investment was made; and
  - iv. the type of investment (in the case of shares or bonds in companies, the names of the companies invested in and the number of shares or bonds purchased must be listed); and
  - v. documentary evidence of the investment; and
  - vi. a letter from a reliable independent professional (for example, a solicitor or chartered accountant), confirming that the funds have been invested.
- b. A business immigration specialist, at their discretion, may require any other form of evidence.

### **F3.25.35 Temporary visa to arrange transfer and/or investment of funds**

- a. After approval in principle, and upon application, a work visa may be granted to allow the principal applicant to arrange the transfer to, and investment of funds in, New Zealand.
- b. The work visa will be valid for multiple entries to New Zealand for 12 months after Approval in Principle has been given.
- c. A work visa may be granted for the same period on application to the principal applicant's partner (see [WS2\(c\)](#)).

### **F3.30 Resident visas**

#### **F3.30.1 Grant of resident visas**

- a. Resident visas may only be granted once principal applicants have:
  - i. met the transfer requirements set out at [F3.25.10](#); and
  - ii. placed the funds into an acceptable investment.
- b. Resident visas will be granted subject to the conditions imposed under section 49(1) of the Immigration Act 2009 in accordance with the instructions set out at F3.30.10.

#### **F3.30.10 Resident visas subject to conditions under section 49(1) of the Immigration Act**

*See also Immigration Act 2009 s 49*

Under the Parent Retirement Category, a resident visa granted to a principal or secondary applicant is subject to the following conditions imposed 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 four years under the Parent Retirement Category; and
- b. that the principal applicant informs the nearest branch of INZ of any changes of New Zealand address during the investment period; and
- c. at the two-year anniversary of the investment period, the principal applicant submits evidence that they are retaining an acceptable investment in New Zealand; and
- d. that within 3 months after the expiry date of the investment period, the principal applicant submits evidence to INZ that they have met requirement (a).

#### **F3.30.15 Investment transfers during the investment period**

Investment funds may be transferred from one investment to another during the investment period, provided:

- a. the funds remain invested in New Zealand in New Zealand currency at all times during the investment period; and
- b. the investment of the funds continues, during the investment period, to meet all other requirements for investments.

### **F4.30 Additional requirements for tier one of the Parent Category**

In addition to the requirements of the Parent Category in sections [F4.1](#) to F4.25, applicants under tier one of the Parent Category must meet one of the following requirements:

- a. Sponsor's income (see F4.30.1); or
- b. Guaranteed lifetime minimum income (see F4.30.5); or
- c. Settlement funds (see F4.30.10).

#### **F4.30.1 Sponsor's income**

- a. To meet the minimum income requirements:
  - i. a sponsor or their partner must earn a minimum of \$65,000 per annum before income tax; or
  - ii. a sponsor and their partner together must earn a minimum of \$90,000 per annum before income tax.
- b. The minimum income requirement referred to in (a) above must be met by personal taxable income that is obtained from one or any combination of:
  - i. sustained paid employment; or
  - ii. regular self-employment; or
  - iii. regular investment income.
- c. The minimum income requirement must be met by personal taxable income. Income earned by another legal entity, such as a company or a trust, cannot be included unless it has been paid directly to the sponsor and/or their partner in the form of shareholder-employee salary or dividends, or is income derived from the trust.
- d. When assessing whether the income obtained from the source(s) in (b) above is sustained and/or regular, officers may consider, but are not limited to, such factors as the length of employment, terms of employment and the regularity of payments.
- e. The income of a sponsor's partner may only be considered if the partner has been:
  - i. living with the sponsor for a period of at least 12 months in a partnership that is genuine and stable (see [F2.10.1](#)), and they meet the requirements for the recognition of a partnership set out at [F2.15](#); and
  - ii. a New Zealand residence class visa holders for at least three years immediately preceding the date the application their partner wishes to sponsor is made, or is a New Zealand citizen.
- f. Sponsors must meet the evidential requirements set out at [F4.40.25.1](#).

#### **F4.30.5 Guaranteed lifetime minimum income**

- a. If there is one applicant included in the application, the applicant must have a guaranteed lifetime minimum income of at least NZ\$27,682 per annum.
- b. If a partner is also included in the application, the applicants jointly must have a guaranteed lifetime minimum income of at least NZ\$40,688 per annum.
- c. The applicants must meet the evidential requirements set out at [F4.40.30.1](#).

#### **F4.30.10 Settlement funds**

- a. Principal applicants must:
  - i. nominate funds (or assets that can be converted into funds) to bring to New Zealand of a minimum value of NZ\$500,000; and
  - ii. demonstrate ownership of the nominated funds and/or assets (see the evidential requirements set out at [F4.40.30.5](#)); and
  - iii. demonstrate that the nominated funds and/or assets have been earned or acquired legally (see [F4.5.25](#) and [F4.40.30.5](#)).
- b. Funds or assets may be owned either:
  - i. solely by the principal applicant; or
  - ii. jointly by the principal applicant and their partner who is included in the resident visa application.
- c. The principal applicant may claim the full value of jointly owned funds or assets (as per F4.30.10(b)(ii) above) for assessment purposes, provided an immigration officer is satisfied the principal and secondary applicants meet the partnership requirements set out at [R2.1.15](#).
- d. If funds or assets are held jointly by the principal applicant and a person other than their partner, the principal applicant may only claim the value of that portion of the funds or assets for which they provide evidence of ownership.
- e. The principal applicant may only nominate funds 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 (also see [F4.5.25](#)). Where nominated funds or assets have been gifted to the principal applicant an immigration officer must be satisfied that the funds or assets being gifted were earned lawfully by the person(s) gifting the funds or assets.

- f. The nominated funds and/or assets must be unencumbered.
- g. The nominated funds and/or assets must not be borrowed.
- h. The principal applicant and/or their partner who is included in the application must transfer, or have transferred, a total of NZ\$500,000 in settlement funds to New Zealand from outside New Zealand.

**Note:** The value of the amount transferred will be dependent on the currency exchange rate at the time of transfer, not at the time the residence application is assessed (see also F4.30.10.15). Funds that have not been transferred to New Zealand by the principal applicant and/or their partner who is included in the application may not be used to meet requirements for F4.30.10.

#### *F4.30.10.1 Aim and intent of settlement funds transfer*

The instructions regarding the nominated settlements funds and the method of transfer of those funds to New Zealand are designed to ensure:

- a. the legitimacy and lawful ownership of the nominated funds; and
- b. the direct transfer of the settlement funds through a structured and prescribed process to guarantee ongoing legitimacy and lawful ownership of the funds brought to New Zealand.

#### *F4.30.10.5 Approval in principle pending the transfer of settlement funds*

If the applicants meet the criteria set out for settlement funds at F4.30.10 and all other requirements under the Parent Category (excluding instructions for transferring funds to New Zealand at F4.30.10.15), the applicants 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 the nominated funds in accordance with the relevant instructions; and
  - ii. pay any outstanding fee for English language tuition to meet English language requirements (see [F4.15](#)).

#### *F4.30.10.10 Timeframe for transferring funds to New Zealand*

- a. Principal applicants must meet the requirements for transferring nominated funds within 12 months of the date of the letter advising of approval in principle.
- b. Applications for a resident visa must be declined if a principal applicant does not present acceptable evidence of having transferred the nominated settlement funds within 12 months (or 18 months if an extension is granted, see provisions (c), (d), and (e) below) from the date of approval in principle.
- c. Principal applicants may request an extension to their transfer period for up to six months.
- d. If a principal applicant wishes to request an extension to the timeframe for transferring the nominated funds to New Zealand, they must contact the immigration officer within 12 months of the date of the letter advising of Approval in Principle and present evidence of reasonable attempts to transfer the nominated funds to New Zealand.
- e. Following a principal applicant's presentation of evidence an immigration officer may:
  - i. grant an extension to the transfer period if they believe the evidence shows the principal applicant has made reasonable attempts to transfer the nominated funds within the 12 month time period; or
  - ii. decline to grant an extension to the transfer period if they believe the principal applicant has not made reasonable attempts to transfer the nominated funds within the 12 month time period.

#### *F4.30.10.15 Transferring funds to New Zealand*

- a. When their application meets the requirements for tier one through settlement funds, as per F4.30.10, and is approved in principle, the applicant will be required to transfer the nominated settlement funds to New Zealand and meet the evidential requirements set out at [F4.40.30.10](#).
- b. A minimum of NZ\$500,000 in total must be transferred to New Zealand.
- c. These funds must 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; and
  - i. be transferred through the banking system directly from the principal and/or secondary applicant's bank account(s) to New Zealand; or
  - ii. be transferred by a foreign exchange company to New Zealand through the banking system. Immigration officers may not accept the transferred funds if the applicant cannot provide satisfactory evidence of the following:
    - o the nominated funds have been transferred to the foreign exchange company directly from the applicant's bank account(s); and
    - o the nominated funds have been transferred through a foreign exchange company in a way that is not contrary to laws of New Zealand; and the nominated funds transferred are traceable; and

- cash transactions were not made; and
- 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:** 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 the country in which they were earned or acquired.

### SM3.15 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 employability and capacity building factors in accordance with the Skilled Migrant Category. The ranking of EOIs relative to each other will change as EOIs enter, or are withdrawn from, the Pool.
- b. EOIs in the Skilled Migrant Category Pool are selected from that Pool periodically on the Government's behalf by the Ministry of Business, Innovation and Employment.
- c. Selections from the Pool are made in the following manner:
  - i EOIs that have total points of 140 or more are selected automatically from the Pool;
  - ii EOIs that have total points of 100 or more but less than 140, and include points for the principal applicant's offer of skilled employment or current skilled employment in New Zealand, are selected (according to their points ranking) in sufficient numbers to meet the requirements of the Skilled/Business Stream of the New Zealand Residence Programme (NZRP) at the time of that selection (subject to any adjustment to the number or distribution of places in the NZRP determined by the Government)
- d. If, following the selection process set out at (c) above, further places are available in the Skilled/Business Stream of the NZRP at the time of that selection (subject to any adjustment to the number or distribution of places in the NZRP determined by the Government), additional EOIs may be selected from the Pool on the basis of criteria set from time to time by the Minister of Immigration, having regard to the objectives of the Skilled Migrant Category. Those criteria are specified at SM3.15.1.

#### SM3.15.1 Additional selection criteria

- a. The following additional selection criteria apply for the purposes of SM3.15(d), for selections from the Pool occurring until 31 August 2016 inclusive.
- b. EOIs will be selected by applying the criteria in the order in which they appear in (i) – (iv), to the extent necessary to satisfy any exercise of the discretion under SM3.15 (d):
  - i EOIs that include 15 points for work experience in an area of absolute skills shortage (in descending order of their points total);
  - ii EOIs that include 10 points for work experience in an area of absolute skills shortage (in descending order of their points total);
  - iii EOIs that include 10 points for a qualification in an area of absolute skills shortage (in descending order of their points total);
  - iv the points total of EOIs not meeting any of the criteria in (i) – (iii) (in descending order).

## SM7.20 Requirements for employers

- a. All employers wishing to employ non-New Zealand citizens or residents must comply with all relevant employment and immigration law in force in New Zealand. Compliance with relevant New Zealand employment and immigration law includes, but is not limited to:
  - i. paying employees no less than the appropriate minimum wage rate or other contracted industry standard; and
  - ii. meeting holiday and special leave requirements or other minimum statutory criteria, e.g. occupational safety and health obligations; and
  - iii. only employing people who have authority to work in New Zealand.
- b. To qualify for points, skilled employment must be with an employer who has good workplace practices, including a history of compliance with all immigration and employment laws such as the Immigration Act, the **Accident Compensation Act 2001**, the Minimum Wage Act, the Health and Safety in Employment Act, the Employment Relations Act and the Holidays Act.
- c. Current employment or an offer of employment does not qualify for points if it is not compliant with all relevant immigration and employment laws in force in New Zealand or if INZ considers that the employment of the applicant creates unacceptable risks to the integrity of New Zealand's immigration or employment laws, policies or instructions.

**Note:** To determine whether an offer of employment creates an unacceptable risk to the integrity of New Zealand's immigration and employment laws, policies or instructions an immigration officer may consider whether the remuneration offered for the position is comparable to the market rate for New Zealand workers in that occupation.

### SM8.10 Employment in an identified future growth area

- a. As future growth areas are identified they will be listed in this provision. For the purposes of these instructions, currently identified future growth areas are as follows:
  - Biotechnology
  - Information Communications Technology
  - Creative industries (Advertising, Software & Computing Services, Publishing, TV and Radio, Film and Video, Architecture, Design, Designer Fashion, Music and Performing Arts, Visual Arts).
- b. Skilled employment in one of the identified future growth areas set out above will only qualify for points if an immigration officer is satisfied that **the principal applicant's** current employment or offer of employment is in one of those identified future growth areas.

## S1.10 Samoan Quota Scheme

### S1.10.1 Objective

The Samoan Quota Scheme allows up to 1,100 Samoan citizens to be granted a resident visa each year. The total number of Samoan citizens approved under this category includes principal applicants, their partners and dependent children.

### S1.10.5 Criteria for a resident visa

- a. To qualify for a resident visa under the Samoan Quota Scheme, the principal applicant must:
  - i. be a Samoan citizen (having been born in Samoa or born overseas to a Samoan citizen who was born in Samoa); and
  - ii. be either in Samoa or lawfully in New Zealand at the time their application for a resident visa is made; and
  - iii. have their registration drawn from the Samoan Quota Scheme pool; and
  - iv. lodge their application for a resident visa under the Samoan Quota Scheme within eight months of written advice from INZ that their registration has been drawn from the Samoan Quota Scheme pool; and
  - v. have been aged between 18 and 45 (inclusive) at the registration closing date; and
  - vi. have an acceptable offer of employment, or have a partner included in the application who has an acceptable offer of employment (see S1.10.30 below); and
  - vii. (if they have dependent children) meet the minimum income requirement (see S1.10.35 below); and
  - viii. meet a minimum level of English language ability (see S1.10.45 below); and
  - ix. meet health and character requirements (see [A4](#) and [A5](#)).
- b. Partners and dependent children of the principal applicant who are included in the resident visa application must also meet health and character requirements for a resident visa (see [A4](#) and [A5](#)).
- c. An immigration officer may extend the eight month timeframe referred to in paragraph (a)(iv) if the officer believes the special circumstances of the applicant justify such an extension.
- d. An Assistant General Manager, Visa Services may extend the eight month timeframe referred to in paragraph (a)(iv) in relation to a class of applicants if the Assistant General Manager believes the special circumstances of the class of applicants justify such an extension.

### S1.10.10 Registration process for principal registrants

- a. Principal registrants may register for entry into the Samoan Quota pool within a set registration period. The dates of the registration period will be announced each year prior to the registration opening.
- b. Principal registrants must be aged between 18 and 45 (inclusive) at the registration closing date for their registration to be accepted into the ballot.
- c. Registrations must be made on the **appropriate registration form for the** Samoan Quota Scheme.
- d. Registrations must be submitted during the registration period to the appropriate receiving office specified **in the appropriate registration guide for the** Samoan Quota Scheme.
- e. Registrations will be accepted for entry into the ballot only if they are fully completed, signed by the principal registrant, and accompanied by any documents or evidence specified as required by the registration form.
- f. Any registrants who have previously overstayed in New Zealand, but have departed voluntarily, and do not have a removal order or period of prohibition on entry in force in respect of them, can register under the Samoan Quota Scheme.
- g. Any registrants included in a registration must either:
  - i. be in New Zealand lawfully at the time the registration is made; or
  - ii. be offshore at the time the registration is made.

#### S1.10.10.1 Definition of 'principal registrant'

The principal registrant is the person who is declared to be the principal registrant on the registration application form and who intends to be the principal applicant of any resulting resident visa application.

### S1.10.15 Inclusion in registration of immediate family members of the principal registrant

- a. Where the principal registrant has a partner and/or dependent children all of those people must be included in the registration.
- b. If a registration is successful in the pool draw, only a partner and/or dependent children included in the registration may be included in the resulting application for a resident visa under the Samoan Quota Scheme. This limitation applies despite [R2.1](#) concerning the inclusion of family members in an application.
- c. Any partner and/or dependent children who were eligible for inclusion in the registration but were not included must not subsequently be granted a residence class visa under the Partnership or Dependent Child Categories.

- d. Despite (b) and (c) above, a partner or dependent child who was included in the registration but not in the resulting application for a resident visa may be granted a residence class visa as a principal applicant under the Partnership or Dependent Child Categories.
- e. Notwithstanding (b) above, in the event an applicant includes any partner and/or dependent child in their application who was not included in their registration, officers should allow the principal applicant an opportunity to explain the non-declaration in accordance with [R5.15](#) before applying the limitation referred to in (b).
- f. Where a person is not eligible to be included at the time of registration but is eligible at the time of the application for a resident visa (e.g. in the case of a newborn child), they may be included in the resident visa application provided [R2.1](#) is met.

#### **S1.10.20 Number of registrations that may be lodged**

Registrants must lodge (or be included in) only one registration within the registration period. If a registration is lodged that includes registrants who are already included in a registration accepted by INZ, the subsequent registration(s) will not be accepted.

#### **S1.10.25 Selection process following closure of registration**

- a. As soon as practicable following the closure of the registration period, INZ will conduct an electronic draw.
- b. Registrations will be randomly drawn from the pool until the appropriate number of potential applicants to fill the number of available places within the annual period has been drawn.
- c. Principal registrants whose registrations have been drawn from the pool will be notified by INZ in the month following the draw that their registration has been successful, and will be invited to lodge an application for a resident visa under the Samoan Quota Scheme at the appropriate receiving office of INZ not more than eight months after the date of that advice.

#### **S1.10.30 Acceptable offers of employment**

- a. Acceptable offers of employment may be in either a skilled or unskilled occupation but must be for on-going and sustainable employment. On-going and sustainable employment is:
  - i. an offer of employment or current employment with a single employer which is permanent, or indefinite, and of which the employer is in a position to meet the terms specified; or
  - ii. an offer of employment or current employment, with a single employer for a stated term of at least 12 months.

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

Where an offer of employment or current employment is for a stated term of at least 12 months, the stated term must be valid both at the time the application is lodged and when the application is decided, in particular:

- ~ if the applicant has current employment, he or she must be in that employment, or
- ~ if the applicant has an offer of employment, the offer must continue to be valid.

- b. Acceptable offers of employment must also be:
  - i. for full-time employment (employment is full-time if it amounts to, on average, at least 30 hours per week) unless S1.10.35.1 (c) applies; and
  - ii. current at the time of assessing the application and at the time of grant of the visa; and
  - iii. genuine; and
  - iv. for a position that is paid by salary or wages (ie, positions of self-employment, payment by commission and/or retainer are not acceptable); and
  - v. accompanied by evidence of professional or technical registration if this is required by law to take up the offer; and
  - vi. compliant with all relevant employment law in force in New Zealand.
- c. An acceptable offer of employment must be from an employer who complies with all relevant employment and immigration law in force in New Zealand. Compliance with relevant New Zealand employment and immigration law will be assessed on the basis of past and current behaviour, and includes, but is not limited to:
  - i. paying employees no less than the applicable minimum wage rate; and
  - ii. meeting holiday and leave entitlements and other minimum statutory requirements; and
  - iii. meeting occupational safety and health obligations; and
  - iv. only employing people who are entitled to work in New Zealand.
- d. For the purposes of S1.10.30(a) (ii), INZ must be satisfied that the employer:
  - i. has genuine reasons based on reasonable grounds for specifying that the employment is for a stated term; and

- ii. has advised the employee of when or how their employment will end and the reasons for their employment ending; and
  - iii. is in a position to meet the terms specified.
- e. 'Genuine reasons' for the purposes of [SM7.15\(c\)\(i\)](#) do not include reasons:
- i. that exclude or limit the rights of a person under employment law; or
  - ii. to determine the suitability of a person for permanent or indefinite employment.

**Note:** In order to meet employment law, employment agreements that are for a stated term must specify in writing the way in which the employment will end and the reasons for ending the employment.

- f. If the principal applicant has dependent children, the offer of employment must also meet the minimum income requirement set out at S1.10.35 below.

#### **S1.10.35 Minimum income requirement**

- a. Principal applicants with dependent children must show that they will meet the minimum income requirement if they come to New Zealand, which is intended to ensure they can support themselves and their dependent children.
- b. The gross minimum income requirement is NZ\$32,046.56. This is based on the Unemployment Benefit (married and civil union rate) plus the maximum Accommodation Supplement (as set by the New Zealand Government).
- c. The minimum income requirement must be derived from an acceptable offer of employment - see S1.10.30.

##### *S1.10.35.1 Ability to include partner's income as part of the minimum income requirement*

- a. If both the principal applicant and their partner included in their application have an acceptable offer of employment in New Zealand, both of their wages or salaries may be taken into account when determining if the minimum income requirement is met.
- b. In such cases the partner's employment and income will only be taken into account if, at the time the application is assessed, an immigration officer is satisfied the principal applicant and partner have been living together for 12 months or more in a partnership that is genuine and stable (see [R2.1.15.1\(b\)](#) and [R2.1.15.5\(a\)\(i\)](#)).
- c. Where the employment (and income) of both the principal applicant and their partner is used to meet the minimum income requirement, both offers of employment must meet all the requirements in S1.10.30 except that only one has to meet the requirement that the offer be for full-time employment.

#### **S1.10.40 Evidence of employment offer**

- a. Evidence of an offer of employment is original or certified copies of the following documents:
  - i. a written offer of employment; and
  - ii. a detailed job description; and
  - iii. an employment agreement entered into by the employer and the principal applicant, stating:
    - o the terms of employment; and
    - o the hours of work; and
    - o the period during which employment may begin.
- b. Additional evidence may include, but is not limited to:
  - i. any information requested by INZ; and
  - ii. the results of any verification undertaken by INZ; and
  - iii. information from the employer or recruitment agency.

#### **S1.10.45 Minimum English language requirement**

The interviewing immigration officer determines whether principal applicants meet the minimum English language requirement by assessing whether they are able to:

- a. read English; and
- b. understand and respond to questions in English; and
- c. maintain an English language conversation about themselves, their family or their background.

