



IMMIGRATION NEW ZEALAND
INTERNAL ADMINISTRATION CIRCULAR NO: 10/20

To:	Immigration New Zealand, all Managers	Date: 17 December 2010
	Immigration New Zealand, all Staff	
	MFAT Posts	

Labour Market Checks under Essential Skills work instructions: requesting information from Work & Income

Please read this information and ensure all staff members who may be affected are aware of what is required of them. This Internal Administration Circular (IAC) replaces IAC 08/12

Introduction

1. The purpose of this IAC is to:
 - a. clarify what a labour market check (LMC) is and when it is required under Essential Skills work instructions; and
 - b. outline the process of how an LMC is to be requested using the online Labour Market Check Portal (the portal).

Background

2. On 29 October 2010 the portal was rolled out to offshore Immigration New Zealand (INZ) branches. The portal had previously only been available to onshore INZ branches.
3. The portal does not provide prompts for immigration officers (officers) to provide all information Work and Income (W&I) require when making an assessment. This IAC provides guidance to ensure that LMCs sent through the portal are accurate and comprehensive.

What is an LMC and when is it required?

4. An LMC is when officers seek advice from W&I as part of a labour market test, as per WK2.10.1.b.iii. Instruction WK2.10.1 is included as appendix A.
5. Under Essential Skills work instructions officers must not grant a work visa unless they are satisfied that there are no New Zealand citizens or residents available to do the work offered (WK2.5.b.ii). The availability of New Zealanders is determined through a labour market test as outlined in WK2.10.a, which may include an LMC.
6. Instruction WK2.10.1.d states that officers **must** seek advice from W&I for applications that are based on job offers for occupations that are classified as skill level four and five by the Australian and New Zealand Standard

Classification of Occupations (ANZSCO). However, this requirement does not apply if W&I has informed INZ of a regional absolute labour shortage for the occupation or industry the applicant is applying to work in, as per WK2.10.1.e.

7. Officers may also request an LMC to help them determine if the labour market test is met for applications based on job offers for ANZSCO skill level three to one occupations (WK2.10.1.b).
8. No labour market test is required for applications where the occupation is included on the current Long Term Skill Shortage List or Immediate Skill Shortage List, and the applicant holds the qualification and/or experience to satisfy the requirements of the lists (WK2.10.b).
9. An LMC result is an important part of, but not the only, information officers should take into account when determining whether a labour market test is met. Officers should also consider the employer's case, including any specialised skills the position requires, evidence of attempts to recruit New Zealanders, and any other relevant information when making a decision.

How to request advice from Work and Income

10. Once it has been determined that advice from W&I is required, officers and LMC administrators should follow the processes set out below. This process also applies to approval in principle (AIP) applications.

Instructions for processing officers

11. Enter the LMC portal through the 'labour market information' section on the verification Toolkit and check the portal to see if there are any similar LMCs from the same location that are still valid. When using a previous result officers must be satisfied that the information from W&I can be applied to the specific position the applicant has been offered.
12. Officers requesting a new LMC should follow the prompts on the portal. Officers should take particular care to:
 - a. Check the AIP box if the LMC is for an AIP.
 - b. Choose the ANZSCO job title that most closely matches the job based on the information included in the employer supplementary form, the employment agreement and job description.
 - c. Tick the box for a 'renewal' of job offer if the job title, employer and location of employment are the same as the conditions on the applicant's last or current permit.
 - d. Use the notes field to request information on whether there have been recent redundancies in the field and area of the offered position.
 - e. Use the notes field to provide further information that W&I need to assess whether there are suitable New Zealanders available to do the specific job offered. It is important that officers provide the following information:
 - i. the job title listed in the employer supplementary form (ESF);
 - ii. the duties as listed in the ESF and job description;
 - iii. the employer's name if it is different to that in AMS – this includes any 'trading as' names;
 - iv. an explanation of any special or extra benefits of the job – such as accommodation or allowances;
 - v. the experience and/or qualifications the employer requires;
 - vi. the W&I vacancy number if the employer listed the vacancy with W&I; and
 - vii. any other relevant information W&I should be aware of when making their assessment.

