

**WORKFORCE (IMMIGRATION NEW ZEALAND)
INTERNAL ADMINISTRATION CIRCULAR NO: 08/12**

To: All Workforce/Immigration New Zealand (INZ) staff

Date: 26 September 2008

**LABOUR MARKET TESTS UNDER ESSENTIAL SKILLS
POLICY: REQUESTING INFORMATION FROM WORK & INCOME**

Please **READ** this information and ensure that all staff members who may be affected are aware of what is required of them. The amendments contained within this IAC are effective from **29 September 2008**.

Introduction

1. The purpose of this Internal Administration Circular (IAC) is to outline the process for requesting information from Work and Income (W&I), the service delivery arm of the Ministry of Social Development, when conducting a labour market test as required by Essential Skills work policy WK2.10.1 ii.

Note: This process should also be used to satisfy Essential Skills policy WK2.1 which relates to approval in Principle (AIP) applications.

Background

2. On 28 July 2008 General work policy was replaced by Essential Skills work policy. The following process is designed to introduce a consistent approach when conducting Labour Market Tests. It also provides a tool to collate and retain regionally specific labour market advice from W&I.
3. There are two parts to a Labour Market Test. While advice from W&I can determine the availability of new Zealand citizens or residents, officers must also be satisfied that employers have made genuine attempts to attract and recruit suitable New Zealand citizens or residents to undertake the employment on offer (policy attached in Appendix 1).

When is a Labour Market Test Required?

4. Under Essential Skills, the policy on Labour Market Tests remains the same as under General work policy, with the addition of two new provisions relating to applications for work in ANZSCO skill level four and five (lower skilled) occupations. (For information on how to use ANZSCO please read IAC 08-01).
5. Immigration and visa officers must seek advice from W&I in relation to applications for work in ANZSCO skill level four and five occupations, unless W&I has informed Immigration New Zealand (INZ) of a regional absolute labour shortage for the occupation or industry the applicant is applying to work in.
6. Immigration and visa officers may also seek advice from W&I in order to satisfy themselves of the non-availability of New Zealand citizens or residents in relation to any application lodged under Essential Skills work policy.
7. However, immigration and visa officers will accept that no suitably qualified New Zealand citizens or residents are available where an occupation is included on, and

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How to request advice from Work and Income

Note: The process detailed below is for use by branches **not** trialling the online Labour Market Check (LMC) Portal tool.

8. Once it has been determined that advice from W&I is required, officers and administrators should follow the processes set out below.
9. Branches should maintain two separate versions of the W&I spreadsheet (attached in Appendix 4):
 - i. W&I Referral Spreadsheet
 - ii. W&I Results Spreadsheet

Note: Branch W&I Spreadsheet's should be stored in a location accessible to all processing staff, such as in the shared folder drive.

Instructions for processing officers

10. When seeking advice from W&I offices should follow the steps outlined below:
 - a. Check your branch W&I Results Spreadsheet for referrals of similar employment. W&I may have previously given advice on the availability of New Zealand citizens and residents to undertake a specific type of employment which may still be valid. The validity of W&I advice, if any, will be notified by the regional Labour Market Manager on their responses to Labour Market Tests.
 - b. Check the online Verification Toolkit – Labour Market Information database, where information from W&I, industry sources, and INZ analysis and assessment is recorded for all the ANZSCO jobs.
 - c. Check the current regional absolute labour shortages for the occupation or industry the applicant is applying to work in. If a relevant labour shortage is in place, no W&I referral is necessary. Information on declared shortages is available on www.immigration.govt.nz (at the date of this circular, no labour shortages have been declared).
 - d. If no valid advice is present, create a new Labour Market Test on the W&I Referral Spreadsheet.
 - e. Populate the next empty row on the spreadsheet with the details of the employment on offer, including the relevant ANZSCO code. Save and exit the spreadsheet.
 - f. If offshore, send an e-mail containing the details of the employment to the administrator in the branch closest to the location of the proposed employment who will transfer the information to the spreadsheet (a list of regional e-mail addresses is attached in Appendix 2). Once a response from W&I has been received, the administrator will advise the offshore branch via e-mail.
 - g. If onshore, access the Results Spreadsheet regularly to gather the results of the labour market tests. Once a referral has been completed, the advice from W&I can be copied into the application notes in AMS.
 - h. If no response is received or contact made within 10 working days of the date that W&I received the request, notify their administrator who will contact W&I on their behalf.

Note: While officers may take into account any advice received, the determination of whether or not there are any New Zealand citizens or residents available as well as the decision to approve or decline an application must ultimately lie with the officer assessing the application. However, if the decision is to approve an application where W&I have indicated there are New Zealand

citizens available or trainable, a clear record of why this advice was overruled must be recorded in the client's application notes.

Instructions for administrators

11. Follow the steps outlined below when managing the W&I referral process:

- a. E-mail the branch W&I Referral Spreadsheet to your regional W&I Labour Market Manager at the end of each day, unless an alternative frequency has been agreed to (a list of W&I Labour Market Managers is attached in Appendix 3).

Note: W&I and INZ regions are not an exact match. Administrators may need to e-mail employment details to the administrator in another branch. Administrators will enter the information onto their branch W&I Referral Spreadsheet and relay W&I advice to the requesting officer via e-mail once received.

Please see the following website for W&I region information:

<http://www.workandincome.govt.nz/about-work-and-income/regions/index.html>

- b. W&I will populate the remaining fields of the spreadsheet with relevant advice. W&I will e-mail an updated W&I Referral Spreadsheet to the branch administrator on a regular basis.
- c. Copy completed referrals into the W&I Results Spreadsheet and deleted from the W&I Referral Spreadsheet. The Referral Spreadsheet should only contain outstanding labour market tests.
- d. Within the first week of each month, email the Client Profiling Unit (CPU) the branch W&I Spreadsheets (Referral and Results) so that the information gathered can be analysed and uploaded to the relevant ANZSCO job in the Verification Toolkit – Labour Market Information database for future reference by officers.

If this IAC is inconsistent with any previous IAC, the instructions contained here prevail.

Annabelle Laird

Acting Branch Manager, Operations Support

Service Delivery Group

APPENDIX 1

WK2.10.1 Labour market tests

- a. When conducting a labour market test a visa or immigration officer must be satisfied that:
 - i the employer has made a genuine attempt to attract and recruit suitable New Zealand citizens or residents (see WK2.10.5); and
 - ii New Zealand citizens or residents are not available (WK2.10).
- b. Matters a visa or 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:
 - for an approval in principle, or
 - 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 residents to do the work offered;
 - iv advice from relevant stakeholders within the particular industry, including unions.
- c. In any particular case a visa or 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 resident workers available to undertake work in an ANZSCO Skill Level 4 or 5 occupation, visa and immigration officers must seek advice from Work and Income about the availability of New Zealand citizens or residents 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.

APPENDIX 4

Referrals

Results