#### **S1.10.50 Determining applications**

- a. The immigration officer must sight the original job offer and verify that it is genuine and current by checking:
  - i. directly with the employer; or
  - ii. through the nearest office of INZ to the employer in New Zealand; or
  - iii. by some other appropriate arrangement.

- b. The immigration officer must then assess the applicant's English language ability against the criteria at S1.10.45 above.

**S1.10.55 Grant of visas**

- a. If an application for a resident visa under the Samoan Quota Scheme is approved and the applicant is in New Zealand lawfully, a resident visa will be granted.
- b. If an application for a resident visa under the Samoan Quota Scheme is approved and the applicant is in Samoa, the principal applicant will be granted with a resident visa with travel conditions allowing first entry within three months, while the partner and dependent children will be granted resident visas with travel conditions allowing first entry within 12 months.

### S1.11 Residual Quota Places Category

- a. If the annual quota of places available under the Samoan Quota Scheme is not filled by applicants drawn from the ballot, INZ will, for the purpose of filling remaining places, call for resident visa applications within a specified period from persons who:
  - i. are Samoan citizens (having been born in Samoa or born overseas to a Samoan citizen who was born in Samoa); and
  - ii. are in New Zealand at the time applications are called for under this category; and
  - iii. are lawfully in New Zealand at the time their application for a resident visa is made; and
  - iv. are aged between 18 and 45 inclusive; and
  - v. have an acceptable offer of employment or have a partner, included in the application, who has an acceptable offer of employment (see [S1.10.30](#)); and
  - vi. meet the minimum income requirement (see [S1.10.35](#)) if they have dependants; and
  - vii. meet a minimum level of English language ability (see [S1.10.45](#)); and
  - viii. meet health and character requirements (see [A4](#) and [A5](#)).
- b. Partners and dependent children accepted under the Quota must meet health and character requirements (see [A4](#) and [A5](#)).
- c. Applications that are lodged in the prescribed manner (that meet all mandatory lodgement requirements) will be processed in the order in which they are received.
- d. Applicants who meet the criteria specified in (a) and (b) above will be granted a resident visa.
- e. All applications received that have not been decided at the time that all the remaining places from the annual quota have been filled will be treated as lapsed.

## S1.40 Pacific Access Category

### S1.40.1 Objective

The Pacific Access Category allows up to 250 citizens of Fiji, 250 citizens of Tonga, 75 citizens of Tuvalu, and 75 citizens of Kiribati to be granted residence class visas in New Zealand each year. The total number of individuals approved under each category includes principal applicants, their partners and dependent children.

### S1.40.5 Criteria for a resident visa

- a. To qualify for a resident visa under the Pacific Access Category, the principal applicant must:
  - i. be a citizen of Fiji, Tonga, Tuvalu, or Kiribati; and
  - ii. have their Pacific Access Category registration drawn from the relevant Fiji, Tonga, Tuvalu, or Kiribati pool of the Pacific Access Category; and
  - iii. lodge their application for a resident visa under the Pacific Access Category within eight months of written advice from INZ that their registration has been drawn from the relevant Fiji, Tonga, Tuvalu, or Kiribati pool of the Pacific Access Category; and
  - iv. have been aged between 18 and 45 (inclusive) at the registration closing date; and
  - v. have an acceptable offer of employment or have a partner, included in the application, who has an acceptable offer of employment (see S1.40.30 below); and
  - vi. (if they have dependent children) meet the minimum income requirement set out at S1.40.35 below; and
  - vii. meet a minimum level of English language ability (see S1.40.45 below); and
  - viii. meet health and character requirements (see [A4](#) and [A5](#)).
- b. Principal applicants who are citizens of Fiji:
  - i. must be either in Fiji or lawfully in New Zealand at the time their application under the Pacific Access Category is made; and
  - ii. must have been born in Fiji or born overseas to a Fijian citizen who was born in Fiji.
- c. Principal applicants who are citizens of Tonga:
  - i. must be either in Tonga or lawfully in New Zealand at the time their application under the Pacific Access Category is made; and
  - ii. must have been born in Tonga or born overseas to a Tongan citizen who was born in Tonga.
- d. Principal applicants who are citizens of Kiribati:
  - i. must be either in Kiribati or Fiji or lawfully in New Zealand at the time their application under the Pacific Access Category is made; and
  - ii. must have been born in Kiribati or born overseas to a Kiribati citizen who was born in Kiribati.
- e. Principal applicants who are citizens of Tuvalu:
  - i. must be either in Tuvalu or Fiji or lawfully in New Zealand at the time their application under the Pacific Access Category is made; and
  - ii. must have been born in Tuvalu or born overseas to a Tuvaluan citizen who was born in Tuvalu.
- f. Partners and dependent children included in applications under the Pacific Access Category must also meet health and character requirements (see [A4](#) and [A5](#)).
- g. An immigration officer may extend the eight-month timeframe referred to in paragraph (a)(iii) if the officer believes the special circumstances of the applicant justify such an extension.
- h. An Assistant General Manager, Visa Services may extend the eight-month timeframe referred to in paragraph (a)(iii) in relation to a class of applicants if the Assistant General Manager believes the special circumstances of the class of applicants justify such an extension.

### S1.40.10 Registration process for principal registrants

- a. Principal registrants may register for entry into the relevant Fiji, Tonga, Tuvalu, or Kiribati pool of the Pacific Access Category within a set registration period. The dates of the registration period will be announced each year prior to the registration opening.
- b. Principal registrants must be aged between 18 and 45 (inclusive) at the registration closing date for their registration to be accepted into the ballot.
- c. Registrations must be made on the **appropriate registration form for the** Pacific Access Category.
- d. Registrations must be submitted during the registration period to the appropriate receiving office specified on the Pacific Access Category **registration guide applicable to the country**.
- e. Registrations will be accepted for entry into the ballot only if they are fully completed, signed by the principal registrant, **submitted together with the appropriate fee and accompanied by** any documents or evidence as required by the registration form.

f. Any registrants who have previously overstayed in New Zealand, but have departed voluntarily, and do not have a removal or deportation order in force in respect of them, can register under the Pacific Access Category.

g. Any registrants included in a registration must either:

- i. be in New Zealand lawfully at the time the registration is made; or
- ii. be offshore at the time the registration is made.

#### *S1.40.10.1 Definition of 'principal registrant'*

The principal registrant is the person who is declared to be the principal registrant on the registration application form and who intends to be the principal applicant of any resulting residence class visa application.

#### **S1.40.15 Inclusion in registration of immediate family members of the principal registrant**

- a. Where the principal registrant has a partner and/or dependent children all of those people must be included in the registration.
- b. If a registration is successful in the pool draw, only a partner and/or dependent children included in the registration may be included in the resulting application for a resident visa under the Pacific Access Category. This limitation applies despite [R2.1](#) concerning the inclusion of family members in an application.
- c. Any partner and/or dependent children who were eligible for inclusion in the registration but were not included must not subsequently be granted a residence class visa under the Partnership or Dependent Child Categories.
- d. Despite (b) and (c) above, a partner or dependent child who was included in the registration but not in the resulting application for a resident visa may be granted a residence class visa as a principal applicant under the Partnership or Dependent Child Categories.
- e. Notwithstanding (b) above, in the event an applicant includes any partner and/or dependent child in their application who was not included in their registration, officers should allow the principal applicant an opportunity to explain the non-declaration in accordance with [R5.15](#) before applying the limitation referred to in (b).
- f. Where a person is not eligible to be included at the time of registration but is eligible at the time of the application for a resident visa (e.g. in the case of a newborn child), they may be included in the resident visa application provided [R2.1](#) is met.

#### **S1.40.20 Number of registrations that may be lodged**

Registrants must lodge (or be included in) only one registration within the registration period. If a registration is lodged that includes registrants who are already included in a registration accepted by INZ, the subsequent registration(s) will not be accepted.

#### **S1.40.25 Selection process following closure of registration**

- a. INZ will conduct an electronic draw as soon as practicable after the closure of the registration period.
- b. Registrations will be randomly drawn from the pool of registrations, until the appropriate number of potential registrants to meet the various quotas of available places within the annual period has been drawn.
- c. Principal registrants whose registrations have been drawn from the various pools will be notified by INZ in the month following the draw that their registration has been successful and that they must lodge a full application under the Pacific Access Category to the appropriate receiving office of INZ not more than eight months after the date of that advice.
- d. Principal registrants who are unsuccessful in the registration process within a particular registration period are able to re-register within subsequent registration periods at a reduced fee.

#### **S1.40.30 Acceptable offers of employment**

- a. Acceptable offers of employment may be in either a skilled or unskilled occupation but must be for on-going and sustainable employment. On-going and sustainable employment is:
  - i. an offer of employment or current employment with a single employer which is permanent, or indefinite, and of which the employer is in a position to meet the terms specified; or
  - ii. an offer of employment or current employment, with a single employer for a stated term of at least 12 months.

**Note:** When assessing whether employment is sustainable, officers may consider, but are not limited to, such factors as the residence status of the employer, the period for which the employing organisation has been established as a going concern, and the financial sustainability of the employing organisation. Where an offer of employment or current employment is for a stated term of at least 12 months, the stated term must be valid both at the time the application is lodged and when the application is decided, in particular:  
~ if the applicant has current employment, he or she must be in that employment, or  
~ if the applicant has an offer of employment, the offer must continue to be valid.

- b. Acceptable offers of employment must also be:
  - i. for full-time employment (employment is full-time if it amounts to, on average, at least 30 hours per week) unless S1.40.35.1 (c) applies; and

- ii. current at the time of assessing the application and at the time of grant the visa; and
  - iii. genuine; and
  - iv. for a position that is paid by salary or wages (ie, positions of self-employment, payment by commission and/or retainer are not acceptable); and
  - v. accompanied by evidence of professional or technical registration if this is required by law to take up the offer; and
  - vi. compliant with all relevant employment law in force in New Zealand.
- c. An acceptable offer of employment must be from an employer who complies with all relevant employment and immigration law in force in New Zealand. Compliance with relevant New Zealand employment and immigration law will be assessed on the basis of past and current behaviour, and includes, but is not limited to:
- i. paying employees no less than the applicable minimum wage rate; and
  - ii. meeting holiday and leave entitlements and other minimum statutory requirements; and
  - iii. meeting occupational safety and health obligations; and
  - iv. only employing people who are entitled to work in New Zealand.
- d. For the purposes of S1.40.30(a)(ii), INZ must be satisfied that the employer:
- i. has genuine reasons based on reasonable grounds for specifying that the employment is for a stated term; and
  - ii. has advised the employee of when or how their employment will end and the reasons for their employment ending; and
  - iii. is in a position to meet the terms specified.
- e. 'Genuine reasons' for the purposes of [SM7.15\(c\)\(i\)](#) do not include reasons:
- i. that exclude or limit the rights of a person under employment law; or
  - ii. to determine the suitability of a person for permanent or indefinite employment.

**Note:** In order meet employment law, employment agreements that are for a stated term must specify in writing the way in which the employment will end and the reasons for ending the employment.

- f. If the principal applicant has dependent children, the offer of employment must also meet the minimum income requirement set out at S1.40.35 below.

#### **S1.40.35 Minimum income requirement**

- a. Principal applicants with dependent children must show that they will meet the minimum income requirement if they come to New Zealand, which is intended to ensure they can support themselves and their dependent children.
- b. The gross minimum income requirement is NZ\$32,046.56. This is based on the Unemployment Benefit (married and civil union rate) plus the maximum Accommodation Supplement (as set by the New Zealand Government).
- c. The minimum income requirement must be derived from the acceptable offer of employment - see S1.40.30.

##### *S1.40.35.1 Ability to include the partner's income as part of the minimum income requirement*

- a. If both the principal applicant and their partner included in their application have an acceptable offer of employment in New Zealand, both of their wages or salaries may be taken into account when determining if the minimum income requirement is met.
- b. In such cases the partner's employment and income will only be taken into account if, at the time the application is assessed, an immigration officer is satisfied the principal applicant and partner have been living together for 12 months or more in a partnership that is genuine and stable (see [R2.1.15.1\(b\)](#) and [R2.1.15.5\(a\)\(i\)](#)).
- c. Where the employment (and income) of both the principal applicant and their partner is used to meet the minimum income requirement, both offers of employment must meet all the requirements in S1.40.30, except that only one has to meet the requirement that the offer be for full-time employment.

#### **S1.40.40 Evidence of employment offer**

- a. Evidence of an offer of employment is original or certified copies of the following documents:
  - i. a written offer of employment; and
  - ii. a detailed job description; and
  - iii. a letter from the employer stating whether or not any occupational registration is required by law for the principal applicant to take up the position; and
  - iv. an employment agreement entered into by the employer and the principal applicant, stating:
    - o the terms of employment; and
    - o the hours of work; and

- o the period during which employment may begin.
- b. Additional evidence may include, but is not limited to:
  - i. any information requested by INZ; and
  - ii. the results of any verification undertaken by INZ; and
  - iii. information from the employer or recruitment agency.

#### **S1.40.45 Minimum English language requirement**

Immigration officers determine whether principal applicants meet the minimum English language requirement by assessing whether they are able to:

- a. read English; and
- b. understand and respond to questions in English; and
- c. maintain an English language conversation about themselves, their family or their background.

#### **S1.40.50 Determining applications**

- a. Immigration officers must sight the original job offer and verify that it is genuine and current by checking:
  - i. directly with the employer; or
  - ii. through the nearest office of INZ to the employer in New Zealand; or
  - iii. by some other appropriate arrangement.
- b. Immigration officers must assess the applicant's English language ability against the criteria at S1.40.45 above.

#### **S1.40.55 Grant of visas**

- a. If an application for a resident visa under the Pacific Access Category is approved and the applicant is in New Zealand lawfully, a resident visa will be granted.
- b. If an application for a resident visa under the Pacific Access Category is approved and the applicant is in Fiji, Tonga, Kiribati, or Tuvalu, the principal applicant will be granted a resident visa with travel conditions allowing first entry within three months, while the partner and dependent children will be granted resident visas with travel conditions allowing first entry within 12 months.

### S1.41 Residual PAC Places Category

- a. If the annual quota of places available for each country under the Pacific Access Category is not filled by applicants drawn from the ballots, INZ will, for the purpose of filling remaining places, call for resident visa applications within a specified period from persons who:
  - i. are citizens of the countries that have unfilled places; and
  - ii. are in New Zealand at the time applications are called for under this category; and
  - iii. are lawfully in New Zealand at the time their application for a resident visa is made; and
  - iv. have an acceptable offer of employment or have a partner, included in the application, who has an acceptable offer of employment (see [S1.40.30](#)); and
  - v. are aged between 18 and 45 inclusive; and
  - vi. meet the minimum income requirement (see [S1.40.35](#)) if they have dependants; and
  - vii. meet a minimum level of English language ability (see [S1.40.45](#)); and
  - viii. meet health and character requirements (see [A4](#) and [A5](#)).
- b. Principal applicants who are citizens of Tonga must have been born in Tonga or born overseas to a Tongan citizen who was born in Tonga.
- c. Principal applicants who are citizens of Kiribati must have been born in Kiribati or born overseas to a Kiribati citizen who was born in Kiribati.
- d. Principal applicants who are citizens of Tuvalu must have been born in Tuvalu or born overseas to a Tuvaluan citizen who was born in Tuvalu.
- e. Partners and dependent children included in applications under the Pacific Access Category must meet health and character requirements (see [A4](#) and [A5](#)).
- f. Applications that are lodged in the prescribed manner (that meet all mandatory lodgement requirements) will be processed in the order in which they are received.
- g. Applicants who meet the criteria specified in (a) to (e) above will be granted a resident visa.
- h. All applications received that have not been decided at the time that all the remaining places from the annual quota have been filled will be treated as lapsed.

## S4.10 Refugee Family Support Category

### S4.10.1 Objective

The objective of the International/Humanitarian Stream is to enable New Zealand to meet its international and humanitarian obligations.

The objective of the Refugee Family Support Category (RFSC) is to facilitate the successful resettlement of refugees and protected people resident in New Zealand by providing them with an opportunity to sponsor family members who do not qualify for residence under any other category of residence instructions.

**Note:** The RFSC replaces the Refugee Family Quota.

### S4.10.5 Number of places available under RFSC

- a. The number of places available for sponsored persons under RFSC (including any family members included in their registration) is set at 300 per year.
- b. For the purposes of these instructions, a year consists of the 12-month period from 1 July to 30 June.

### S4.10.10 How do people qualify for residence under the RFSC?

- a. A principal applicant and their partner and dependent children qualify for residence under the RFSC if their sponsor's registration is selected from the RFSC queues under tier one (see S4.10.30) or tier two (see S4.10.40); and
  - i. they are not eligible for a residence class visa in New Zealand under any other category of Government residence instructions; and
  - ii. they meet health and character requirements (see [A4](#) and [A5](#)); and
  - iii. their application is made within 12 months of Immigration New Zealand's (INZ) advice to their sponsor that the sponsor's registration has been selected from the RFSC tier one or tier two queue.
- b. In each case, their sponsor must meet 'eligible sponsor' requirements set out at S4.10.15; and
  - i. the requirements for tier one sponsors (see S4.10.20(e)); or
  - ii. the requirements for tier two sponsors (see S4.10.20(g)).
- c. Despite [A4.20\(a\)](#), [R2.40\(d\)\(vi\)](#) and [R2.40\(d\)\(vii\)](#), an applicant is not required to provide a Medical Certificate or Chest X-ray Certificate for the purposes of lodging an application under the RFSC.
- d. In order to determine whether the applicant(s) meets health requirements at [A4](#), the applicant(s) must submit the following when requested by an immigration officer:
  - i. a completed *General Medical Certificate (INZ 1007)*; and
  - ii. a completed *Chest X-ray Certificate (INZ 1096)* (except for pregnant women and children under the age of 11).
- e. Unless [A4.20\(d\)](#) applies, the *General Medical Certificate (INZ 1007)* and *Chest X-Ray Certificate (INZ 1096)* must have been issued less than three months before the date they are received by an immigration officer.

### S4.10.15 Eligible sponsors under RFSC

See also *Immigration Act 2009, s 48*

- a. For the purpose of RFSC, an 'eligible sponsor' is a New Zealand citizen or resident who:
  - i. was granted a residence class visa in New Zealand on the basis of their status as a refugee or protected person or as an Afghan interpreter, or as a partner or dependent child of an Afghan interpreter who accompanied them to New Zealand; and
  - ii. has not sponsored any other principal applicant who has obtained a resident visa in New Zealand under RFSC (or Refugee Family Quota); and
  - iii. is in New Zealand; and
  - iv. is aged 18 years or over; and
  - v. be an acceptable sponsor as set out at [R4.5](#), except for the requirements at [R4.5\(d\)\(ii\)](#) and [\(iii\)](#).
- b. Sponsors aged 18 to 24 must be able to satisfy an immigration officer that they are able to meet the undertakings given in the sponsorship form.
- c. For the purposes of these instructions, people granted residence on the basis of being an Afghan interpreter are people who have worked with the New Zealand Defence Force, the New Zealand Police or the New Zealand Special Air Service (SAS) in Afghanistan and were granted a residence class visa by the Minister of Immigration as an exception to instructions under section 72(3) of the Immigration Act 2009.

### S4.10.20 Two tier registration system for sponsors

- a. Registrations from tier one sponsors (see (e) below) will be given first access to available places under RFSC by entry into the tier one queue.

- b. Registrations will be selected from the tier one queue in order of their entry to that queue until the annual number of places available under RFSC is met.
- c. If the places available annually under RFSC are not filled by people included in tier one registrations selected from the queue, registrations required to fill the remaining places will be selected from the tier two queue.
- d. If the places available annually under RFSC are not filled by people included in tier one registrations and the registrations in the tier two queue are insufficient to fill the remaining quota of places, INZ will call for tier two sponsors to submit registrations (see S4.10.20(g) and S4.10.35 below).
- e. A tier one sponsor is an 'eligible sponsor' who:
  - i. is a New Zealand citizen or the holder of a current residence class visa; and
  - ii. wants to sponsor their parent, grandparent, grandchild, uncle, aunt, nephew, niece, adult sibling or adult child, and that person's partner and/or dependent children for a resident visa under RFSC; and
  - iii. has no other 'family member' who is eligible for residence in New Zealand under any other category of residence instructions; and either
  - iv. has no 'immediate family' living lawfully and permanently in New Zealand; or
  - v. is the 'sole carer' (see S4.10.55.15) of a dependent relative or dependent relatives in New Zealand and the sponsor has no other 'immediate family' living lawfully and permanently in New Zealand apart from the dependent relative who is under care.
- f. For the purpose of S4.10.20(e)(v), the 'dependent relative' who requires on-going care must have no 'immediate family' in New Zealand other than the sponsor.
- g. A tier two sponsor is an 'eligible sponsor' who:
  - i. has 'immediate family' in New Zealand; and
  - ii. wants to sponsor their parent, adult sibling, adult child, or grandparent (if that grandparent is the sponsor's legal guardian, see S4.10.55.20), and that person's partner and dependent children for residence under RFSC; and
  - iii. has no other 'family member' who is eligible for residence in New Zealand under any other category of residence instructions; and
  - iv. is a New Zealand citizen or the holder of a current residence class visa; and
  - v. has been a New Zealand citizen and/or the holder of a residence class visa for at least three years immediately preceding the date the Registration Form for RFSC sponsor is lodged; and
  - vi. in each of the three 12-month portions within that three-year period, has spent a total of 184 days or more in New Zealand.
- h. For the purposes of S4.10.20(e), (f), and (g), to be an eligible sponsor under tier one or two of RFSC, a sponsor must meet the particular requirements that were in force at the time their registration was selected from the queue.

**Note:** For the purposes of these instructions 'immediate family' means a sponsor's partner, parent, or child (excluding any dependent child in terms of [R2.1.30](#)). For the purposes of these instructions, 'family member' means a sponsor's partner, parent, child, grandparent, grandchild, uncle, aunt, nephew, niece or adult sibling.