13. If the employer or applicant sends further important information about the job after the immigration officer has sent an LMC, this information should be forwarded to the relevant LMC administrator with the LMC number in the subject line. The LMC administrator can then send the information to W&I to consider in their assessment. Important information is any information that may impact on W&I's assessment on the availability of New Zealand workers.
14. Officers will receive an automated email with the LMC result. This email is automatically generated and does not come from W&I directly. If officers receive an LMC response email that asks for further information, officers must send the requested information with the LMC number to the relevant LMC administrator. The LMC administrator will then forward the information to W&I. Officers should **not** hit reply to the automated email.
15. If no response is received, or contact made, within 10 working days of the date that W&I received the request, officers should notify the relevant LMC administrator. The LMC administrator will contact W&I on the officer's behalf.

Instructions for LMC administrators

16. Follow the steps outlined below when managing the W&I referral process:
 - a. Download the LMC requests into an excel spreadsheet by following the prompts on the administrator's portal. Email the spreadsheet to the relevant regional W&I Labour Market Manager twice a week, unless an alternative frequency has been agreed to.
Note: W&I and INZ regions are not an exact match. LMC administrators may need to e-mail employment details to different W&I contacts.
 - b. W&I will complete the relevant fields of the spreadsheet with their advice and e-mail the updated spreadsheet back.
 - c. Upload the completed referrals into the portal following the prompts on the administrator's portal. Any errors with the results will display an error message at the top of the page, and the row with the error will be highlighted with a description of the error, in red, at the bottom. Open the check with the error message by clicking on the record, and edit any fields that require changing. If the error message is due to an incomplete response from W&I you will need to liaise with W&I before changing the relevant field.
 - d. Once any errors have been corrected click the 'finalise upload' button
17. If an LMC needs to be edited or deleted, enter either the client number of the applicant or the employer in question. This will bring up a list of all LMCs requested for that client. Click on the relevant LMC to either edit or delete the request. If the LMC has already been sent to W&I then forward the information to the relevant W&I contact along with the LMC number.

LMCs for employers requiring workers in more than one region

18. Any LMCs for AIP applications made by employers requesting workers in more than one region should be sent to the W&I National Manager Business Sector Unit in Wellington.
19. If this IAC is inconsistent with any previous IAC, the instructions contained here prevail.

Simon Smith
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APPENDIX A

WK2.10.1 Labour market tests

- a. When conducting a labour market test an immigration officer must be satisfied that:
 - i. the employer has made a genuine attempt (see WK2.10.5) to attract and recruit suitable New Zealand citizens or residence class visa holders (see WK2.10.5); and
 - ii. New Zealand citizens or residence class visa holders are not available (WK2.10).
- b. Matters an immigration officer may take into account when determining whether or not a labour market test is satisfied include but are not limited to:
 - i. the employer's case:
 - o for an approval in principle; or
 - o in support of an individual worker's application
 - ii. evidence of a genuine attempt (see WK2.10.5) on the part of the employer to recruit New Zealand workers by way of advertising and/or use of other appropriate avenues of recruitment likely to attract New Zealand workers;
 - iii. advice from the service delivery arm of the Ministry of Social Development, Work and Income about the availability of New Zealand citizens or residence class visa holders to do the work offered;
 - iv. advice from relevant stakeholders within the particular industry, including unions.
- c. In any particular case an immigration officer may decide to:
 - i. determine the labour market test is satisfied by one or more of the above; or
 - ii. determine that the labour market test is not satisfied by one or more of the above; or
 - iii. make other inquiries.
- d. Despite (c) above, but subject to (e) below, when determining whether there are New Zealand citizen or residence class visa holder workers available to undertake work in an ANZSCO Skill Level 4 or 5 occupation, immigration officers must seek advice from Work and Income about the availability of New Zealand citizens or residence class visa holders to do the work offered.
- e. The requirement in (d) above does not apply for any period of time where Work and Income has advised INZ of a regional absolute labour shortage for a specified occupation or industry, and the work offered is both for that occupation or industry, and in the region specified.