#### **S4.10.25 Registration process for tier one sponsors**

- a. Eligible sponsors who meet the requirements for tier one sponsors set out at S4.10.20(e) above may register with INZ to sponsor their parent, grandparent, grandchild, uncle, aunt, nephew, niece, adult sibling or adult child, and that person's partner and/or dependent children for residence under the RFSC tier one queue.
- b. Registrations must be made on the registration form for the appropriate RFSC tier.
- c. Registrations must be submitted by mail to the address specified on the applicable registration form.
- d. A fee is payable for registration.
- e. Subject to the provisions of S4.10.50, registrations from sponsors who meet the tier one sponsorship requirements set out at S4.10.20(e) above may be entered into the RFSC tier one queue if the form is fully completed, signed by the sponsor, and accompanied by any documents or evidence as required by the registration form.

#### **S4.10.30 Selection process for tier one sponsors**

- a. Registrations will be selected from the tier one queue in chronological order from the date that the registration was entered into the tier one queue until the appropriate number of potential applicants to meet the number of available places within the annual period has been met.
- b. If the number of potential applicants included in registrations in the tier one queue exceeds the number of available places within the annual period, INZ will delay the selection of further registrations until places become available in the next annual period.

- c. Tier one sponsors with registrations entered into the tier one queue must notify INZ of any change in their circumstances.
- d. Sponsors whose registrations have been selected from the tier one queue and appear to meet the relevant registration requirements will be notified by INZ that their registration has been successful. Sponsors must advise the potential applicants whom they are sponsoring to lodge a full application under RFSC to the appropriate receiving office of INZ. Such applications must be made within 12 months after the date of the INZ notification to the sponsor. Any applications received outside that time limit will not be accepted.

#### **S4.10.35 Registration process for tier two sponsors**

- a. Eligible sponsors who meet the requirements for tier two sponsors set out at S4.10.20(g) above may register with INZ within a set registration period to sponsor their parent, adult sibling or adult child, or grandparent (if that grandparent is the sponsor's legal guardian, see S4.10.55.20), and that person's partner and dependent children for residence under RFSC tier two queue.
- b. INZ will announce that tier two will open for registration prior to its opening, if and when places are available for tier two potential applicants (places will be available if the number of potential applicants included in registrations in the tier one queue is less than the number of available places within the annual period). Registrations will then open for a set period as determined by INZ.
- c. Registrations must be made on the appropriate registration form for the tier under which the registration is made.
- d. Registrations must be submitted during the registration period by mail to the address specified on the appropriate Registration Form for RFSC
- e. A fee is payable for registration.
- f. Subject to the provisions of S4.10.50, registrations that are received by INZ before the end of the registration period from sponsors who meet the tier two sponsorship requirements set out at S4.10.20(g) above may be entered into RFSC tier two queue, if the form is fully completed, signed by the sponsor, and accompanied by any documents or evidence as required by the registration form.

#### **S4.10.40 Selection process for tier two sponsors**

- a. Registrations will be selected from the tier two queue in chronological order from the date the registration was entered into the queue, until the appropriate number of potential applicants to meet the number of available places in the annual period has been met.
- b. If the number of potential applicants included in registrations in the tier one queue exceeds the number of available places within the annual period, INZ will delay the selection of further registrations from tier two until places become available.
- c. Sponsors with registrations entered into the tier two queue must notify INZ of any change in their circumstances.
- d. Sponsors whose registrations have been selected from the tier two queue and appear to meet the relevant requirements will be notified by INZ that their registration has been successful. Sponsors must advise the potential applicants whom they are sponsoring to lodge a full application under RFSC the appropriate receiving office of INZ. Such applications must be made within 12 months after the date of the INZ notification to the sponsor. Any applications received outside that time limit will not be accepted.

#### **S4.10.45 Inclusion in registration of immediate family members of the sponsored principal applicant**

- a. Where the sponsored person has a partner and/or dependent children, all of those people must be included in the registration made by the sponsor.
- b. Despite [R2.1](#) concerning the inclusion of family members in an application, an application under RFSC can only include the partner and/or dependent children included in the preceding sponsor registration.
- c. Any partner and/or dependent children who were eligible for inclusion in the registration but were not included must not subsequently be granted a residence class visa under the Partnership or Dependent Child categories.
- d. Despite (b) and (c) above, a partner or dependent child who was included in the registration but not in the resulting application for a resident visa may be granted a residence class visa as a principal applicant under the Partnership or Dependent Child categories.
- e. Notwithstanding (b) above, in the event an applicant includes any partner and/or dependent child in their application who was not included in their registration, officers should allow the principal applicant an opportunity to explain the non-declaration in accordance with [R5.15](#) before applying the limitation referred to in (b).
- f. Where a person is not eligible to be included at the time of registration but is eligible at the time of the application for a resident visa (e.g. in the case of a newborn child), they may be included in the resident visa application provided R2.1 is met.

#### **S4.10.50 Number of registrations that may be submitted**

- a. Sponsors must have only one registration in the tier one or two queues at any time. Each registration must be in respect of one potential principal applicant and that person's partner and/or dependent children. If a single sponsor lodges more than one registration, the second and subsequent registrations will not be accepted.
- b. A registration under RFSC will not be accepted if:

- i. any of the potential applicants included in that registration have a current application for a residence class visa lodged with INZ under any other category of residence instructions; or
  - ii. any of the potential applicants included in that registration are eligible for a residence class visa in New Zealand under any other category of residence instructions (see S4.10.10(a)(i)).
- c. A registration under RFSC will not be accepted if, at the time the registration is lodged, any of the potential applicants included in the registration are unlawfully in New Zealand or subject to section 150 of the Immigration Act 2009 (concerning refugee or protection status claimants).

**Notes:**

~ Potential applicants in New Zealand should also be aware that they must be lawfully in New Zealand and not subject to section 150 of the Immigration Act 2009 in order to lodge an application under RFSC.

~ Where a registration is not accepted for any of the reasons set out in this provision, the registration fee will be returned to the sponsor.

**S4.10.55 Definitions**

*S4.10.55.1 Definition of 'refugee'*

For the purpose of RFSC, 'refugee' means a person who was granted a residence class visa in New Zealand under residence instructions by virtue of being either:

- a. a mandated or quota refugee (people determined to be refugees by the United Nations High Commissioner for Refugees (UNHCR)) before arrival in New Zealand; or
- b. a Convention refugee (people recognised as refugees by the New Zealand Government under the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees (see [C2.5](#) and [C5.15](#))).

*S4.10.55.5 Definition of 'protected person'*

For the purpose of RFSC, 'protected person' means a person who was granted a residence class visa in New Zealand under residence instructions by virtue of being recognised as having protection status in accordance with New Zealand's obligations under the:

- a. 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; or
- b. 1966 International Covenant on Civil and Political Rights.

*S4.10.55.10 Definition of 'adult child'*

In the context of a resident visa application under RFSC, 'adult child' means a child of 18 or older, unless they are dependent (see [R2.1.30](#)).

*S4.10.55.15 Definition of 'sole carer' for tier one sponsorship purposes*

- a. For tier one sponsorship purposes, a sponsor will be considered to be the sole carer of a dependent relative or relatives in New Zealand if they have the primary responsibility for the day-to-day care of a dependent relative or relatives in New Zealand, on an ongoing basis.

**Note:** A dependent relative can be a sponsor's partner, parent, child, grandparent, grandchild, uncle, aunt, nephew, niece or adult sibling.

- b. Evidence that a sponsor is the sole carer includes but is not limited to:
  - i. evidence of Accident Compensation Corporation (ACC) payments made to the sponsor (where the sponsor is considered by ACC to be a provider of home help to a sick or injured relative or relatives); and/or
  - ii. evidence from a District Health Board, General Practitioner or other Health agency which specifies the sponsor as a carer of a dependent relative or relatives; and/or
  - iii. evidence from Work and Income that the dependent relative or relatives are on an invalid's benefit; and/or
  - iv. evidence that the dependent relative or relatives are totally or substantially reliant on the sponsor for financial support whether living with them or not (where the dependent relative(s) are 17 or younger).

*S4.10.55.20 Definition of 'grandparent' as a legal guardian for tier two sponsorship purposes*

For tier two sponsorship purposes, a sponsor's grandparent will be considered as the sponsor's legal guardian if:

- a. both the sponsor's parents died before the sponsor attained the age of 20 years; and
- b. the grandparent had custody of the sponsor and the right to control the sponsor's upbringing, before the sponsor attained the age of 20 years.

**S4.10.60 Evidence**

The items listed in S4.10.60.1 to S4.10.60.15 below are examples of relevant evidence. Other documents may also be relevant.

*S4.10.60.1 Evidence of identity of applicant(s)*

- a. For the purposes of the registration process, INZ may accept the statutory declaration made by the sponsor on the RFSC registration form submitted by the sponsor that the details they have provided of the person(s) being sponsored is true and correct as being sufficient evidence of identity.
- b. Other evidence of identity may also be sought by INZ during the registration process.

#### **S4.10.60.5 Evidence of immigration status of sponsors**

- a. When lodging a registration under RFSC, sponsors must provide evidence of their immigration status as follows:
- b. Evidence that sponsors are New Zealand citizens may include but is not limited to original or certified copies of:
  - i. a valid New Zealand passport; or
  - ii. a Certificate of New Zealand Citizenship; or
  - iii. a recent official statement of citizenship from the Department of Internal Affairs.
- c. Evidence that sponsors are New Zealand residence class visa holders may include but is not limited to original or certified copies of a current New Zealand residence class visa, or evidence they are considered to hold a residence class visa in their passport or travel document.

#### **S4.10.60.10 Evidence of time spent in New Zealand as a citizen and/or holder of a residence class visa**

- a. When determining the amount of time spent in New Zealand, INZ may refer to INZ records of sponsors' entry to and exit from New Zealand.
- b. Other evidence of time spent in New Zealand may also be provided by a sponsor or sought by INZ.
- c. When lodging a registration under RFSC tier two queue, sponsors may be required to provide current and previous passports as evidence of time spent in New Zealand as a citizen and/or holder of a residence class visa.

**Note:** Periods during which a person is in New Zealand are calculated inclusive of both arrival and departure dates.

#### **S4.10.60.15 Evidence of relationship to sponsor**

- a. When lodging their application for a resident visa under RFSC, principal applicants must provide all available evidence of their relationship to their sponsor.
- b. Evidence of parent's, grandparent's, grandchildren's, nephews', nieces', aunts', uncles', siblings' or adult children's, relationship to their sponsor includes but is not limited to original or certified copies of:
  - birth certificates establishing the relationship of the sponsor to the principal applicant; or
  - household registration documents, if these establish the relationship of the sponsor to the principal applicant; or
  - evidence of adoption (see [R3](#)), which establishes the relationship of the sponsor to the principal applicant; or
  - documents issued by the United Nations High Commissioner for Refugees (UNHCR) and/or other internationally recognised agencies if these establish the relationship of the sponsor to the principal applicant; or
  - other evidence establishing the relationship of the sponsor to the principal applicant.
- c. If satisfied that evidence necessary to establish an applicant's relationship to their sponsor is not available or would be unduly difficult to obtain, immigration officers may:
  - i. specify another type of evidence to be submitted, such as a statutory declaration; and/or
  - ii. interview the principal applicant, those included in the application, or other parties involved in the application to verify identity and/or the relationship claimed by the applicant(s); and/or
  - iii. have the requirements waived by an appropriately delegated immigration officer if, due to the circumstances of the applicant(s), this is considered appropriate.

#### **S4.10.65 Verification of family details**

Immigration officers may refer to former applications lodged by applicants, family members of applicants or sponsors, in order to verify declarations made by applicants about their family details (such as the number of family members, the whereabouts of family members, or an applicant's or partner's marital status).

#### **S4.10.70 Undertakings of sponsors**

- a. A sponsor must undertake to ensure that adequate accommodation for their relatives is available upon arrival in New Zealand and continues to be available during the first 24 months of their relatives' residence in New Zealand.
- b. An immigration officer must be satisfied that the sponsor will be able to fulfil their undertakings provided under (a). A sponsor may demonstrate this by providing a completed Questionnaire for Refugee Family Support Category sponsor undertakings, outlining a credible accommodation plan.
- c. The application may be declined if an immigration officer is not satisfied a sponsor has the ability to meet their undertaking obligations set out at S4.10.70(a) above.

### E3.10 Currency of visas

*See also Immigration Act 2009 ss 6, 62, 63, 77*

- a. Temporary entry class visas with travel conditions must not be granted unless the applicant's passport or travel document is current for:
  - i. at least three months beyond the expiry date of the proposed visa; or
  - ii. one month, if the issuing Government has consular representation in New Zealand that is able to issue and renew passports.
- b. Despite (a) above, if an applicant has been approved a work visa for 24 months or longer, they may be granted the full duration of their visa, regardless of the applicant's passport expiration date. If a visa is granted beyond the expiry of the passport, the holder must be informed in writing that their visa must be transferred into their new passport if they wish to travel in or out of New Zealand on their new passport.
- c. The entry for the visa must specify, as appropriate:
  - i. the start date (which may be the date of its grant or a future or past date);
  - ii. any conditions of the visa that relate to travel, including:
    - o whether the visa allows travel to New Zealand on a later occasion;
    - o if the visa allows travel to New Zealand, the period during which the holder may travel to New Zealand;
    - o if the visa allows travel to New Zealand, whether the visa gives permission to travel to New Zealand on a single journey, multiple journeys, or a set number of journeys;
  - iii. in relation to the holder's stay in New Zealand, the date or event on which the visa will expire, or the period after which it will expire;
  - iv. any other conditions of the visa;
  - v. for those persons granted entry permission, the date or dates the entry permission was granted.
  - vi. such other matters as may be required or approved by the Chief Executive.
- d. If the holder of a visa is in New Zealand, the visa expires on the earliest of:
  - i. the beginning of the day after the date specified in the visa as the expiry date; or
  - ii. the beginning of the day after the day on which an event specified in the visa as the event on the occurrence of which the visa will expire occurs; or
  - iii. the beginning of the day after the last day of the period for which the visa grants stay in New Zealand to the holder;
  - iv. the beginning of the day that is three months after the day on which an epidemic management notice expires, if the visa:
    - o is a temporary entry class visa deemed to be extended as a result of an epidemic management notice; and
    - o has not been cancelled earlier.
- e. If the holder of a visa is outside New Zealand, the visa expires on the earlier of:
  - i. the day and time the holder left New Zealand, if the conditions of the visa do not allow further travel to New Zealand;
  - ii. the beginning of the day after the date that is specified by the conditions of the visa as the last day of the period of time within which travel is allowed to New Zealand.
- f. Unless an appropriately delegated officer makes an exception to instructions (see [E7.25](#)) or immigration instructions state otherwise, an individual visa must not be granted for a period longer than:
  - i. (in the case of a visitor visa) 12 months; or
  - ii. (in the case of a work visa) 5 years; or
  - iii. (in the case of a student visa) 4 years; or
  - iv. (in the case of an interim visa) 6 months.
- g. There is no maximum length of stay for:
  - i. a Diplomatic, Consular or Official Visa ([see section H](#));
  - ii. a Military visa ([see section M](#)).
- h. Since the periods listed in paragraph E3.10 (f) above relate to individual visas and not the maximum length of stay, further individual visas may be granted, provided that relevant temporary entry class visa instructions are met.

#### E3.10.1 Pregnant Applicants

- a. This section applies to pregnant applicants for temporary entry class visas who:
  - i. intend to be in New Zealand for more than six months; and
  - ii. are considered to have risk factors for tuberculosis (TB) (see [A4.25.5](#)); and
  - iii. otherwise meet immigration instructions for the grant of a temporary entry visa.
- b. These applicants may only be granted a visa for up to three months from the date that they are due to give birth, unless (c) below applies.
- c. An applicant may be granted a visa for the length of their intended stay:
  - i. if they have provided a *Chest X-ray Certificate (INZ 1096)* with an earlier application and A4.25(c) or A4.25.1(d) applies; or
  - ii. where a *Chest X-ray Certificate (INZ 1096)* has been provided in accordance with A4.25.1(f).
- d. Applicants who are granted a visa in line with (b) above may apply for a further visa for the remainder of their intended stay if they provide:
  - i. a completed application form; and
  - ii. a completed *Chest X-ray Certificate (INZ 1096)*; and
  - iii. any associated medical or laboratory reports required for the Chest X-ray Certificate; and
  - iv. their current passport or certificate of identity; and
  - v. the appropriate fee **and immigration levy** (if any).
- e. If the applicant is assessed as not having an acceptable standard of health based on the Chest X-ray Certificate they provide, a further visa may not be granted unless [A4.25.1\(h\)](#) or [A4.65](#) applies.

## **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).
- 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 W18).
- 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.
- h. 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.

#### **E4.45 Applications not lodged in the prescribed manner**

- a. An application must be returned if it is submitted by an unlicensed immigration adviser (see [E4.50.25](#)).
- b. Except in the case of E4.45 (a), INZ may, at its discretion, hold applications that are not lodged in the prescribed manner for a specified period of time until any outstanding mandatory requirements have been met; but INZ does not consider such applications to have been lodged.
- c. INZ is under no obligation to hold an application that is not lodged in the prescribed manner.
- d. If an application is lodged in an incomplete but minor and easily corrected manner, immigration officers may:
  - i. receipt the application fee **and immigration levy**; and
  - ii. hold the papers; and
  - iii. advise the applicant or agent that the application has not been made in the prescribed manner but is being held for a limited time to enable the applicant or agent to meet the mandatory requirements for lodgement; and
  - iv. advise the applicant or agent of the documents required for the application to meet the mandatory requirements for lodgement.
- e. Applicants will be given a specified time to complete the outstanding requirements, and if they do not do so, the application may be returned to the applicant or agent, and the fee returned or refunded.
- f. If an application is not lodged in the prescribed manner and E4.45 (d) do not apply, the application must be returned to the applicant or agent.

## E4.50 Requirements for lodging an application for a temporary entry class visa

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 10, 11, 12, 13, 14, 23A*

- a. These requirements apply to the lodgement of the following types of temporary entry class visa applications:
  - i. Applications lodged on an approved paper form (E4.50.1, E4.50.15).
  - ii. Applications lodged under a Working Holiday Scheme ([WI2](#)) and under Silver Fern instructions ([WL](#)) which must be made online using the electronic form provided on the Immigration website (<https://www.immigration.govt.nz/secure>) (E4.50.2, E4.50.15).
  - iii. Applications not covered by (a)(ii), made on an electronic form (E4.50.2, E4.50.15).
  - iv. Applications lodged otherwise than on an approved form (E4.50.5, E4.50.10, E4.50.15).
  - v. Applications for a temporary entry class visa or entry permission in an immigration control area (E4.50.35, E4.50.40).
- b. The requirements for applications for Diplomatic, consular, and official staff, and their dependants are at [H4](#).
- c. The requirements for the reconsideration of decision to decline further temporary entry class visa are at [E7.35.1](#).

### E4.50.1 Mandatory requirements for applications lodged on an approved paper form

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, reg 10*

For the purposes of temporary entry instructions, mandatory requirements for applications lodged on an approved paper form means that applications must be made on the application form relevant to the type of visa required which must be completed in English, in full and submitted to an immigration officer, together with:

- a. the applicant's passport or certificate of identity, or if this is unavailable, his or her original birth certificate (or a certified copy) or other identity document (or a certified copy); and
- b. two passport-sized photographs of the applicant's head and shoulders; and
- c. the appropriate fee **and immigration levy** (if any); and
- d. (all temporary entry class applications apart from military visa applications (see [M2.1](#))) evidence of funds for maintenance in New Zealand or evidence of sponsorship (see [E6](#)); and
- e. such information and evidence as is required by the relevant immigration instructions to demonstrate that the applicant fits the category or categories of immigration instructions under which the application is being made; and
- f. any other information, evidence and submissions the applicant considers show that he or she is eligible to be granted a temporary entry class visa in terms of the relevant immigration instructions.

Applications must be signed by the applicant (unless the applicant is less than 18 years old, in which case it must be signed by a parent or guardian of the applicant).

### E4.50.2 Mandatory requirements for applications made on an electronic form

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, reg 12, 23A*

- a. Applications for a second Working Holiday Scheme work visa (where a scheme allows for this) must be lodged according to E4.50.1.
- b. An application made on an electronic form must be completed in English, and requires the applicant to:
  - i. state his or her full name; and
  - ii. state his or her date and place of birth; and
  - iii. state the details of his or her passport or other certificate of identity; and
  - iv. if prompted by the online system, upload a photograph of the applicant's head and shoulders, that complies with the standards specified for the purpose; and
  - v. produce the information and evidence required by immigration instructions to demonstrate he or she fits the category under which the application is being made; and
  - vi. acknowledge that the details supplied in support of their application are true and correct to the best of their knowledge; and
  - vii. agree that if their circumstances change before a visa is granted or before the application is determined, they will notify an immigration officer of the change; and
  - viii. pay the prescribed fee for the type of visa applied for or arrange for its payment in a manner acceptable to the immigration officer processing the application; **and**
  - ix. **pay the immigration levy that is payable (if any), or arrange for its payment in a manner acceptable to the immigration officer processing the application.**

**Note:** The specified standards for the photograph can be obtained from the INZ website.

### E4.50.5 Mandatory requirements for applications lodged otherwise than on an approved form

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, reg 21, 22*

- a. Despite E4.50.1, a person or their advisor may request an immigration officer to consider an application for a visa made without using the relevant approved form and an immigration officer may agree to the request.

- b. Where an immigration officer agrees to that request, the applicant must supply the following information in English and in any way appropriate to the circumstances:
  - i. his or her full name; and
  - ii. his or her date and place of birth; and
  - iii. details of his or her passport or certificate of identity, including country of citizenship; and
  - iv. details of any current or previous visa (or permit as the case may be) held by him or her; and
  - v. details of the type of visa he or she is applying for; and
  - vi. any other information that he or she considers shows that the temporary entry class visa application should be granted; and
  - vii. such information and evidence that the immigration officer thinks necessary for him or her to determine the application.
- c. The application must be completed by the applicant:
  - i. acknowledging that the details supplied in support of the application are true and correct to the best of his or her knowledge; and
  - ii. agreeing that if his or her circumstances change before a visa is granted, he or she will notify an immigration officer of the change in circumstances; and
  - iii. paying the prescribed fee (if any) for the type of visa applied for, or arranging for the payment of that fee in a manner satisfactory to the immigration officer; and
  - iv. paying the immigration levy that is payable by the applicant (if any), or arranging for its payment in a manner acceptable to the immigration officer processing the application; and
  - v. signing the application (except if the application is made in an electronic format).
- d. If the applicant is less than 18 years old, (c)(iv) does not apply. Instead, the application must be signed by his or her parent or guardian, except if the application is made in an electronic format or at an immigration control area (in which case the form must be signed by the parent or guardian only if the applicant is accompanied by that person).

#### **E4.50.10 Processing of applications made otherwise than on an approved form**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 22*

- a. Where an immigration officer has agreed to a request to consider an application for a visa made otherwise than on an approved form, the immigration officer may at any time before a visa is granted as a result of the application:
  - i. refuse to consider the application, or continue to consider the application; and
  - ii. inform the applicant that if he or she wishes to pursue the application, he or she must do so using the relevant approved form.
- b. If an immigration officer refuses to consider an application for a visa made otherwise than on an approved form then:
  - i. the application will be treated as not having been made; and
  - ii. the applicant must apply for the visa in the normal way; and
  - iii. in the event the person pursues an application for a visa in the normal way, the mandatory requirements as set out at E4.50.1 and E4.50.5 will apply; and
  - iv. any application fee or immigration levy will either be refunded or applied towards any visa application made by the same person.
- c. In the event an application for a visa is made otherwise than on an approved form and has been accepted for processing but cannot be finalised without further information or documentation being obtained, an immigration officer may transfer the application to another INZ office for finalisation. In such cases the application may, at the discretion of the immigration officer considering it, continue to be finalised without the applicant needing:
  - i. to complete the approved form; or
  - ii. pay any additional fee and immigration levy.

#### **E4.50.15 Additional requirements**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, reg 10, 12, 21, 23A*

Before determining an application made on an approved paper form or on an electronic form or otherwise than on an approved form, the immigration officer processing the application may do one or more of the following:

- a. require the applicant to be interviewed by an immigration officer;
- b. require the applicant to produce further information or evidence (including photographs) that the officer thinks necessary for him or her to determine the application;
- c. require the applicant to undergo a medical examination or another medical examination, as the case may be;
- d. require the applicant to produce travel tickets to a country that the person has right of entry to or evidence of onward travel arrangements that the officer thinks necessary for him or her to determine the application;

- e. require the applicant to produce evidence of the applicant's funds for maintenance while in New Zealand or evidence of the applicant's sponsorship that the officer thinks necessary for him or her to determine the application;
- f. if not already provided, require the applicant to produce his or her passport or other certificate of identity.

#### **E4.50.20 Children under the age of 16 travelling alone or with one parent**

If a child under the age of 16 years is travelling to New Zealand alone or with one parent only, officers may request evidence that both the child's parents have consented to the child being removed from the child's country of residence.

#### **E4.50.25 No acceptance of immigration applications or requests from unlicensed immigration advisers**

*See also Immigration Advisers Licensing Act 2007 s 9*

- a. No immigration application or request put forward on behalf of another person by an unlicensed immigration adviser may be accepted, unless the immigration adviser is exempt from the requirement to be licensed under the Immigration Advisers Licensing Act 2007.
- b. Where an immigration application or request on behalf of another person is not accepted because it contravenes E4.50.25 (a) the relevant person or body must notify that person in writing of that fact, and advise the person as to how the application or request may be re-lodged or advanced in an acceptable manner.

#### **E4.50.30 Persons exempt from licensing**

*See also Immigration Advisers Licensing Act 2007 ss 11, 12*

The following persons are exempt from the requirement to be licensed under the Immigration Advisers Licensing Act 2007:

- a. a person who provides immigration advice in an informal or family context only, where the advice is not provided systematically or for a fee;
- b. a Member of Parliament, or their staff, who provides immigration advice within the scope of their employment agreement;
- c. a foreign diplomat or consular staff accorded protection as such under the Diplomatic Privileges and Immunities Act 1968 or the Consular Privileges and Immunities Act 1971;
- d. an employee of the New Zealand public service who provides immigration advice within the scope of their employment agreement;
- e. a lawyer who holds a current practising certificate as a barrister or as a barrister and solicitor of the High Court of New Zealand;
- f. a person employed by or working as a volunteer for a New Zealand community law centre, as defined in section 6 of the Lawyers and Conveyancers Act 2006, where at least one lawyer is on the employing body of the community law centre or is employed by or working as a volunteer for the community law centre in a supervisory capacity;
- g. a person employed by or working as a volunteer for a New Zealand citizens advice bureau; or
- h. a person who provides immigration advice only in respect of applications for temporary entry class visas with conditions authorising study in New Zealand, but subject to any regulations made under section 12(1)(b) of the Immigration Advisers Licensing Act 2007; or
- i. a person exempted by regulations made under section 12 of the Immigration Advisers Licensing Act 2007.

#### **E4.50.35 Requirements for lodging an application for a temporary entry class visa or entry permission in an immigration control area**

*See also Immigration Act 2009 ss 103, 382*

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 11, 25, 28C*

- a. An application for a temporary entry class visa or entry permission made at an immigration control area must:
  - i. be made on the approved form; and
  - ii. be completed in English; and
  - iii. relate to only one person; and
  - iv. be signed by the applicant.
- b. E4.50.35 (a)(iv) applies unless the applicant is less than 18 years old, in which case:
  - i. the arrival card must be signed by a parent or guardian of the applicant, if the applicant is accompanied by that person; or
  - ii. the arrival card is not required to be signed, if the applicant is not accompanied by a parent or guardian.
- c. The application must be given to an immigration officer at an immigration control area, together with the applicant's passport or certificate of identity and, if appropriate, evidence of any temporary entry class visa that the applicant holds (except in the case of an application for a military visa in which case M2.1 will apply).
- d. A person who is eligible to use the automated electronic system may meet the requirements at (c) above by giving their passport to the automated electronic system.

#### **E4.50.40 Additional requirements**

Before determining the application, the immigration officer processing the application may do one or more of the following:

- a. require the applicant to be interviewed by an immigration officer; or
- b. require the applicant to produce further information or evidence (including photographs) that the officer thinks necessary for him or her to determine the application; or
- c. require the applicant to undergo a medical examination or another medical examination, as the case may be; or
- d. require the applicant to produce travel tickets to a country that the person has right of entry to or evidence of onward travel arrangements that the officer thinks necessary for him or her to determine the application; or
- e. require the applicant to produce evidence of the applicant's funds for maintenance while in New Zealand or evidence of the applicant's sponsorship that the officer thinks necessary for him or her to determine the application.

#### **E4.50.45 Applicant to specify address for communication**

*See also Immigration Act 2009 ss 57(2), (3) and (4), 110, 387*

- a. Everyone who applies for a visa or entry permission must specify in their application for a visa a physical address in New Zealand to which any communication relating to the application, or to which advice of any visa that may be granted pursuant to that application may be sent, or at which any notice may be served under the Immigration Act 2009.
- b. An applicant for or holder of a visa or entry permission may at any time, by written notice to an immigration officer, substitute a different address for that specified under E4.50.45 (a).
- c. An applicant for a visa or entry permission may also specify in an application an electronic address to which any communication relating to the application, or to which advice of any visa that may be granted pursuant to the application, may be sent.

#### E4.60 Payment of the fee and immigration levy

- a. Applicants must pay the fee specified for that type of application at the time the application is lodged, unless:
  - i. the fee is waived by special direction under section 395 of the Immigration Act 2009 or by regulation; or
  - ii. the applicant is a citizen of a country with which New Zealand has a fee waiver agreement covering visas (see [A6.5](#)); or
  - iii. the applicant holds a diplomatic or official passport and meets the criteria set out at [A6.1](#).
- b. Applicants must pay the immigration levy specified for that type of visa application at the time the application is lodged, unless:
  - i. the immigration levy is waived by an officer with schedule 1-3 delegations, who has the authority to grant a special direction under section 399 (3A) of the Immigration Act 2009; or
  - ii. the principal applicant is exempt from paying the immigration levy (see [A6.11.20](#)).
- c. The fee payable for an application is determined by the principal applicant's country of citizenship.
- d. A receiving office is an INZ office or authorised New Zealand Visa Application Centre (VAC) or Ministry of Foreign Affairs and Trade (MFAT) post designated for receiving applications from particular countries. Receiving Offices can be found on the INZ website.
- e. If a principal applicant is resident in a country other than their country of citizenship, they may lodge their application at the office designated for receiving applications from the country in which they are residing, but the fee payable will be determined by their country of citizenship.
- f. If the principal applicant is in New Zealand and lodges an application in New Zealand, the fee payable for the application is the fee payable for applications lodged in New Zealand, regardless of the principal applicant's citizenship.
- g. Fees and the immigration levy may be paid by bank or personal cheque, as well as by money order (from registered banks), credit card or EFTPOS (Electronic Funds Transfer Point of Sale), if these forms of payment are acceptable to the INZ office or VAC or MFAT office at which an application is lodged.
- h. Cash is not an acceptable form of payment, with the exception of the following INZ offices: Beijing, Dubai, Jakarta, Moscow, and Shanghai.
- i. Cheques for applications lodged at INZ offices in New Zealand should be made out to 'Immigration New Zealand'.
- j. Fees and the immigration levy for applications that may be lodged otherwise than on an approved form through the INZ Online Service may only be paid by means of either a MasterCard or Visa credit card.
- k. Detailed information on fee amounts and immigration levy rates in New Zealand dollars can be found at [www.immigration.govt.nz/fees](http://www.immigration.govt.nz/fees).
- l. Fees and the immigration levy may not be imposed on claimants for any matter relating to refugee or protection status.

## E8.10 Temporary visas for refugee or protection status claimants

The requirements for lodging temporary visa applications are different if the applicant is a person who is also claiming refugee or protection status in New Zealand. A claimant who meets the requirements in E8.10.1 may be granted a temporary visa.

### E8.10.1 General requirements

*See also Immigration Act 2009 s 393*

- a. A refugee or protection status claimant awaiting a decision on their claim, who holds a current temporary visa may submit an application for a further temporary visa at any INZ office in New Zealand.
- b. Applications must be made on the approved application form and submitted together with the applicant's travel document (or identity document in which the current visa is held), and a passport-sized photograph of the applicant's head and shoulders.
- c. Such applicants do not have to pay a fee provided they apply while their claim (or appeal) is being determined and are exempt from paying the immigration levy.
- d. The applicant must ensure that they submit each application before any existing visa expires (see [E2.10](#)).
- e. Normally, claimants for refugee or protection status will be granted visitor visas (see [V3.90](#)). For information on when claimants may be granted other visas see E8.10.15 below, [WI6](#) (work), [U10.1](#) (student) and [L6.1](#) (limited).

### E8.10.5 Conditions of temporary visas granted to refugee or protection status claimants

*See also Immigration Act 2009 ss 142, 239*

- a. A visa granted to a refugee or protection status claimant before their claim or appeal is determined will not normally include travel conditions because New Zealand's obligations to refugee or protection status claimants cease when they leave New Zealand.
- b. Despite E8.10.5(a) above, applications will be considered on a case by case basis to see whether the particular circumstances justify granting a visa with travel conditions to return to New Zealand.
- c. Claimants wishing to travel overseas should be advised that their claim or any subsequent claim or appeal will be treated as withdrawn if they leave New Zealand.
- d. Each time a temporary visa is granted to a refugee or protection status claimant, they must be advised in writing that their visa is subject to the following conditions:
  - i. at all times they keep INZ informed of any change of their New Zealand residential address; and
  - ii. that they may become liable for deportation, if:
    - o their claim is declined, and they fail to appeal, or have appealed unsuccessfully, to the Tribunal; or
    - o they withdraw their claim.

### E8.10.10 Granting temporary visas to refugee or protection status claimants on arrival in New Zealand

*See also Immigration Act 2009 ss 14, 15, 16, 103, 378*

- a. If a person indicates an intention to claim refugee or protection status on arrival in New Zealand and they complete a claim form for refugee or protection status, a visitor visa current for 6 months from the date of arrival may be granted, unless there are reasons not to grant a visa, such as:
  - i. the individual is a person to whom section 15 or 16 of the Immigration Act 2009 applies (see [A5.40](#)); or
  - ii. the person's identity cannot be established to the satisfaction of INZ.
- b. Appropriately delegated officers may give special directions to waive the following requirements that usually apply to persons travelling to New Zealand:
  - i. the requirement to travel to New Zealand as the holder of a visa granted under the Immigration Act 2009; and
  - ii. the relevant requirements arising under section 103(1) of the Immigration Act 2009.
- c. The fact that a claimant entered New Zealand on a false passport does not mean that they should not be granted a temporary visa.
- d. If the claimant entered New Zealand on their own genuine passport, the visitor visa should be endorsed in that passport.
- e. If the claimant entered New Zealand on a false passport, the visitor visa should be endorsed in an INZ certificate of identity form (see [A2.20.5](#)), and INZ should retain the false passport.
- f. If the claimant entered New Zealand without a travel document, the visitor visa should be endorsed in an INZ certificate of identity form (see [A2.20.5](#)) unless these are reasons not to grant a visa.
- g. If the claim form for refugee or protection status has not been completed at the border, a visitor visa current for one month from the date of arrival may be granted unless there are reasons not to grant a visa and the refugee or protection status claimant should be told that:

- i. an application for a further temporary visa will only be considered after they have confirmed their claim in the prescribed manner (see [C3.25](#)); and
- ii. they should submit any application for a further temporary visa at an INZ office in New Zealand before the existing visa expires.

**Note:** Guidance concerning the continuing treatment of persons claiming refugee or protection status on arrival at the border, including in a mass arrival context, is contained in Operational Instructions A16.2.

#### **E8.10.15 Refugee or protection status claimants granted temporary entry class visas**

*See also Immigration Act 2009 ss 61, 150, 187*

- a. Any claimant to whom a temporary entry class visa has been granted, (whether before or after the person became a claimant) and any temporary entry class visa holder who ceases to be a refugee or protection status claimant by virtue of his or her claim or appeal being declined or the person withdrawing their claim or appeal may not, either before or after the expiry of the temporary entry class visa:
  - i. apply for a further visa of any class or type while in New Zealand; or
  - ii. while in New Zealand, request a special direction or make a request for the grant of a visa under [A23](#); or
  - iii. bring any appeal under section 187 of the Immigration Act 2009 to the Tribunal.
- b. Despite (a)(i) above, a refugee or protection claimant may apply for a further temporary entry class visa for such period as may be required for the claimant to be lawfully in New Zealand while his or her claim is determined.
- c. Nothing in E8.10.15 prevents a person from bringing an appeal to the Tribunal, arising from a decision made under part 5 and 6 of the Immigration Act 2009.
- d. This section ceases to apply to a person if and when:
  - i. the person is recognised as a refugee or a protected person; or
  - ii. the person leaves New Zealand; or
  - iii. the person is granted a visa (other than a temporary entry class visa granted in (b) above).

#### **E8.10.20 Applications for further temporary visas by refugee or protection status claimants**

*See also Immigration Act 2009 s 378*

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 34*

- a. To be eligible for the grant of a further temporary visa, claimants or refugee or protected persons must:
  - i. be in New Zealand; and
  - ii. submit their application before their existing visa expires.
- b. Claimants or refugee or protected persons must apply for temporary visas in the prescribed manner (see [E4.50.1](#)), but when the applications are submitted, appropriately delegated immigration officers may waive, by special direction, any requirements specified for each type of visa.
- c. Temporary visas valid for 12 months may be granted to successful applicants.
- d. Immigration officers may grant visas valid for less than 12 months, where they expect the refugee or protection status claim to be determined in significantly less than 12 months.
- e. Further visas will not normally be granted to those who make subsequent claims, but in each case applications will be considered to see whether the particular circumstances justify granting a visa.

#### **E8.10.25 Situation of claimants in New Zealand unlawfully**

*See also Immigration Act 2009 s 61*

- a. A refugee or protection status claimant unlawfully in New Zealand may be eligible to be considered for a temporary visa under section 61 of the Immigration Act 2009 (see [A23](#)).

**Note:** such persons who have been granted a temporary entry visa under the Immigration Act 2009 or temporary permit under the Immigration Act 1987 on or after 1 October 1999 are covered by section 150 of the Immigration Act 2009 (see E8.10.15).

- b. Before seeking approval to grant a visa under section 61, an immigration officer must first:
  - i. establish the reasons why the claimant's original visa (if any) expired; and
  - ii. obtain supporting evidence confirming the claimant's circumstances; eg, a medical certificate or financial circumstances.

If the claimant is in New Zealand unlawfully, no deportation action will be taken until the claim for refugee or protection status and any appeal to the Tribunal have been finally determined or the claimant withdraws the claim or appeal.

### **E8.10.30 Renewal of temporary visas for Immigration and Protection Tribunal appellants**

If a claimant has appealed to the Tribunal, based on a decision made under part 5 and part 6 of the Immigration Act 2009, they are eligible to apply for further temporary visas until the final outcome of the appeal.

Immigration officers may grant a temporary visa in such cases to cover the period it is likely to take to determine the appeal.

### BB3.10 Points scale for an Entrepreneur Work Visa

- Applications must meet a minimum score of 120 points in order to be granted an Entrepreneur Work Visa. Applications not meeting the minimum score of 120 points will be declined.
- Applicants must be able to demonstrate to the satisfaction of a business immigration specialist why they should be awarded the points they have claimed.
- Business immigration specialists must give written reasons for declining the application and not awarding any points claimed.
- The following table outlines the points that can be awarded for an Entrepreneur Work Visa application:

<b>Points for business experience (can be awarded in only one category)</b>	
<b>Relevant self-employment</b>	
10 years +	40
5 years +	30
3 years +	20
<b>Other self-employment</b>	
10 years +	20
5 years +	15
3 years +	5
<b>Relevant senior management experience</b>	
10 years +	10
5 years +	5
<b>Points for benefit to New Zealand (can be awarded in up to two categories)</b>	
<b>New full time employment creation</b>	
10+ new full time positions for New Zealand citizens or residents	80
5 or more new full time positions for New Zealand citizens or residents	50
3 or more new full time positions for New Zealand citizens or residents	30
2 new full time positions for New Zealand citizens or residents	20
1 new full time position for a New Zealand citizen or resident.	10
<b>Points for approved export businesses (based on annual turnover)</b>	
\$1,000,000 + turnover a year	80
\$750,000 + turnover a year	60
\$500,000 + turnover a year	40
\$400,000 + turnover a year	30
\$300,000 + turnover a year	20
\$200,000 + turnover a year	10
<b>Points for unique or new products or services to New Zealand</b>	
A credible business proposal that provides unique or new products/ services to New Zealand, or to a particular region.	30
<b>Points for capital investment</b>	
\$1,000,000 +	80

\$750,000 +	60
\$500,000 +	50
\$400,000 +	30
\$300,000 +	20
\$200,000 +	10
under \$200,000	0
<b>Points for age of prospective applicant (at date of lodging application)</b>	
24 and under	15
25-29	20
30-39	20
40-49	20
50-59	10
60 and over	0
<b>Bonus points</b>	
Business based outside Auckland as defined in BB6.1.35.	40

**Note:** For definitions of terms for the purposes of the Entrepreneur Work Visa and Entrepreneur Residence Visa Categories, see the Definitions section at BB6. The criteria for recognising capital investment is outlined at BB3.5.10.

## WD1 Post-study work visa – employer assisted

- a. To be eligible for a work visa under these instructions, applicants must:
  - i. have successfully completed a qualification(s) that meet the qualification requirements as set out in [WD1.10](#); and
  - ii. hold an offer of full-time employment relevant to that qualification (see [WD1.5](#)); and
  - iii. if they were a New Zealand Aid Programme-supported student, meet requirements set out at [U11.1\(d\)](#).
- b. A work visa may be granted for a maximum of 2 years to obtain practical work experience relevant to the applicant's programme of study or qualification, unless (c) below applies.
- c. A work visa may be granted for a maximum period of 3 years if:
  - i. the applicant is working towards membership or registration with a New Zealand professional association which requires more than two years of practical work experience; and
  - ii. such membership or registration is a requirement for the person to fully perform their professional duties; and
  - iii. the applicant provides evidence the employment is considered relevant practical experience by the professional association, including but not limited to documentation from the professional association, or from the employer, stating how the employment meets the requirements set by the professional association; and
  - iv. the applicant has completed a New Zealand qualification which meets the requirements for registration or membership of the professional association.
- d. To be granted a work visa under these instructions, applicants must:
  - i. apply no later than 3 months after the end date of their student visa for that programme of study or qualification or, if the qualification was a Doctoral Degree, no later than 6 months after the end date of their student visa; or
  - ii. hold a 'graduate job search work visa' or a 'post-study work visa – open' (see [WD2](#)).

**Note:** A person must have successfully completed the programme of study or qualification stated as a condition on their student visa in order to meet the requirements of WD1(d)i.

- e. Applicants must provide:
  - i. a completed work application form, fee [and immigration levy](#); and
  - ii. evidence of an offer of full-time employment relevant to their programme of study or qualification (see [WD1.5](#)); and
  - iii. evidence that they meet the requirements in [WD1\(a\)](#); and
  - iv. an *Employer Supplementary Form (INZ 1113)* completed by their employer.
- f. Applicants must also provide:
  - i. evidence that the work visa application is being made no later than 3 months after the end date of their student visa for that programme of study or qualification; or
  - ii. evidence that they hold a 'graduate job search work visa' (see [WD2](#)).
- g. A work visa will only be granted where an immigration officer is satisfied that the offer of full-time employment is one which will provide practical experience relevant to the applicant's programme of study or qualification.
- h. Any work visas granted under these instructions may be subject to any or all of the conditions as listed at [W2.25](#).

### WD1.10 Qualification requirements

- a. Applicants must have successfully completed a New Zealand qualification(s) that would qualify for points under the Skilled Migrant Category (see [SM14](#)) and meet one of the requirements set out in (b) below.
- b. Applicants must have completed:
  - i. a programme of study that results in a qualification at level seven or above on the New Zealand Qualifications Framework (NZQF) that they have studied for at least 30 weeks in New Zealand; or
  - ii. a programme of study that results in at least one qualification at levels four to six on the NZQF that they have studied for at least 60 weeks in New Zealand; or
  - iii. two programmes of study that result in at least two qualifications (at least one for each programme) at levels four to six on the NZQF provided each programme of study has involved at least 30 weeks study in New Zealand (60 weeks in total) and the final qualification is at a higher level.

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**Note:** Study weeks includes exam preparation time and excludes holiday periods.

## WD2 Post-study work visa – open

- a. People may be granted a work visa for a maximum of 12 months who:
  - i. meet the qualification requirements as set out at [WD1.10](#); and
  - ii. apply no later than 3 months after the end date of their student visa for that programme of study or qualification or, if the qualification was a Doctoral Degree, no later than 6 months after the end date of their student visa; and
  - iii. have met requirements set out in [U11.1\(d\)](#) if their studies have been supported under the New Zealand Aid Programme.

**Note:** A person must have successfully completed the qualification stated as a condition on their student visa in order to meet the requirements of WD2(a)ii.

- b. To be eligible for a work visa, applicants must not previously have been granted a visa under these instructions unless they have undertaken and completed a second higher qualification that is either a New Zealand bachelor degree or post-graduate qualification and have studied that qualification in New Zealand for at least 30 weeks.
- c. Despite (b) an applicant may be eligible for a subsequent work visa if they have undertaken and completed a second higher qualification that is a New Zealand level seven qualification and they:
  - i. have studied that qualification in New Zealand for at least one academic year; and
  - ii. had commenced a programme of study towards that New Zealand qualification on or before 26 November 2012.
- d. Evidence of an offer of employment is not required.
- e. Applicants must provide:
  - i. a completed work visa application form, fee **and immigration levy**; and
  - ii. evidence that they have completed a qualification in New Zealand that would qualify for points under Skilled Migrant Category (see [SM14](#)); and
  - iii. evidence that they have a minimum of \$4,200 in funds available to maintain themselves during their 12 month stay in New Zealand (travellers' cheques or bank documents in the applicant's name are acceptable); and
  - iv. evidence that the work visa application is being made no later than 3 months after the end date of their student visa for that programme of study or qualification.
- f. Any work visas granted under these instructions may be subject to conditions that allow work for any employer.

### WF3.5 Making an application

- a. Applications must be made in the prescribed manner (see [E4.40](#)); but an appropriately delegated immigration officer may waive:
  - i. the application fee and immigration levy; and
  - ii. the requirement to produce evidence of funds or sponsorship; and
  - iii. the requirement to produce evidence of travel tickets or onward travel arrangements.

#### **WF4.5 Partners of holders of student visas who are supported by the New Zealand Aid Programme**

- a. Partners of New Zealand Aid Programme (NZAP)-supported students (see [U11](#)), may be granted a work visa valid for the duration of their partner's NZAP scholarship unless the NZAP-supported student has been granted a student visa under any one of the following scholarship programmes:
  - i. Short-Term Training Awards; or
  - ii. New Zealand Regional Development Scholarships; or
  - iii. English Language Training for Officials.
- b. Applicants must provide a completed work visa application form, fee, **immigration levy** and meet the generic requirements at [E4.5.5](#).
- c. Applicants under these instructions are not required to produce a job offer.
- d. Any work visas granted under these instructions may be endorsed with conditions that allow work for any employer.
- e. Applicants must have NZ\$4,200 available for their maintenance during the period of stay in New Zealand.
- f. Partners of NZAP-supported students (see U11), are not eligible for a temporary entry class visa in the 2 year period following completion of the NZAP student's scholarship, unless they have written approval from the Ministry of Foreign Affairs and Trade (with the exception of a short-term visitor visa).

## WH1.1 Objectives and overview – RSE Instructions

### WH1.1.1 Objectives

The objectives of the RSE Instructions are to:

- a. allow horticulture and viticulture businesses to supplement their New Zealand workforce with non-New Zealand citizen or residence class visa holder workers when labour demand exceeds the available New Zealand workforce and employers have made reasonable attempts to train and recruit New Zealand citizens and residence class visa holders; and
- b. promote best practice in the horticulture and viticulture industries to support economic growth and productivity of the industry as a whole, while ensuring that the employment conditions of both New Zealand and non-New Zealand citizen or residence class visa holder workers are protected and supported; and
- c. encourage economic development, regional integration and good governance within the Pacific, by allowing preferential access under RSE Instructions to workers who are citizens of eligible Pacific countries; and
- d. ensure workers recruited under these instructions are adequately paid and financially benefit from their time in New Zealand; and
- e. ensure outcomes which promote the integrity, credibility and reputation of the New Zealand immigration and employment relations systems.

### WH1.1.5 Meeting the objectives of RSE Instructions

To ensure these objectives are met:

- a. RSE limited visas will only be granted under the RSE Instructions where:
  - i. there are available places for employment in the horticulture and viticulture industries as determined by INZ in consultation with Ministry of Social Development (MSD); and
  - ii. INZ is satisfied the RSE will:
  - iii. continue to have direct responsibility for those workers and their work output (except where [WH1.5.5\(d\)](#) applies); and
  - iv. comply strictly with the requirements for RSE status and Agreements to Recruit (ATRs) under the RSE instructions; and
- b. a high standard of proof is required to satisfy INZ that requirements set out in instructions will be and are being met; and
- c. INZ may consider the compliance history and particular employment or other arrangements (including recruitment practices) of the RSE and other organisations or individuals associated with the RSE; and
- d. permission to use non-New Zealand citizen or resident workers will be withdrawn and further permission refused where there is any breach of requirements other than of a minor nature; and
- e. RSE status will not be granted to employers whose core area of business activity is the facilitation of entry to New Zealand of non-New Zealand citizens and residence class visa holders or who are not engaged directly in the industries to which these instructions apply.

### WH1.1.10 Overview

- a. An employer who wishes to recruit non-New Zealand citizen or residence class visa holder workers to plant, maintain, harvest and pack crops in the horticulture and viticulture industries under these instructions must apply to become an RSE (see [WH1.5](#)).
- b. An employer with RSE status may then apply for an ATR. An ATR allows the recruitment of a set number of non-New Zealand citizen or residence class visa holder workers for each period where demand requires it (see [WH1.10](#)). ATRs will be restricted to recruitment from specified Pacific countries, unless RSEs can satisfy INZ that they:
  - i. have pre-established relationships with workers of other nationalities (see [WH1.10.20](#)); or
  - ii. have made reasonable attempts to recruit from the specified Pacific countries, but were unsuccessful (see [WH1.10.15](#)); or
  - iii. have reasonable grounds for why it is not feasible to recruit from the specified Pacific countries.
- c. An employer with a current ATR may offer seasonal employment to non-New Zealand citizen or residence class visa holder workers.
- d. Workers who hold such an offer of employment may then apply for an RSE limited visa (see [WH1.15](#)) consistent with the terms and conditions of the RSE's ATR.
- e. All visas granted to plant, maintain, harvest and pack crops in the horticulture or viticulture industry for an RSE under the RSE instructions will be granted under the RSE Limited Visa instructions (see [WH1.15](#)).

### WH1.1.15 Annual limit to number of visas available under RSE instructions

- a. The number of visas that can be granted under these instructions is limited to 9,000 for each year ending 30 June.

- b. Applications for ATRs or RSE limited visas submitted after this limit has been reached will not be approved for places within that year and the application fee and immigration levy will be refunded.
- c. INZ will take into consideration the following matters when determining whether the annual limit has been reached:
  - i. the number of visas granted in the year ending 30 June; and
  - ii. the number of workers requested in ATRs approved for each year ending 30 June.

## 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, including a history of compliance with all immigration and employment laws such as the Immigration Act 2009; the **Accident Compensation Act 2001**; the Wages Protection Act; the Minimum Wage Act; the Health and Safety in Employment Act; the Employment Relations Act; and the Holidays Act; and
  - vii. will meet the requirements set out at (c) below.
- b. 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.
- c. 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 (d) 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).
- d. 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.

**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, 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. 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 Area Manager in consultation with their Assistant General 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.

## WH1.10 Agreement to Recruit (ATR)

- a. An Agreement to Recruit (ATR) is an approval for a Recognised Seasonal Employer (RSE) to offer employment (in planting, maintaining, harvesting, and packing crops) to non-New Zealand citizen or residence class visa holder workers. This approval will only be given at times where demand for such workers in the horticulture and viticulture industries cannot be met from the available New Zealand workforce.
- b. The availability of suitable New Zealand citizen or residence class visa holder workers will be assessed in consultation with the Ministry of Social Development.

### WH1.10.1 Requirements for an ATR

- a. An application for an ATR will only be approved where the employer holds RSE status ([WH1.5](#)).
- b. INZ must be satisfied that the employer has taken all reasonable steps to recruit and train New Zealand citizens or residence class visa holders for available positions before seeking an ATR to recruit workers who are not New Zealand citizens or residence class visa holders. Evidence to support the employer's case for requiring an ATR must be provided with each application for an ATR.
- c. Each application must include the following information:
  - i. the region(s) of seasonal demand; and
  - ii. the number of workers required; and
  - iii. the nature of each position (planting, maintaining, harvesting, or packing crops); and
  - iv. the period for which each position is available (start and end date of employment); and
  - v. the location where the non-New Zealand citizen or residence class visa holder workers will be working; and
  - vi. the country or countries from which the employer intends to recruit their workers; and
  - vii. a copy of the employment agreement that will be offered to the workers, and that meets the requirements set out in [WH1.20](#).

**Note:** The employment agreement provided to workers must be the same as that which is provided to INZ at the ATR stage, unless the terms and conditions are more beneficial to the worker.

- d. Where the RSE applying for an ATR intends to recruit workers to undertake work at the worksite of a third party, such as a grower or pack house operator, they must provide written evidence of that arrangement with the third party. Such arrangements between RSEs and third parties do not remove any of the RSEs' obligations under these instructions (except where [WH1.5.5\(d\)](#) applies).
- e. Where two or more RSEs have an arrangement to provide consecutive periods of employment to the same workers, they must submit their separate ATRs (covering each consecutive period) to INZ together. Where INZ approves those jointly submitted ATRs, INZ may grant a visa allowing work for each RSE (if requirements at WH1.10.1 (h) and (i) are met).

**Note:** In any case the maximum stay in New Zealand of seven months in any 11 month period (or nine months in any 11 month period for citizens of Tuvalu or Kiribati who are normally resident in Tuvalu or Kiribati) must be adhered to.

- f. INZ must be satisfied that the employer will make available appropriate pastoral care to workers. Employers must provide full details of how they plan to address the following pastoral care, and health and safety requirements:
  - i. transportation to and from the port of arrival and departure; and
  - ii. an induction programme; and
  - iii. suitable accommodation; and
  - iv. transportation to and from the worksite(s); and
  - v. access to personal banking; and
  - vi. **access to lawful and reputable remittance services; and**
  - vii. access to **acceptable** medical insurance (see [WH1.25](#)); and
  - viii. provision of personal protective equipment; and
  - ix. provision of onsite facilities (toilets, hand washing, first aid, shelter, fresh drinking water); and
  - x. necessary language translation, e.g. for health and safety purposes; and
  - xi. opportunity for recreation and religious observance.
- g. An RSE who holds an ATR must:
  - i. comply with the conditions of the ATR; and
  - ii. provide all prospective non-New Zealand citizen or residence class visa holder workers to be employed under RSE instructions with a written employment agreement that meets the requirements set out in [WH1.20](#); and
  - iii. comply with the terms and conditions of the employment agreements; and
  - iv. comply with the minimum requirements set out in WH1.20 in relation to:

- v. paying 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
  - vi. minimum remuneration; and
  - vii. pay deduction requirements; and
  - viii. comply with any request from the Ministry of Business, Innovation and Employment (the Ministry) to audit the RSE against RSE instructions and the conditions of the RSEs ATR and employment agreements; and
  - ix. pay to the Ministry 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
  - x. inform the Ministry of the expected departure date of non-New Zealand citizen or residence class visa holder workers employed under RSE instructions once bookings for outward flights have been made; and
  - xi. arrange, but not necessarily pay for, acceptable medical insurance (see [WH1.25](#)) for workers recruited under RSE instructions for the duration of their stay in New Zealand.
- h. In cases where two or more employers apply for ATRs to provide consecutive periods of employment to the same workers, each employer must provide:
- i. full details of how the pastoral care and health and safety requirements set out at (f) above will be arranged by the employers (including accommodation arrangements for both or all periods of employment); and
  - ii. the start and end dates in which RSE workers will work for each employer during their visa.
- i. If the requirements at (h) above are met and INZ is satisfied that appropriate pastoral care will be available to workers for the duration of their visa, immigration officers may grant an RSE limited visa valid for any or all periods of employment within the term of the visa.

**Note:** For the purposes of these 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.

#### **WH1.10.5 Determining an application for an ATR**

- a. An ATR will be approved only where:
  - i. the appropriate regional Work and Income office(s) has been advised of the RSEs vacancies; and
  - ii. INZ, in consultation with MSD, is satisfied that there are no suitable New Zealand citizen or residence class visa holder workers available to undertake the work; and
  - iii. there are sufficient places remaining within the annual limit (see [WH1.1.15](#)), for the grant of visas under these instructions; and
  - iv. INZ is satisfied that the requirements set out in [WH1.10.1](#) and [WH1.10.10](#) are met.
- b. Where INZ is not satisfied that the number of workers requested in the ATR is appropriate for the work required, or this number of people exceeds the forecast labour shortage for the region and period requested, INZ may approve the recruitment of a lesser number of workers, or for a lesser period of work than requested.
- c. INZ will take into consideration the needs of the horticulture industry and viticulture industry as a whole when determining an ATR application and the number of workers that may be approved, to ensure that no particular region, crop or season is disadvantaged.
- d. Any supporting documentation to verify a regional labour shortage will be considered.

#### **WH1.10.10 Pacific countries eligible for the recruitment of workers**

- a. ATRs will only be granted for recruitment of citizens from the following eligible Pacific countries who are also normally resident in one of those countries, unless (b) below applies:
  - Federated States of Micronesia
  - Fiji
  - Kiribati
  - Nauru
  - Palau
  - Papua New Guinea
  - Republic of Marshall Islands
  - Samoa
  - Solomon Islands

- Tonga
  - Tuvalu
  - Vanuatu.
- b. ATRs will only be granted for recruitment of citizens other than those listed above where INZ is satisfied that:
- i. reasonable attempts to recruit from the eligible Pacific countries have not been successful (see [WH1.10.15](#)); or
  - ii. the RSE has pre-established relationships with workers from countries other than the eligible Pacific countries (see [WH1.10.20](#)); or
  - iii. the RSE has reasonable grounds for why it is not feasible to recruit from the eligible Pacific countries.
- c. Any request to recruit from outside the eligible Pacific countries must state the country or countries the RSE wishes to recruit from, and must be accompanied by evidence that supports this request.

#### **WH1.10.15 Reasonable attempts to recruit from eligible Pacific countries**

INZ may consider an RSE to have made reasonable attempts to recruit from eligible Pacific countries if:

- a. the RSE has failed, having made genuine and reasonable attempts, to recruit suitable potential workers from the eligible Pacific countries within six weeks of commencing recruitment; and
- b. evidence can be provided of genuine and reasonable attempts to recruit workers in the eligible Pacific countries, such as a written communication from a National RSE Officer stating that they have been consulted and agree that employing people from these nations is not feasible in the circumstances.

**Note:** If any employment offers provided to workers from the eligible Pacific countries do not meet the criteria set out in WH1.20, the employer will not be considered to have made a reasonable attempt to recruit from eligible Pacific countries.

#### **WH1.10.20 Pre-established employment relationships with workers of other nationalities**

- a. When determining whether an employer has a pre-established employment relationship with workers who are not citizens of eligible Pacific countries, INZ will take into account factors such as (but not limited to):
  - i. the number of workers employed from each country, relative to the total number of workers employed by the employer; and
  - ii. the number of previous occasions on which workers have been recruited from these countries; and
  - iii. the length of time for which these workers were employed; and
  - iv. whether the employer has made a substantial investment in establishing formal training opportunities or recruitment processes with workers or communities within these countries.
- b. When determining whether an employer has a pre-established employment relationship with workers who are not citizens of eligible Pacific countries, INZ will not take into account employment relationships with workers holding visas granted:
  - i. under the Seasonal Work Permit instructions; or
  - ii. under a Working Holiday Scheme; or
  - iii. under the Transitioning to Recognised Seasonal Employer instructions; or
  - iv. under the Supplementary Seasonal Employment instructions; or
  - v. on the basis of a Variation of Conditions to a visitor visa.
- c. Where INZ is satisfied that an employer has a pre-established relationship with workers from a country not listed in WH1.10.10(a) and the employer has applied to recruit a greater number of workers from that country than the number of workers from that country previously employed by the employer, INZ will then determine whether the number of workers requested is appropriate in the circumstances.
- d. When making a determination under (c) above, INZ may take into account such factors as:
  - i. the nature of the pre-established relationship, such as whether the employer has made a substantial investment in establishing formal training opportunities or recruitment processes with workers or communities within that country; and
  - ii. whether the employer has made any attempts to develop relationships with countries listed in WH1.10.10(a) above.

#### **WH1.10.25 Reconsideration process for applications for ATRs which are declined**

There is no statutory right of appeal against the decision to decline an application for an ATR. However, INZ may reconsider a declined application for an ATR where new information is promptly provided.

#### **WH1.10.30 Applying for an ATR**

An application for an ATR must be:

- a. made in New Zealand; and
- b. made on the Application for an Agreement to Recruit (INZ 1141) form; and

- c. accompanied by the prescribed fee; and
- d. supported by evidence that demonstrates the employer meets the requirements set out at WH1.10.1 and WH1.10.10.

## WH2.1 Working holidaymaker extension requirements and conditions

- a. To be eligible for a three month visa under the Working Holidaymaker Extension instructions applicants must:
  - i. be in New Zealand; and
  - ii. hold a current work visa granted under a Working Holiday Scheme; and
  - iii. have a return ticket to their home country or sufficient funds to purchase such a ticket; and
  - iv. submit an application in the prescribed manner; and
  - v. pay the appropriate fee **and immigration levy**; and
  - vi. not previously have been granted a visa (or permit under the Immigration Act 1987) under the Working Holidaymaker Extension instructions; and
  - vii. provide evidence to satisfy INZ that they have been employed for a minimum of three months to undertake seasonal work in the horticulture or viticulture industry during the currency of their current work visa (evidence may include, but is not limited to, letters from employers, wage slips, and/or IRD tax records).
- b. Applicants are not required to provide evidence of a job offer.
- c. Successful applicants will be granted a work visa under the Working Holidaymaker Extension instructions:
  - i. for three months from the expiry date of the work visa held under a Working Holiday Scheme; and
  - ii. with the same conditions as the original work visa granted under a Working Holiday Scheme.

**Note:** For the purposes of these instructions, the three months may include periods where the worker was employed but was unable to undertake work due to inclement weather or other factors. Employment does not need to be for consecutive periods, or for the same employer.

### 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 Department of Labour 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 WH3.5.5 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 services of the Department of Labour, 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 WH3.5.5.
- 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.

**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 in Employment Act; the Employment Relations Act; 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 WH3.5.5.

## WI2.1 Requirements for all working holiday scheme applicants

As well as meeting the specific requirements for the relevant working holiday scheme, applicants must also meet the requirements under Generic Temporary Entry Instructions, and the conditions below.

### WI2.1.1 General conditions

- a. The objective of working holiday schemes is to allow young citizens of approved countries, whose primary intention is to holiday in New Zealand, to undertake employment and study during their stay in accordance with their scheme.
- b. To be eligible for a work visa under these schemes, applicants, in addition to meeting the requirements of the particular scheme they are applying under, must:
  - i. hold a valid passport from the country whose scheme they are applying under; and
  - ii. be aged no less than 18 years of age and no more than 30 years of age, unless their scheme allows a different age limit; and
  - iii. not be accompanied by children; and
  - iv. meet onward travel requirements (see [W2.20](#)); and
  - v. submit an application in the prescribed manner (see E4.50); and
  - vi. pay the appropriate fee **and immigration levy** (if any); and
  - vii. meet health and character requirements as set out at A4 and A5; and
  - viii. be the holder of a valid temporary visa if applying from within New Zealand; and
  - ix. not previously have been approved a visa under a working holiday scheme, except where their scheme allows a second application (see [WI2.20\(e\)](#) and [WI2.160\(f\)](#)).
- c. Applicants are not required to provide evidence of a job offer.
- d. Where a scheme has an 'ordinarily resident' requirement the applicant's usual place of permanent residence must be that country. This requirement is considered to be met if the applicant has not been absent from that country for more than two years immediately preceding the application.
- e. Successful applicants must not undertake permanent employment unless they apply for and obtain a work visa that enables this.
- f. Successful applicants may enrol in one or more courses of training or study of up to 6 months' duration in total during their visit to New Zealand.

### WI2.1.5 Applying using the online system

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 12*

Applications for a working holiday scheme work visa must be made online using the electronic form provided on the Online Services of the Immigration website ([www.immigration.govt.nz](http://www.immigration.govt.nz)).

## WI2.120 Peru Working Holiday Scheme

- a. This scheme is available to 100 young citizens of the Republic of Peru annually.
- b. To be eligible for a work visa under this scheme, applicants must:
  - i. be a citizen of the Republic of Peru; and
  - ii. meet the available funds for maintenance requirement set out in WI2.120.1 below; and
  - iii. agree to hold medical and comprehensive hospitalisation insurance to remain in force throughout their stay in New Zealand; and
  - iv. provide evidence of having completed a minimum of three years' full time study towards a tertiary qualification; and
  - v. meet the requirements at WI2.1.1(b).

**Note:** For the purposes of these instructions:

- ~ the evidence required at WI2.120 (b)(iv) must be verified by the Peru Ministry of Foreign Affairs.
- ~ the IELTS certificate must be no more than two years old at the time the application is lodged.

- c. Successful applicants will be granted a work visa with the following conditions:
  - i. if the applicant is outside New Zealand, first entry to New Zealand must be made within 12 months of the visa being granted, and the visa will allow work and multiple entries to New Zealand for 12 months from first arrival; or
  - ii. if the applicant is in New Zealand, the visa will allow work and multiple entry to New Zealand for 12 months.
- d. Participants in this scheme must not work for the same employer for a period exceeding three months.
- e. Applicants under this scheme must lodge their application in the prescribed manner (E4.50).

### WI2.120.1 Available funds for maintenance while in New Zealand

Applicants must have available funds for maintenance during the period of their stay in New Zealand of either:

- a. a minimum of NZ\$4,200 if they produce a certificate from the International English Language Testing System (IELTS) showing they achieved level 5 or over in speaking and one other of the four skills areas; or
- b. a minimum of NZ\$7,000 if they do not meet the English language requirement above.

### **WI6.5 Who is not normally eligible for a special work visa**

- a. Claimants who are sponsored for a particular period or who arrived in New Zealand with sufficient funds for a particular period, are unlikely to be granted a special work visa for that period.
- b. Persons not eligible for a work visa under this provision may apply under the provision for work visas in [WK2.5](#), but must meet all the requirements, including payment of the appropriate fee.
- c. Claimants are exempt from paying the immigration levy (see A6.11.20).

## WI12 China Special Work Instructions

- a. These instructions allow limited numbers of citizens of the People's Republic of China who are qualified in certain occupations, and who hold a full-time New Zealand job offer in that occupation, to be granted a work visa and entry permission.
- b. To be considered under these instructions the applicant must be one of the following:
  - i. a Chinese chef who has a Chinese Occupational Skills Testing Authority Certificate Level 3 in traditional cuisine; or
  - ii. a Traditional Chinese Medicine (TCM) practitioner (including a TCM nurse) who has a higher education degree requiring at least three years' successful study in TCM from an institution recognised by the Chinese government; or
  - iii. a Mandarin teachers' aide who has a higher education degree requiring at least three years' successful study; or
  - iv. a Wushu Martial Arts coach with Wushu Grade 3-5 Certificate and a post-compulsory education qualification in either physical education or teaching requiring at least two years' successful study from an institution recognised by the Chinese government; or
  - v. a Wushu Martial Arts coach with Wushu Grade 6-9 Certificate and five years' teaching experience; or
  - vi. a Chinese tour guide who, at the time of application, holds a valid Tour Guide Licence in China, and can demonstrate knowledge of New Zealand and holds an International English Language Testing System (IELTS) Level 5 certificate in Listening and Speaking English. The IELTS certificate must be no more than two years old at the time the application is lodged.
- c. At any one time, the number of Chinese nationals holding a visa granted for any occupation under these instructions must not exceed the following:
  - i. 200 Chinese chefs;
  - ii. 200 TCM practitioners (including TCM nurses);
  - iii. 150 Mandarin teachers' aides;
  - iv. 150 Chinese Wushu Martial Arts coaches; and
  - v. 100 Chinese tour guides.
- d. To be granted a work visa under these instructions, applicants must:
  - i. provide a completed work visa application form, fee **and immigration levy**; and
  - ii. have a full-time New Zealand job offer in one of the occupations listed above, which meets the requirements set out in [W2.10](#); and
  - iii. meet the specific qualifications and/or experience requirement for their occupation, as detailed in WI12(b) above; and
  - iv. meet health and character requirements set out in [A4](#) and [A5](#); and
  - v. meet the requirements for bona fide applicants set out in [E5](#).

**Note:** For the purpose of these instructions the job offer for a Mandarin teacher's aide may meet the requirements at W2.10.5 and W2.10.10 if the applicant presents a letter showing they have been nominated by the Ministries of Education in New Zealand and China.

- e. A labour market check is not required.
- f. Applications for a work visa under these instructions must be lodged in China unless WI12(h) or (j) applies.
- g. Successful applicants will be granted a work visa and entry permission with the following conditions:
  - i. first entry to New Zealand must be made within six months; and
  - ii. the work visa will be valid for multiple entries to New Zealand for a maximum of three years, depending on the length of their job offer.
- h. An application for an initial work visa under these instructions may be lodged by a person who is lawfully in New Zealand on a work or student visa, and who is a:
  - i. TCM practitioner;
  - ii. Mandarin teachers' aide;
  - iii. Wushu Martial Arts coach; or
  - iv. tour guide.
- i. Successful applicants who apply in New Zealand will be granted a work visa with multiple-entry travel conditions for a maximum of three years, depending on the length of their job offer.

- j. If the initial visa is valid for less than three years, a further visa may be granted onshore for the balance of the three-year period, as long as the applicant still meets all the requirements of these instructions.
- k. Work visas granted under these instructions must be endorsed with conditions that allow work only for a specified employer in a specified occupation.
- l. On completion of the three-year period, applicants must remain outside New Zealand for three years before applying for a further visa under these instructions.

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**Note:** These instructions reflect New Zealand's international trade commitments (see [E9](#)).

## WI13 China Skilled Workers Instructions

- a. To be considered for a work visa under these instructions, the applicant must be a citizen of the People's Republic of China who has a full-time New Zealand job offer in one of the occupations listed in the table below, and the relevant qualifications and experience required for that occupation.

<b>Occupation</b>	<b>Requirements Qualifications must be comparable to the standard of the New Zealand qualification listed.</b>
Auditor	Degree level (Level 7) qualification majoring in accountancy and membership with New Zealand Institute of Chartered Accountants (NZICA)
Automotive electrician	National Certificate in Motor Industry (Automotive Engineering) (NZQF Level 4) or National Certificate in Motor Industry (Automotive Electrical Engineering) (NZQF Level 4) or National Certificate in Motor Industry (Automotive Electrical and Mechanical Engineering) (NZQF Level 4) (relevant strand is Electrical and Electronics)
Boatbuilder	National Certificate in Boatbuilding (Level 4)
Computer Applications Engineer	Degree level (Level 7) qualification majoring in computer science, information science or information technology and three years of relevant work experience
Design Engineer – Electronics / Product Engineer	Degree level (Level 7) qualification majoring in electronics, computer science or telecommunications and three years of relevant work experience with at least 12 months' relevant work experience in the past 18 months
Diesel Mechanic	National Certificate in Motor Industry (Automotive Heavy Engineering) (Level 4)
Early Childhood Teacher	A qualification in Early Childhood Education (ages 0-5) at a minimum of Level 7 which is approved by the Education Council of Aotearoa New Zealand, and New Zealand registration
Electronics Technician	National Diploma in Engineering (Level 6) (Electronics), or relevant degree-level qualification (Level 7) (for example, BTech in Electronics, BSc or BE) and three years' work experience and at least 12 months' relevant work experience in the past 18 months
Electrician	NZ registration as an electrician with a Full or Limited Certificate from the Electrical Workers Registration Board
Film Animator	Degree level qualification (Level 7) in one of the following: Fine Arts, Graphic Design, Computer Science, Software Engineering or Film, specialising in multimedia, computer graphics, digital design, computer programming or software development
Fitter and Turner	National Certificate in Maintenance and Diagnostics in Mechanical Engineering (Level 5) or National Certificate in Engineering, Machining and Toolmaking (Level 5)
Fitter / Welder	National Certificate in Maintenance and Diagnostics in Mechanical Engineering (Level 5) or National Certificate in Engineering - Fabrication with strands in Welding or Heavy Fabrication (Level 5)
Medical Diagnostic Radiographer / Medical Radiation Therapist	Bachelor in Health Science specialising in Medical Radiation Therapy or specialising in Medical Imaging and New Zealand registration
Motor Mechanic	National Certificate in Motor Industry (Automotive Engineering) (Level 4)
Plumber	New Zealand Plumbing Registration
Registered Nurse	Bachelor of Nursing or Diploma in Comprehensive Nursing, diploma or hospital based certificate and NZ registration
Senior Test Analyst	Degree level (Level 7) tertiary qualification (e.g. BTech in Electronics, BSc or BE) and three years' work experience with at least 12 months relevant work experience in the past 18 months

Structural Engineer	Degree level (Level 7) qualification and registered on the International Professional Engineers Register or Asia Pacific Economic Co-Operation (APEC) Engineers Register or a Washington Accord accredited engineering degree
University and Higher Education Lecturer and/or Tutor	Masters Degree or PhD
Veterinarian	NZ Registration with the Veterinary Council of New Zealand

- b. At any one time, the number of Chinese nationals holding a visa granted under these instructions:
- i. must not exceed 100 in respect of any of the occupations listed above; and
  - ii. must not exceed 1000 in total.
- c. To be granted a work visa under these instructions, applicants must:
- i. provide a completed work visa application form, fee and immigration levy; and
  - ii. have a full-time job offer from a New Zealand employer, which meets the requirements set out in [W2.10](#); and
  - iii. meet the specific qualifications and/or experience requirement for their occupation, as detailed in WI13(a) above; and
  - iv. meet health and character requirements set out in [A4](#) and [A5](#); and
  - v. meet the requirements for bona fide applicants set out in [E5](#).
- d. A labour market check is not required.
- e. Applications for a work visa under these instructions must be lodged in China unless WI13(g) or (i) applies.
- f. Successful applicants will be granted a work visa and entry permission with the following conditions:
- i. first entry to New Zealand must be made within six months; and
  - ii. the work visa will be valid for multiple entries to New Zealand for a maximum of three years from first arrival, depending on the length of their job offer.
- g. Applications for a work visa under these instructions may be lodged by people who are lawfully in New Zealand:
- i. on a temporary visa for the purpose of obtaining New Zealand registration, and who have successfully obtained registration; or
  - ii. on a work or student visa.
- h. Successful applicants who apply in New Zealand will be granted a work visa with multiple-entry travel conditions for a maximum of three years, depending on the length of their job offer.
- i. If the initial visa is valid for less than three years, a further visa may be granted for the balance of the three-year period, as long as the applicant still meets all the requirements of these instructions.
- j. Work visas granted under these instructions must be endorsed with conditions that allow work only for a specified employer in a specified occupation.
- k. On completion of the three-year period, applicants must remain outside New Zealand for three years before applying for a further visa under these instructions.

**Note:**

~ If one of these occupations is listed on the Long Term Skill Shortage List (LTSSL) and the qualifications requirement for that occupation is lowered on the LTSSL, the qualification requirement for these instructions will be correspondingly lowered.

~ These instructions reflect New Zealand's international trade commitments (see [E9](#)).

## WI14.20 Generic Requirements

- a. To be granted a work visa under these instructions, applicants must:
  - i. provide a completed work visa application form, fee and immigration levy; and
  - ii. have a full-time New Zealand job offer in one of the occupations listed in [WI14.5](#), [WI14.10](#) or [WI14.15](#), which meets the requirements set out in [W2.10](#); and
  - iii. meet the specific requirements relating to registration, qualifications and/or experience for their occupation, as detailed above; and
  - iv. meet health and character requirements set out in [A4](#) and [A5](#); and
  - v. meet the requirements for bona fide applicants set out in [E5](#).
- b. A labour market check is not required.
- c. Successful applicants will be granted a work visa and entry permission with the following conditions:
  - i. first entry to New Zealand must be made within six months; and
  - ii. the work visa will be valid for multiple entries to New Zealand for a maximum of three years, depending on the length of their job offer.
- d. If the initial visa is valid for less than three years, a further visa may be granted for the balance of the three-year period, as long as the applicant still meets all the requirements of these instructions.
- e. Work visas granted under these instructions must be endorsed with conditions that allow work only for a specified employer in a specified occupation.
- f. On completion of the three-year period, applicants must remain outside New Zealand for three years before applying for a further visa under these instructions.

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**Note:** These instructions reflect New Zealand's international trade commitments (see E9).

## WI15.15 Generic Requirements

- a. To be granted a work visa under these instructions, applicants must:
  - i. provide a completed work visa application form, fee **and immigration levy**; and
  - ii. have a full-time New Zealand job offer in one of the occupations listed in [WI15.5](#) or [WI15.10](#), which meets the requirements set out in [W2.10](#); and
  - iii. meet the specific requirements relating to registration, qualifications and/or experience for their occupation, as detailed above; and
  - iv. meet health and character requirements set out in [A4](#) and [A5](#); and
  - v. meet the requirements for bona fide applicants set out in [E5](#); and
  - vi. be ordinarily and actually resident in Vietnam at the time of application unless WI15.15(d) applies.
- b. A labour market check is not required.
- c. Successful applicants will be granted a work visa and entry permission with the following conditions:
  - i. first entry to New Zealand must be made within six months; and
  - ii. the work visa will be valid for multiple entries to New Zealand for a maximum of three years, depending on the length of their job offer.
- d. If the initial visa is valid for less than three years, a further visa may be granted for the balance of the three-year period, as long as the applicant still meets all the requirements of these instructions.
- e. Work visas granted under these instructions must be endorsed with conditions that allow work only for a specified employer in a specified occupation.
- f. On completion of the three-year period, applicants must remain outside New Zealand for three years before applying for a further visa under these instructions.

**Note:** These instructions reflect New Zealand's international trade commitments (see [E9](#)).

## WI17.5 Generic Requirements

- a. To be granted a work visa under these instructions, applicants must:
  - i. provide a completed work visa application form, fee **and immigration levy**; and
  - ii. have a full-time New Zealand job offer in one of the occupations listed in [WI17.10](#) or [WI17.15](#) or [WI17.20](#), which meets the requirements set out in [W2.10](#); and
  - iii. meet the specific requirements relating to registration, qualifications and/or experience for their occupation; and
  - iv. meet health and character requirements set out in [A4](#) and [A5](#); and
  - v. meet the requirements for bona fide applicants set out in [E5](#); and
  - vi. be ordinarily and actually resident in Indonesia at the time of application unless WI17.5(d) applies.
- b. A labour market check is not required.
- c. Successful applicants will be granted a work visa and entry permission with the following conditions:
  - i. first entry to New Zealand must be made within six months; and
  - ii. the work visa will be valid for multiple entries to New Zealand for a maximum of three years, depending on the length of their job offer.
- d. If the initial visa is valid for less than three years, a further visa may be granted for the balance of the three-year period, as long as the applicant still meets all the requirements of these instructions.
- e. Work visas granted under these instructions must be endorsed with conditions that allow work only for a specified employer in a specified occupation.
- f. On completion of the three-year period, applicants must remain outside New Zealand for three years before applying for a further visa under these instructions.

**Note:** These instructions reflect New Zealand's international trade commitments (see [E9](#)).

### WI18.10 Evidential requirements

To be granted a work visa with study conditions under these instructions, primary sector trainees must:

- a. provide a completed work visa application form, fee **and immigration levy**; **and**
- b. provide a letter of support/funding arrangements from their home government; **and**
- c. provide an offer of place from a high quality education provider (see [WI18.5.1\(b\)](#)) that is a signatory to the Ministry of Education's Code of Practice for the Pastoral Care of International Students; and
- d. agree to hold medical and comprehensive hospitalisation insurance that will remain current throughout their stay in New Zealand.

## WJ5.45 Conditions of employment for crew

### WJ5.45.1 Vessel Working and Living Conditions

The employer must ensure that facilities and provisions for the working and living conditions of foreign crew on board vessels at least meet:

- a. flag state safety standard, and
- b. any applicable safety, marine protection, crew living and hygiene standards required by the Director of Maritime New Zealand, including (but not limited to) that:
  - i. all crew have access to sufficient fresh water for their needs, including hot water;
  - ii. adequate food (quantity and type) is provided;
  - iii. crew accommodation is clean and dry;
  - iv. all crew have their own bed and suitable bedding;
  - v. washing facilities and toilets are sufficient for the number of crew on board;
  - vi. the vessel carries adequate medical stores;
  - vii. at least one crew member holds suitable "ship's medic" qualifications;
  - viii. crew are provided with suitable protective clothing and equipment to perform their duties; and
  - ix. vessel safety and emergency drills are carried out on a regular basis.

**Note:** For New Zealand vessels, 'flag state safety standards' includes the legislative and regulatory standards in the Health and Safety in Employment Act 1992.

### WJ5.45.5 Foreign Crew Welfare

- a. The New Zealand employer or the New Zealand Charter Party (NZCP) must ensure that foreign crew have access to the following services:
  - i. the NZCP (where applicable);
  - ii. the manning agent (where applicable);
  - iii. medical and dental treatment;
  - iv. assistance with banking services, if requested;
  - v. translation services, if requested;
  - vi. mail service; and
  - vii. NZ government agencies (i.e. the Ministry of Business, Innovation, and Employment, Police, Customs, Primary Industry) if requested
- b. The NZCP must ensure that their representative is present at the vessel for port calls, and that the representative is accessible to foreign crew at that time.

### WJ5.45.10 Employment Agreements

The employer must ensure that the foreign crew members' employment agreements meet the following requirements:

- a. Where the employer is a New Zealand company, the employment agreement must be under the jurisdiction of New Zealand and made in accordance with the Employment Relations Act 2000.
- b. Where the employer is not a New Zealand company the employment agreement must contain the standard principles set out in Appendix 9 of the Immigration Operational Manual reflecting the requirements for such agreements contained in the Employment Relations Act 2000.
- c. Where the vessel is a New Zealand ship, as defined by section 2(1) of the Ship Registration Act 1992, the employment agreement must be under the jurisdiction of New Zealand and made in accordance with the Employment Relations Act 2000.

### WJ5.45.15 Minimum remuneration

- a. Foreign crew must be paid at least the New Zealand minimum statutory hourly wage plus \$2 per hour:
  - i. for all hours worked; and
  - ii. never for less than 42 hours per week averaged over the course of their engagement.

**Note:** The current New Zealand minimum statutory hourly wage under the Minimum Wage Act 1983 can be found at [www.employment.govt.nz/er/pay/minimumwage/](http://www.employment.govt.nz/er/pay/minimumwage/)

- b. The only allowable deductions that can be taken from foreign crew remuneration are:
  - i. food (calculated at a maximum of 10% of hours worked multiplied by the minimum wage);
  - ii. airfares to and from New Zealand; and

- iii. Immigration New Zealand work visa application fees.

**Note:** Deductions must be based on actual, reasonable, verified expenses. Genuine and verified personal expenses such as cigarettes, phone cards and non-protective clothing (effectively personal wage advances and not connected with the work) are allowed and will not be treated as deductions.

- c. Allowable deductions cannot bring the hourly wage below the New Zealand minimum statutory wage for all hours worked.

#### **WJ5.45.20 Frequency of remuneration payments**

- a. Crew must receive at least the minimum remuneration guaranteed under WJ5.45.15(a)(ii), less deductions provided for in WJ5.45.15(b), in regular periodic payments, either monthly or at every port call as specified in each crew's employment agreement.
- b. Where crew have only received the minimum remuneration at (a), they must be paid all outstanding wages for any hours worked above the 42 hours per week, in line with WJ5.45.15(a)(i), at least 24 hours before departing New Zealand.

#### **WJ5.45.25 Payment of crew wages**

- a. The employer (if it is a New Zealand company) or the NZCP must make a personal, individual New Zealand bank account available to each foreign crew member.
- b. The default wage payment method in foreign crew's employment agreements must be direct credit into the New Zealand bank account detailed above.
- c. Foreign crew members who elect to receive wage payments in cash instead of using the New Zealand bank account provided, must notify the employer (and the NZCP if the employer is a foreign company) of their decision in writing in their own language.

**Note:** It is solely at the foreign crew member's discretion to refuse to use this New Zealand bank account.

- d. The employer, the NZCP, manning agents, crew representatives, and any person associated with them, may not have access to, or Power of Attorney over, any foreign crew member's New Zealand bank account.
- e. Where a foreign crew member refuses to use the available New Zealand bank account, payment of wages must be made directly to them in cash, in New Zealand.
- f. Where payment is made in cash in a foreign currency, the exchange rate used must be recorded, and notified to the foreign crew member at the time the payment is made.
- g. Foreign crew members must receive a final payslip at least 24 hours before their departure from New Zealand so that they have the opportunity to contact and meet with their authorised representative before departing New Zealand (see [WJ5.50](#)).

## WK2.20 Instructions on duration of Essential Skills work visas

Work visas may be granted for the period for which the employment is offered, up to a maximum of:

- a. five years, if an applicant has not previously been granted a five-year visa under this provision and the work visa is based on an offer of employment that:
  - i. is for an ANZSCO Skill level 1 occupation; and
  - ii. offers a minimum base salary equal to at least the highest threshold stated in Residence from Work (Accredited Employer) instructions (currently \$55,000 per annum, see RW2), or
- b. one year, if the work visa is based on an offer of employment for an ANZSCO Skill level 4 or 5 occupation, unless (c) or (d) apply; or
- c. three years, if the work visa is based on an offer of employment in the Canterbury region (unless the offer is made by a labour hire employer **which is not accredited**) and the application is made on or before 31 December 2016; or
- d. three years, if the offer of employment is from an accredited labour hire company; or
- e. 12 months or six months, if the applicant has a current invitation to apply or a current application under the Skilled Migrant Category and meets the criteria at WK2.5.1; or
- f. three years in all other circumstances not covered by (a) to (e) above.

### Notes:

- Employment is in the Canterbury region if the entire or principal place of work (as defined in section 2 of the Health and Safety in Employment Act 1992) is within the territorial authorities of Christchurch City Council, Selwyn District Council and Waimakariri District Council.

## WL2.5 Lodging an application

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 12, sch 1*

- a. Applications for a Silver Fern Job Search visa must be made online using the electronic form provided on the Online Services of the Immigration website ([www.immigration.govt.nz](http://www.immigration.govt.nz)).
- b. An Immigration officer may consider an application where the applicant has supplied the following information in electronic form:
  - i. his or her name; and
  - ii. his or her date of birth; and
  - iii. the details of their passport or other certificate of identity; and
  - iv. such information as is required by the electronic form to be tendered in order to determine whether the relevant visa should be granted.
- c. The applicant must also complete their application by:
  - i. acknowledging that the details supplied in support of their application are correct; and
  - ii. agreeing that if their circumstances change before a visa is granted they will notify an immigration officer of that change in circumstances; and
  - iii. paying the prescribed fee **and immigration levy** for a Silver Fern Job Search visa.
- d. The electronic form provided on the INZ website will only allow an application to be lodged where there are places available under the annual limit (see [WL2.1](#)).

### WL2.5.1 Additional requirements for lodging applications for a Silver Fern Job Search visa

*See also Immigration (Visa, Entry Permission, or Related Matters) Regulations 2010 reg 12*

- a. Before determining an application the immigration officer processing the application may require the applicant to do one or more of the following:
  - i. to be interviewed by an immigration officer; or
  - ii. to produce further information or evidence (including photographs) that the officer thinks necessary for him or her to determine the application; or
  - iii. if applicable, require the applicant to produce travel tickets to a country that the person has right of entry to or evidence of onward travel arrangements that the officer thinks necessary for him or her to determine the application; or
  - iv. if applicable, require the applicant to produce evidence of the applicant's funds for maintenance while in New Zealand or evidence of the applicant's sponsorship that the officer thinks necessary for him or her to determine the application; or
  - v. if not already provided, require the applicant to produce his or her passport or other certificate of identity.
- b. If an applicant does not provide the additional requirements within the timeframe set by the immigration officer, the application will be assessed on the available information.

## WM4 Making an application under Religious Worker instructions

*See also Immigration (Visa, Entry Permission, or Related Matters) Regulations 2010 reg 10*

To be granted a work visa under the Religious worker instructions, applicants must provide:

- a. a completed work application form, fee **and immigration levy**; and
- b. evidence of at least two years training and/or experience relevant to the religious work the applicant is being sponsored to undertake including, but not limited to:
  - i. testimonials;
  - ii. certificates of ordination;
  - iii. curriculum vitae;
  - iv. documentation demonstrating relevant work experience; or
  - v. a verified copy of an awarding certificate for a relevant qualification; and

**Note:** An applicant's religious training and experience can be considered cumulatively to meet the requirement under (b).

- c. a Sponsorship Form for Religious Workers (INZ 1190) completed by a religious organisation registered as a charity whose purpose is advancing religion;
- d. evidence from the sponsoring organisation that they have the financial ability to meet all sponsorship undertakings (see [E6.10](#));
- e. a statement from the sponsoring organisation explaining why there is a genuine need for the applicant to work as a religious worker, including information on the size of the organisation's membership; and
- f. evidence of the employment arrangements as set out in [WM2 \(d\) or \(e\)](#); and
- g. evidence that they meet the health and character requirements as set out at [A4](#) and [A5](#), if required.
- h. Any work visas granted under these instructions may be subject to any or all of the conditions as listed at [W2.25](#).

#### WM4.1 Further work visa under Religious Worker instructions

- a. A further work visa under Religious Worker instructions can be granted to the holder of a work visa for the purpose of religious work:
  - i. for a period of up to two years, provided the total time spent on a work visa for religious work will not exceed four years; or
  - ii. where the applicant has lodged an application for a resident visa under Religious Worker residence instructions (see [RW7](#)), to allow the resident visa application to be completed.

**Note:** A work visa for the purpose of religious work includes visas granted under Ministers of religion, missionaries, and members of religious orders instructions, or Specific purpose or event work instructions before 5 November 2011.

- b. To be eligible for a further work visa under Religious Worker instructions applicants must:
  - i. hold a current work visa granted under Religious Worker instructions (or Ministers of religion, missionaries, and members of religious orders instructions, or Specific purpose or event work instructions before 5 November 2011); and
  - ii. be in New Zealand; and
  - iii. submit an application in the prescribed manner (see [WM4](#)); and
  - iv. pay the appropriate fee **and immigration levy**; and
  - v. provide evidence to satisfy INZ that they have been working to advance the religious objectives of the sponsoring organisation for a period of up to two years (evidence may include, but is not limited to, letters from the sponsoring organisation, wage slips, and/or IRD tax records).
- c. The sponsoring organisation must provide a statement establishing the reasons why it considers that there is an ongoing genuine need for the applicant to continue working for it as a religious worker.
- d. Successful applicants will be granted a further work visa under the Religious Worker instructions:
  - i. for up to two years from the expiry date of the work visa held under Religious Worker instructions; and
  - ii. with the same conditions as the original work visa granted under Religious Worker instructions (see [WM5](#)).
- e. To be eligible for a further work visa the religious work undertaken by the applicant must be for:
  - i. consecutive periods; and
  - ii. the same sponsoring organisation.

## WR1.25 Requirements for accreditation

- a. The objective of accreditation is to allow accredited employers to supplement their own New Zealand workforce in their core area of business activity through:
  - i. the recruitment of workers who are not New Zealand citizens or residence class visa holders and whose talents are required by the employer; and
  - ii. the accredited employer having direct responsibility for those employees and their work output.
- b. Under Talent (Accredited Employer) Work Instructions, accredited employers may offer employment to workers who are not New Zealand citizens or residence class visa holders without the need to establish that there are no New Zealand citizens or residence class visa holders suitably qualified by training and experience available, or readily able to be trained, to do the work.
- c. Accreditation will be granted where INZ is satisfied that an employer:
  - i. is in a sound financial position; and
  - ii. has human resource policies and processes which are of a high standard; and
  - iii. has a demonstrable commitment to training and employing New Zealand citizens or residence class visa holders; and
  - iv. has good workplace practices, including a history of compliance with all immigration and employment laws such as the Immigration Act 2009, the Accident Compensation Act 2001, the Minimum Wage Act 1983, the Health and Safety in Employment Act 1992, the Employment Relations Act 2000, Wages Protection Act 1983, Parental Leave and Employment Protection Act 1987 and the Holidays Act 2003.
- d. In determining whether employers may be accredited, INZ will assess applications taking into account such factors as:
  - i. the period for which the employing organisation has been established as a going concern;
  - ii. whether the employer has engaged with the relevant Industry Training Organisation (ITO);
  - iii. whether the employer is a member of the Equal Employment Opportunities (EEO) Employers Group;
  - iv. whether the employer is International Organisation for Standardisation (IOS) certified;
  - v. whether the employer has an intention to maintain accreditation throughout the period of currency of any visas granted to their employees under the Talent (Accredited Employers) Work Instructions.
- e. Applicants must consent to INZ seeking information from the Ministry of Business, Innovation and Employment, WorkSafe New Zealand and the Accident Compensation Corporation concerning the applicant's compliance with New Zealand employment laws. Where such consent is not given an application for accreditation will be declined.
- f. INZ will decline an application for accreditation where it considers accreditation would create unacceptable risks to the integrity of New Zealand's immigration or employment laws or policies.
- g. Because the accreditation of employers whose main business is the facilitation of entry to New Zealand of non-New Zealand citizens and residence class visa holders under Government immigration instructions potentially creates an unacceptable risk to the integrity of New Zealand's immigration laws and policies, applications for accreditation by such employers will not be approved.
- h. INZ will rescind an employer's accreditation where it considers that an accredited employer's conduct has created an unacceptable risk to the integrity of New Zealand's immigration or employment laws or policies. Decisions to rescind accreditation will not be made by INZ without the consent of the Minister of Immigration.
- i. Approved employers will be granted accreditation for a period of 12 months.
- j. Accreditation may be renewed on an annual basis, upon application, where INZ is satisfied that the employer still meets the requirements for accreditation set out above.
- k. A fee is payable for an application for accreditation. A lower fee is payable for annual renewal of accreditation.

### WR1.25.1 Applying for accreditation

Application for accreditation must be made on the INZ form *Employer Accreditation Application (INZ 1090)* and accompanied by documents which demonstrate that the employer meets the requirements for accreditation set out at WR1.25(c).

### WR1.25.5 Determining applications for accreditation

- a. INZ must be satisfied that the information and documents included in an application for accreditation are genuine and accurate, and may take any steps it determines necessary to verify such documents and the information they contain, including interviews.
- b. INZ may, where necessary, seek the approval of an employer to conduct a site visit to the employer's premises.
- c. INZ will consult with relevant unions and other employee representatives when determining whether an employer has human resource policies and processes which are of a high standard, a commitment to training and employing New Zealand citizens and residence class visa holders and good workplace practices.
- d. Where any information is:

- i. identified by the employer as commercially sensitive; and
- ii. that information is provided in confidence to INZ; and
- iii. INZ considers that disclosure of that information is necessary for the determination of an application;

INZ will seek the consent of the employer for the disclosure of that information. Where such consent is not given, an application for accreditation will be declined.

- e. Where INZ, in consulting with other agencies, receives information which may be prejudicial to the positive outcome of an employer's application for accreditation, that adverse information will be put to the employer for comment before a decision is made on their application.

**WR1.25.10 Reconsideration process for applications for accreditation which are declined**

- a. There is no statutory right of appeal against the decision to decline an application for accreditation, however INZ will reconsider a declined application for accreditation where new information is promptly provided.
- b. The fee for reconsideration of an application for accreditation must accompany the written request for reconsideration.

## U10.1 Student visas and permission to study for refugee or protection status claimants

*See also Immigration Act 2009 s 378*

- a. The only programme of study refugee or protection status claimants or their partner or dependent children may undertake without the need for a student visa is an English for Speakers of Other Languages (ESOL) programme of study at a New Zealand technical institute.
- b. Permission to attend an ESOL programme of study may be given by special direction varying the conditions of the claimant's temporary entry class visa, and an immigration officer must inform the claimant of the special direction by letter.
- c. Claimants not eligible for a student visa under these provisions may apply under the provisions for student visas at [U3](#), but must meet all the requirements, including payment of the appropriate fee.
- d. Claimants are exempt from paying the immigration levy (see [A6.11.20](#)).
- e. For information on the eligibility of refugee or protection status claimants for other temporary visas (see [E8.10](#)).

### U10.1.1 Claimants' school-aged children

- a. Claimants' school-aged children wishing to study at primary or secondary school may be granted student visas.
- b. Applications must be made in the prescribed manner (see [E4.50](#)); but an appropriately delegated immigration officer may waive:
  - i. the application fee; and
  - ii. the requirement to produce evidence of funds or sponsorship; and
  - iii. the requirement to produce evidence of travel tickets or onward travel arrangements.
- c. Claimants' school-aged children are exempt from paying the immigration levy.

### U13.15 Work conditions for students enrolled at a tertiary institution or private training establishment

- a. For students enrolled at a tertiary institution or private training establishment, a student visa may be granted with conditions to allow the holder to work during the academic year, and during any scheduled vacations, including within the academic year.
- b. Students aged 16 or 17 years of age enrolled at a tertiary institution or private training establishment must have written permission from their education provider and written parental consent to be granted conditions allowing work.

#### U13.15.1 Work conditions for up to twenty hours in any given week

A student visa holder may be granted with conditions to work for up to 20 hours in any given week during the validity of the visa if the student is:

- a. undertaking a full-time programme of study (see U6.1.1) of at least two academic years' duration; or
- b. undertaking a full-time programme of study, culminating in a New Zealand qualification that would qualify for points under the Skilled Migrant Category (see SM14); or
- c. undertaking a full-time programme of study of at least one academic year's duration as part of an approved tertiary student exchange scheme (see E11.45); or
- d. engaged in a full-time programme of study of at least six months' duration; and
  - i. an immigration officer is satisfied that the primary purpose of the programme of study is to develop English language skills; and
  - ii. the student can provide a certificate (no more than 2 years old at the time the application is lodged) from the International English Language Testing System (IELTS) which shows an overall band score of at least 5.0 in the IELTS (General or Academic Module); or
- e. undertaking full-time English language study of at least 14 consecutive weeks' duration at an education provider that:
  - i. is a university; or
  - ii. holds Category One status under the NZQA EER quality assurance system; or

**Note:** When assessing eligibility for work rights under (e) for an applicant who holds a current student visa, all consecutive previous English language study undertaken on this and any previous student visa can be counted towards the 14 consecutive week period provided the programme of study the applicant is applying for:  
- follows directly from their current study and  
- is with the same provider as that on their current and any previous student visa.

- f. undertaking a full-time foundation programme that commenced on or before 28 February 2014 and that programme of study is of at least one academic year's duration at level four or higher on the New Zealand Qualification Framework at an education provider in Canterbury that:
  - i. is a university; or
  - ii. holds Category One status under the New Zealand Qualifications Authority's (NZQA) External Evaluation Review (EER) quality assurance system.

#### U13.15.5 Full time work rights during Christmas-New Year vacation period

A student visa may be granted with conditions to allow the holder to work full-time during the Christmas-New Year vacation period provided that the student is:

- a. studying full-time (see U6.1.1); and
- b. enrolled in a programme of study that has a minimum duration of at least two semesters during a period of at least eight months.

#### U13.15.10 Full time work rights during scheduled vacations

- a. A student visa may be granted with conditions to allow the holder to work full-time during all scheduled vacations, if the student is undertaking a full-time programme of study (see U6.1.1) of at least one academic year's duration.
- b. Despite (a) where scheduled vacations are more than one third of the programme of study duration for programmes of study offered by tertiary providers other than universities, full-time work rights may not be granted.

**Note:** An academic year means a programme of study of a minimum of 120 credits during a period of at least eight months (minimum of two semesters)

#### U13.15.15 Work conditions for masters by research or doctoral students

A student visa may be granted with conditions to allow the holder unlimited work rights if:

- a. the student is undertaking a Masters by Research or Doctoral degree, and

b. the qualification is awarded by a New Zealand tertiary institution.

## **U14 Pathway student visas pilot**

- a. For the purposes of these instructions, a pathway is defined as a progression of up to three consecutive programmes of study, offered by qualifying education providers, either within their institution or in conjunction with other qualifying education providers.
- b. Pathway study can be undertaken on a single student visa.
- c. A pathway student visa cannot be granted after 7 June 2017, and any application for a pathway student visa made after this date must be declined.

## U14.5 Requirements to be granted a pathway student visa

To be granted a pathway student visa, an applicant must:

- a. be offered an eligible study pathway from a qualifying provider (U14.20);
- b. meet the general requirements to be granted a student visa as set out at U3.1;
- c. meet the additional evidential requirements for pathway student visa set out at U14.5.1;
- d. make an application for a student visa before 7 June 2015.

### U14.5.1 Evidence of meeting requirements

- a. In addition to meeting the general requirements to be granted a student visa as set out at U3.1, when applying for a pathway student visa an applicant must provide:
  - i. A joint covering letter from pathway education providers setting out the pathway programmes of study and start and end dates of each programme of study;
  - ii. An offer of place (or joint offer) for each programme of study that meets the requirements set out at U3.5;
  - iii. Evidence that tuition fee requirements, as set out at U3.10, for either the first programme of study or first year of study (whichever is shorter) have been met and satisfy an immigration officer that they have the ability to fund the remaining balance of the first programme of study and subsequent programmes of study on the intended pathway; and
  - iv. Evidence that the maintenance funds requirements set out in U3.20 for the first year of study on the intended pathway have been met and satisfy an immigration officer that they have the ability to fund the remaining balance of the first programme of study and subsequent programmes of study on the intended pathway.
- b. Despite (a)(ii), second and subsequent offers of place for a pathway can be conditional on meeting pre-requisite programme of study entry criteria.
- c. Where the intended pathway is a English language programme of study culminating in a qualification at Levels 5 to 7 on the NZQF, applicants must submit an International English language Testing System (IELTS) test (or equivalent internationally recognised test) at the time of application demonstrating that they only require 0.5 of an IELTS overall band score (or equivalent) to meet the English language prerequisite for entry into the intended level 5 to 7 programme of study.

#### U14.10 Currency and conditions of pathway student visas

- a. For the purposes of the pathway student visa pilot, a visa can be granted up to a maximum of five years;
- b. A visa may be granted to expire no more than three months beyond completion of the final pathway programme of study within the maximum currency of five years;
- c. Work conditions for the duration of the pathway student visa will only be granted where the first programme of study meets the requirements as set out at U13.1, U13.10 or U13.15;
- d. If the second or subsequent programme of study meets the requirements set out at U13.1, U13.10 or U13.15, a variation of conditions is required in order to be granted work conditions;
- e. Where (d) applies, a *Variation of Conditions or Variation of Travel Conditions (INZ 1020)* application form must be completed and submitted with the required fee.
- f. The holder must make satisfactory progress on the pathway by:
  - i. meeting the conditional pre-requisites for enrolment into a second or subsequent programme of study (E3.20(d)); and
  - ii. commencing the second or subsequent programme of study on a pathway within a 16 week period of completing an earlier programme of study.
- g. Where the intended pathway is an English language programme of study culminating in a qualification at Levels 5 to 7 on the New Zealand Qualification Framework, the English Language programme of study must be completed within a 16 week period.

## U14.15 Changing and complying with pathway student visa conditions

See also *Immigration Act 2009 ss 49, 52, 56*

- a. If a student holding a pathway student visa wishes to move to a different education provider or lower level programme of study than those specified in their visa conditions, they must apply for a new student visa and meet the requirements set out at U3.40.
- b. A variation of conditions, for the purpose of changing a programme of study at the same education provider will only be granted if an immigration officer is satisfied that:
  - i. the applicant meets the student requirements set out at U3.1; and
  - ii. the applicant has not breached their visa conditions as set out at E3.20; and
  - iii. the original student visa would have been granted for the proposed programme of study; and
  - iv. the proposed programme of study is at the same or higher level on the New Zealand Qualification Framework as the original programme of study; and
  - v. the applicant remains a bona fide applicant (see E5.1).
- c. Factors that an immigration officer may take into consideration when determining (a)(iii) and (a)(iv) above include, but are not limited to:
  - i. the time elapsed since the original visa was granted;
  - ii. whether the level and/or subject area of the proposed programme of study are significantly different from the original programme of study; and
  - iii. any relevant information held about the previous application(s) including advice from the original issuing branch (see E7.1.1).
- d. Students who have received New Zealand Aid Programme funding within the two years prior to their application to change programme of study must also provide evidence that the Ministry of Foreign Affairs and Trade supports the change of programme of study and that any scholarship continues.

### U14.15.5 Breaching visa conditions

- a. A student on an pathway student visa will be considered to be in breach of visa conditions where:
  - i. they fail to meet conditional pre-requisites for enrolment into a second or subsequent programme of study (E3.20(d)); or
  - ii. the time between the completion of one programme of study and the start of a second or subsequent programme of study on a pathway exceeds 16 weeks; or
  - iii. the intended pathway is an English language programme of study culminating in a qualification at Levels 5 to 7 on the New Zealand Qualification Framework and the English Language programme of study is not completed within a 16 week period.
- b. A breach of visa conditions may result in the issue of a Deportation Liability Notice (E3.60).

## U14.20 Provider requirements

### U14.20.1 Pathway pilot entry criteria

- a. To qualify for entry to the Pathway student visa pilot, an education provider must:
  - i. be invited by Immigration New Zealand to be a pilot participant; and
  - ii. have signed the *Pathway Student Visas - Pilot Participation Declaration* agreeing to the requirements as set out at U14.20.10; and
  - iii. be either a school, a university or hold a Category One or Two rating under New Zealand Qualifications Authority's (NZQA) External Evaluation and Review framework; and
  - iv. have a minimum 90% student visa application approval rate over the 2014/15 financial year (12 month period); and
  - v. comply with the legislative requirements as set out under the Education Act 1989 to offer programmes of study to foreign students (U5.5 to U5.20); and
  - vi. be a signatory to the Ministry of Education's Code of Practice for Pastoral Care of International Students.

### U14.20.5 Eligible pathways

- a. All pathways must demonstrate academic progression to the second or subsequent programme of study building on the previous study.
- b. All consecutive programmes of study that demonstrate progression are eligible to be included in the pilot with the exception of the following pathways:
  - i. Any English language programme of study to any Level 1-4 Certificate on the New Zealand Qualifications Framework (NZQF);
  - ii. All pathways within and between NZQF Levels 1-4 Certificates, and
  - iii. Secondary school to any NZQF Levels 1-4 Certificates.
- b. Breaks between consecutive programmes of study must not exceed 16 weeks
- c. Only education providers who meet the requirements set out under U14.20.1 can offer a joint pathway in conjunction with one another.

### U14.20.10 Formal agreement between qualifying education providers

- a. To ensure a student's pastoral care needs are met, qualifying education providers who intend offering an education pathway in conjunction with one another must enter into a formal agreement.
- b. The formal agreement must include and set out the following processes and arrangements:
  - i. The application process (joint covering letter with two/three offers of place)
  - ii. Pastoral care obligations
  - iii. Handover arrangements in transition periods between programmes of study/education providers
  - iv. The process if a significant gap exists between completion of a programme of study and the start of a second or subsequent programme of study or in the event some papers are failed and cannot be repeated within a 16 week period.
  - v. The process if conditional entry requirements for second or subsequent programmes of study are not met
  - vi. The process if the student fails to attend and/or make satisfactory progress (E3.20(d))
  - vii. The process if the student wishes to leave intended pathway
  - viii. The obligation to notify INZ where a pathway student:
    - o requires additional time to complete a programme of study and time required is likely to exceed 16 weeks; or
    - o fails to meet the conditional entry requirements for a second or subsequent programme of study; or
    - o fails to enrol for a subsequent programme of study; or
    - o fails to attend and/or make satisfactory progress; and
    - o has their enrolment in a programme of study terminated.
- c. Where an education pathway is offered by a single qualifying education provider, the formal agreement processes set out at (b) must be met.
- d. The signed formal agreement does not have to be submitted with a pathway student visa application, however it must be made available to INZ if requested.

#### **U14.20.15 Non-compliance with formal agreement requirements or when under active investigation by Immigration New Zealand**

Where non-compliance, other than of a minor nature, with any of the matters agreed to in the *Pathway Student Visas - Pilot Participation Declaration*, or where the pathway education provider is under active investigation by INZ for offences committed under part 10 of the Immigration Act 2009 the following process may occur:

- a. INZ will suspend the processing of any student visa applications related to an existing pathway agreement immediately.
- b. The non-compliant pathway education providers will be advised in writing of the suspension and will be sent a report detailing the non-compliance, and will be given 30 days to remedy the non-compliance.
- c. Resolution (or satisfactory progress towards resolution) of the non-compliance to the satisfaction of INZ within the 30 day period will see the suspension lifted and processing of related pathway student visa applications will resume.
- d. The Ministry of Business, Innovation and Employment or the New Zealand Qualifications Authority may conduct an investigation three to six months later to assess the effectiveness of the remediation undertaken. If the remediation is deemed inadequate or ineffective, the suspension can be re-imposed or the provider may be removed from the pathways pilot and current pathway student visa holders become liable for deportation.
- e. If INZ is not satisfied that the non-compliance has been addressed or satisfactory progress has been made towards resolution within the 30 day period, the suspension of related student visa processing will continue (until resolution occurs).
- f. Failure to address or make satisfactory progress towards resolving the non-compliance may result in removal from the pathways pilot, and current student visa holders becoming liable for deportation.

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**Note:** INZ may rely on the advice of the Ministry of Education and/or the New Zealand Qualifications Authority in determining whether resolution has been reached or satisfactory progress has been made towards resolution.

### **U15 Multiple short-term English language programmes of study**

- a. Applicants may be granted a student visa to undertake multiple short-term English language programmes of study for a maximum period of six months if they:
  - i. submit a joint covering letter from eligible pathway education providers (U14.20.1) setting out the English language programmes of study and start and end dates of each programme of study showing at least 14 weeks of English language study in total;
  - ii. submit an offer of place (or joint offer) for each programme of study that meets the requirements set out at U3.5;
  - iii. meet the general requirements to be granted a student visa as set out at U3.1;
  - iv. can demonstrate they have sufficient funds for maintenance for the duration of their stay in New Zealand (U3.20);
  - v. have not previously been granted a visa under these instructions.
- b. Work conditions will not be granted unless the part-time work requirements set out at U13.15.1 (e) are met.

## H4 Applications for visas for diplomatic, consular, and official staff, and their dependants

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 13*

- a. Applications for visas for diplomatic, consular and official staff and accompanying dependants must be made at the request of the applicant's sending State to the Protocol Division of the Ministry of Foreign Affairs and Trade or to an immigration officer at an INZ office.
- b. Applicants must meet the bona fide applicant requirement as set out at [E5](#), but are exempt from:
  - i. lodgement requirements; and
  - ii. providing an application fee **and immigration levy**; and
  - iii. providing an application in the prescribed form; and
  - iv. meeting funds or sponsorship requirements; and
  - v. meeting onward travel requirements; and
  - vi. health and character requirements.
- c. Applications must include the following information:
  - i. full names; and
  - ii. date and place of birth; and
  - iii. gender; and
  - iv. country/countries of citizenship; and
  - v. physical address of diplomatic mission or consular post; and
  - vi. diplomatic designation; and
  - vii. type, number and expiry of passport (diplomatic/official); and
  - viii. if applicable, the expected arrival date in New Zealand; and
  - ix. approximate duration of their assignment in New Zealand; and
  - x. if applicable, the name of the person being replaced; and
  - xi. if applicable, the details of the officially recognised members of the diplomatic, consular or official staff member's family who form part of their household in New Zealand.

## Appendix 1 - List of countries using panel physicians

In most countries, including New Zealand, Immigration New Zealand (INZ) selects and uses a panel of reputable registered physicians and radiologists. Below is a list of countries where Medical and Chest X-ray Certificates must be completed by approved INZ panel physicians and radiologists.

For a detailed list of the panel physicians and radiologists in your country please refer to the approved list at [www.immigration.govt.nz/healthinfo.htm](http://www.immigration.govt.nz/healthinfo.htm) or contact the nearest INZ office.

Where a Chest X-ray Certificate or a Medical Certificate is necessary, a completed certificate is required for each member of your family included in the application.

Your Chest X-ray Certificate or Medical Certificate must have been issued less than three months before the date that your application for a visa is made, except where otherwise specified. Details about the requirements for Chest X-ray Certificates and Medical Certificates can be found in the INZ Operational Manual under chapter [A4 Health Requirements](#).

Afghanistan	Guinea	Panama
Albania	Guyana	Paraguay
Algeria	Haiti	Peru
Argentina	Honduras	Philippines
Armenia	Hong Kong (SAR China)	Poland
Australia	Hungary	Portugal
Austria	Iceland	Qatar
Azerbaijan	India	Reunion Island (FR)
Bahrain	Indonesia	Romania
Bangladesh	Iran	Russia
Belarus	Iraq	Samoa
Belgium	Ireland	Saudi Arabia
Bermuda	Israel	Senegal
Bhutan	Italy	Serbia
Bolivia	Ivory Coast	Seychelles
Bosnia & Herzegovina	Jamaica	Sierra Leone
Botswana	Japan	Singapore
Brazil	Jordan	Slovakia
Brunei Darussalam	Kazakhstan	Slovenia
Bulgaria	Kenya	Solomon Islands
Burkina Faso	Kiribati	South Africa
Burundi	Korea (South)	Spain
Cambodia	Kosovo	Sri Lanka
Cameroon	Kuwait	Sudan
Canada	Laos	Swaziland
Chile	Latvia	Sweden
China	Lebanon	Switzerland
Colombia	Lesotho	Syria
Congo (Democratic Republic of)	Libya	Tahiti

Congo (Republic of the)	Lithuania	Taiwan
Costa Rica	Madagascar	Tanzania
Croatia	Malawi	Thailand
Cyprus	Malaysia	Timor Leste
Czech Republic	Maldives	Togo
Denmark	Malta	Tonga
Djibouti	Mauritius	Trinidad and Tobago
Dominican Republic	Mexico	Tunisia
Ecuador	Moldova	Turkey
Egypt	Mongolia	Turkmenistan
El Salvador	Morocco	Tuvalu
Eritrea	Mozambique	Uganda
Estonia	Myanmar (Burma)	Ukraine
Ethiopia	Namibia	United Arab Emirates (UAE)
Fiji	Nepal	United Kingdom (UK)
Finland	Netherlands	United States of America (USA)
Former Yugoslav Republic of Macedonia	New Caledonia	Uruguay
France	New Zealand	Uzbekistan
French Polynesia (FR)	Nicaragua	Vanuatu
Gambia	Nigeria	Venezuela
Georgia	Norway	Vietnam
Germany	Oman	Zambia
Ghana	Pakistan	Zimbabwe
Greece	Papua New Guinea	
Guatemala	Palestinian Territories	

## Appendix 9 - Foreign Charter Vessels - Crew Employment Agreements

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### Introduction

To provide all parties with accountability, consistency, transparency and certainty in negotiated employment agreements, the following standard principles must apply to all employment agreements **for crew working on foreign charter vessels in New Zealand fisheries waters, where the employer is not a New Zealand company.**

### Standard Principles

All employment agreements must contain the following provisions, conditions and requirements (hereafter referred to as "standard principles"). Where an employer believes a standard principle is not applicable, the reason for this must be stated in the supporting documentation provided with their Approval in Principle application to Immigration New Zealand.

1. The identity and address of the employer.
2. The name and date of birth of the employee.
3. The home address and contact details of the employee (this includes phone numbers and email addresses).
4. The contact details of the employee's agent (if applicable).
5. The identity, address and contact details of the New Zealand Charter Partner (NZCP).
6. If the employment agreement is for a fixed term, the term of employment and reason for it being fixed term.
7. The employment position, rank or other designation in which the employee will be employed as well as the name of the vessel on which the employee will be employed.
8. The duties of the employee for the position in which the employee is employed (at least in general terms).
9. The expected minimum number of hours of work, being at least 42 hours per week on average in relation to the whole of each period of employment in New Zealand fisheries water.
10. A clause which states that the employer will keep accurate records of hours worked by the employee.
11. The remuneration terms and rates (which must as a minimum meet the standard at [WJ5.45.10](#) of the Operational Manual).
12. If deductions are to be made by the employer, they will be listed and it will be acknowledged in the employment agreement that the employee accepts those deductions, including the amount. The employment agreement must also specify how/when these deductions are to be made and what supporting documentation will be retained for audit purposes.
13. The currencies of all dollar amounts in the employment agreement.
14. The timing, manner and method of payment of remuneration under the employment agreement – whether payments are made into a New Zealand bank account or directly to the Foreign Crew.
15. The fact that a Deed of Guarantee has been entered by the New Zealand Charter Party and that the New Zealand Charter Party is available and required to ensure that Foreign Crew are paid to the minimum level of remuneration under [WJ5.45.10](#) of the Operational Manual in the event of failure by the employer to do so.

A failure may occur if the employer will not submit to the claim process outlined in the employment agreement (detailed at paragraph 19 below) or where they will not pay any monies awarded following that claims process. The process for recovering minimum levels of remuneration from the New Zealand Charter Party should also be specified as per paragraph 19 below.
16. Causes for dismissal of the employee by the employer.
17. A plain language explanation of employment and immigration rights and responsibilities. At a minimum, the leaflet *Important Information for Foreign Crews working in New Zealand Fisheries Waters (INZ1214)*, (available in 11 languages on the Immigration New Zealand website) must be attached as a schedule to the employment agreement.
18. That the relevant New Zealand employment institutions under the Employment Relations Act 2000 shall have jurisdiction in relation to problems or disputes arising under the employment agreement.
19. A process for resolving employment problems or disputes in accordance with the following;
  - a. *First Step: Resolution with the Captain:* Employees should first take the claim or problem to the Captain. By doing this, it is hoped that the claim or problem will be dealt with in a manner that is appropriate to both parties, with the emphasis on allowing the employee to continue on in employment with the employer having resolved his/her claim or problem or to end employment with the correct employment related conditions being met, including payment of wages at the level required by the employment agreement.
  - b. *Second Step: Resolution With Employer:* If resolution with the Captain is not achieved, then the employee should take the claim to the employer and notify the NZCP. By doing this, it is hoped that the claim will be dealt with in a manner that is appropriate to both parties, with the emphasis on allowing the employee to continue on in employment with the employer having resolved his/her claim or to end employment with the correct employment related conditions being met, including payment of wages at level required by the

*employment agreement. If the employer does not resolve this issue with the employee, then the following steps can be taken:*

- i. *Labour Inspectorate: the employee may utilise the services of a Labour Inspector as provided for under the Employment Relations Act 2000.*
  - ii. *Mediation Service of the Ministry of Business, Innovation and Employment (the Ministry): The employee or the employer may refer this claim or problem to the Mediation Service of the Ministry. This is an informal institution that provides confidential mediation services to employees and employers and those in work related relationships alike.*
  - iii. *Employment Relations Authority/Employment Court: If the employee's claim is not resolved to his/her satisfaction at mediation, or if the employer is unwilling or refuses to attend mediation, then the employee or the employer may refer this claim or problem to the Employment Relations Authority. This is a formal institution that provides an investigation process, resulting in a binding decision, to employees and employers. Either party may file a challenge within 28 days from an unsuccessful Employment Relations Authority determination to the Employment Court. Matters that relate to the minimum or contractual entitlements owed to employees may be brought by the employees themselves to this institution.*
- c. *Third Step: Resolution With New Zealand Guarantor (the NZCP) in Respect of Minimum Remuneration: If in respect of a claim to remuneration, resolution is not achieved with the employer, by way of the above two steps, then the employee should take the claim to the New Zealand Guarantor under the Deed of Guarantee in so far as the claim concerns remuneration at the minimum specified levels. The process to follow where the New Zealand Guarantor does not resolve the employees claim to his/her satisfaction, is as follows:*
- i. *Labour Inspectorate: The employee may utilise the services of a Labour Inspector as provided for under the Employment Relations Act 2000. (This role would be restricted to providing some analysis of the situation and some information to both the employee and the New Zealand Company to clarify the obligations under the Deed of Guarantee and the consequences of not meeting them)*
  - ii. *Mediation Service of the Ministry: The employee or the New Zealand Guarantor may refer this to the Mediation Service of the Ministry.*
  - iii. *Independent Arbitration: If mediation is not successful, then the employee or the New Zealand Guarantor may seek arbitration of the complaint. A panel of arbitrators has been established by NZFIG, SEAFIC and the Ministry that the employee and the New Zealand Guarantor may select an appropriate arbitrator.*
  - iv. *District Court: The employee or New Zealand Guarantor may only seek an appeal to the District Court from the binding arbitration on procedural matters.*
- d. *General:*
- i. *The employee may use the services of a representative, including a union, the NZFIG, Community Law Centre or Citizens Advice Bureau, to assist in the above process.*
  - ii. *The employer, the NZCP of the employer, and the employee (and their representative) must act in good faith in the raising of, and pursuing a claim.*
  - iii. *The employer, the NZCP of the employer and the employee must comply with the procedures developed under the Employment Relations Act 2000 and Deed of Guarantee Relating to Payment of Crew Wages in Circumstances of Default by Foreign Charter Partner, for the process of pursuing a claim.*
20. Specification of the country law which is to be applied to the employment agreement (subject to clauses 18 and 19).
21. A record that before signing the employment agreement, the employee has had the opportunity to obtain independent advice on its terms and conditions and that they clearly understand the terms and conditions of the employment agreement.
22. Signatures of both parties and the date of signing.

## APPENDIX 2: AMENDED IMMIGRATION INSTRUCTIONS EFFECTIVE ON AND AFTER 1 JANUARY 2016

### WK2.5 Applications for work visas under Essential Skills work instructions

- a. Applications for work visas must:
  - i. be made on the form *Work Visa Application (INZ 1015)*; and
  - ii. include an Employer Supplementary Form (INZ 1113) completed by the employer; and either
  - iii. be lodged at the INZ office nearest their place of proposed employment if the applicant is in New Zealand; or
  - iv. be lodged at the INZ receiving office responsible for receiving work visa applications from the country in which the applicant currently lives.
- b. Immigration officers must not grant a work visa to a non-New Zealand citizen or residence class visa holder worker applying on the basis of an offer of employment, unless they are satisfied that:
  - i. the applicant is suitably qualified by training and experience to do the work offered; and
  - ii. there are no New Zealand citizens or residence class visa holders available to do the work offered (see [WK2.10](#)); and
  - iii. the job offer is for genuine, sustainable and full-time employment for the duration of the period for which employment is offered, as specified in the proposed employment agreement; and
  - iv. the employer has previously complied and will comply in future with all relevant New Zealand employment and immigration law and immigration instructions.
- c. If the applicant is applying on the basis that their employer has been granted an approval in principle, immigration officers should refer to the approval in principle application to satisfy (b)ii - iv above.
- d. Despite (c) above, where an immigration officer has reasonable grounds for determining that the labour market or circumstances of the employment have materially altered since the grant of the approval in principle, they may undertake further checks to ensure the provisions of (b)ii - iv are still satisfied.
- e. 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](#)).

- f. INZ may, on an exceptional basis, require an employer to apply for an approval in principle to recruit overseas workers (AIP) for the purposes of assessing any further work visa applications supported by the employer. This requirement will be imposed only where an employer's recruitment of non-New Zealand citizen or residence class visa holder workers is such that it is appropriate to undertake a labour market test for future applications collectively with an AIP, rather than on an individual basis. In these circumstances any further application for a work visa supported by that employer which is not associated with a valid AIP may be declined.
- g. In cases where the employer supporting a work visa application **currently holds or** has previously held an AIP for that position, the conditions specified in the AIP will apply unless the employer can satisfy the immigration officer that the circumstances of employment have changed.
- h. **Where the job offer is in the construction sector in the Canterbury region and the employer is a labour hire company, the application must be declined unless the labour hire company holds accreditation (see [WK2.25](#)).**

**Note:** Employment is in the Canterbury region if the entire or principal place of work (as defined in section 2 of the Health and Safety in Employment Act 1992) is within the territorial authorities of Christchurch City Council, Selwyn District Council and Waimakariri District Council.

## WK2.15 Evidence required from employers under Essential Skills work instructions

- a. Employers requesting approval in principle to employ a non-New Zealand citizen or residence class visa holder worker or supporting an individual work visa application must provide:
  - i. a job offer(s) containing all the information specified in the generic work visa provisions at W2.10.10; and
  - ii. confirmation of whether or not the worker requires occupational registration in New Zealand; and
  - iii. if more than one, the number of temporary workers sought; and
  - iv. the names of suitable applicants (if known); and
  - v. evidence of genuine attempts to recruit suitable New Zealand citizens or residence class visa holders (see W2.10.5), including the reasons why:
    - any particular job specifications were considered necessary for the performance of the work; and
    - any New Zealand applicants who applied were either not suitable, or refused to perform the work; and
  - vi. if requested by an immigration officer, evidence and/or confirmation of past compliance with employment and immigration law (see W2.10.5); and
  - vii. if the job offer(s) is in the construction sector in Canterbury region and the employer is a labour hire company, confirmation of the labour hire company's accreditation.

**Note:** Employment is in the Canterbury region if the entire or principal place of work (as defined in section 2 of the Health and Safety in Employment Act 1992) is within the territorial authorities of Christchurch City Council, Selwyn District Council and Waimakariri District Council.

- b. Evidence and/or confirmation of past and future compliance with employment and immigration law may include but is not limited to:
  - iii. employment agreements with workers which demonstrate compliance;
  - iv. a history with the Ministry of Business, Innovation and Employment and WorkSafe New Zealand of past compliance.
- c. Immigration officers must be satisfied that there are no New Zealand citizens or residence class visa holders available to do the work (WK2.10).
- d. To ensure that the objectives of Essential Skills work visa instructions at WK1.1 are met, job offers must specify a rate of pay 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).

## WK2.25 Labour hire employers accreditation

- a. For the purposes of these instructions, labour hire employers are defined as employers who employ and outsource workers for short or long-term positions to third parties with whom the employer has a contractual relationship to supply labour.
- b. Accreditation will be granted where INZ is satisfied that the labour hire employer:
  - i. is in a sound financial position; and
  - ii. has human resource policies and processes which are of a high standard; and
  - iii. has a demonstrable commitment to training and employing New Zealand citizens or residence class visa holders; and
  - iv. has good workplace practices, including a history of compliance with all immigration and employment laws such as the Immigration Act 2009, the Accident Compensation Act 2001, the Minimum Wage Act 1983, the Health and Safety in Employment Act 1992, the Employment Relations Act 2000, Wages Protection Act 1983, Parental Leave and Employment Protection Act 1987, and the Holidays Act 2003; and
  - v. will comply with all the requirements and obligations set out at WK2.25.1.
- c. INZ will rescind an employer's accreditation where:
  - i. non-compliance, other than of a minor nature, with the conditions and obligations listed under WK2.25.1 are identified, or
  - ii. it considers an accredited employer's conduct has created an unacceptable risk to the integrity of New Zealand's immigration or employment laws or policies.
- d. Approved employers will be granted accreditation for a period of 12 months.
- e. Accreditation may be renewed on an annual basis, upon application, where INZ is satisfied that the employer still meets the requirements for accreditation set out above.

### WK2.25.1 Labour hire employer requirements and obligations

Before accreditation is granted the labour hire company must agree to meet the following conditions and obligations for the duration of the accreditation. They must agree to:

- a. offer employment agreements that:
  - i. meet the employment requirements set out in [WK2](#);
  - ii. exclude a trial period provision;
  - iii. specify a rate of pay not less than the market rate for New Zealand workers in the specified occupation (see [WK2.15](#));
  - iv. contain employment terms and conditions equivalent to those of workers directly employed by the company with whom the worker is placed; and
- b. ensure that any third party to whom they hire out a migrant worker has good workplace practices that align with the requirements set out under WK2.25 (b) [\(i-iv\)](#).

### WK2.25.5 Applying for accreditation

- a. Application for accreditation must be made on the INZ form *Labour Hire Employer Accreditation Application (INZ 1227)* and accompanied by documents which demonstrate that the employer meets the requirements for accreditation set out at WK2.25 (b).
- b. A fee is payable for an application for accreditation. A lower fee is payable for annual renewal of accreditation.

### WK2.25.10 Determining applications for accreditation

- a. In determining whether employers may be accredited, INZ will assess applications 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 an intention to maintain accreditation throughout the period of currency of any visas granted to their employees under the Essential Skills Work Instructions; and
  - iii. the number of New Zealand and migrant workers employed by the company.
- b. INZ must be satisfied that the information and documents included in an application for accreditation are genuine and accurate, and may take any steps it determines necessary to verify such documents and the information they contain, including interviews.
- c. INZ may, where necessary, seek the approval of an employer to conduct a site visit to the employer's premises.
- d. INZ will consult with relevant unions and other employee representatives when determining whether an employer has human resource policies and processes which are of a high standard, a commitment to training and employing New Zealand citizens and residence class visa holders and good workplace practices.
- e. Employers must consent to INZ seeking information from the Ministry of Business, Innovation and Employment, Worksafe New Zealand and the Accident Compensation Corporation concerning the applicant's compliance with New Zealand employment laws. Where such consent is not given an application for accreditation will be declined.

- f. INZ will seek the consent of the employer for the disclosure of any information where any information is:
  - i. identified by the employer as commercially sensitive; and
  - ii. that information is provided in confidence to INZ; and
  - iii. INZ considers that disclosure of that information is necessary for the determination of an application.
- g. If consent under (f) is not given, an application for accreditation will be declined.
- h. Where INZ, in consulting with other agencies, receives information which may be prejudicial to the positive outcome of an employer's application for accreditation, that adverse information will be put to the employer for comment before a decision is made on their application.

#### **WK2.25.15 Non-compliance of labour hire employer accreditation requirements and obligations**

Where non-compliance, other than of a minor nature, with the conditions listed under WK2.25.1 has been identified, the following process will occur:

- a. INZ will suspend the processing of any work visa applications related to an existing labour hire accreditation immediately.
- b. The non-compliant employer will be advised in writing of the suspension and will be sent a report detailing the non-compliance, and will be given 30 days to remedy the non-compliance.
- c. Resolution (or satisfactory progress towards resolution) of the non-compliance to the satisfaction of INZ within the 30 day period will see the suspension lifted and processing of related work visa applications will resume.
- d. The Ministry of Business, Innovation and Employment may conduct an audit three to six months later to assess the effectiveness of the remediation undertaken. If the remediation is deemed inadequate or ineffective, the suspension can be re-imposed.
- e. If INZ is not satisfied that the non-compliance has been addressed or satisfactory progress has been made towards resolution within the 30 day period, the suspension of related work visa processing will continue (until resolution occurs).
- f. Failure to address or make satisfactory progress towards resolving the non-compliance may result in the current accreditation being rescinded, current work visa holders becoming liable for deportation, and any future accreditation applications being declined.

**Note:** INZ may rely on the advice of the Ministry of Business, Innovation and Employment - Labour Inspectorate in determining whether resolution has been reached or satisfactory progress has been made towards resolution.