

VISA PAK ISSUE 400 — 10 MAY 2019

SELF-EMPLOYMENT ON STUDENT VISAS

The purpose of this advice is to clarify the definition of self-employment specifically as it relates to migrants on student visas who wish to work in roles such as an Uber driver.

Student Visas holders with work conditions

Self-employment is explicitly ruled out under student instructions. Therefore, contracting or owning and operating one's own business is not allowable under student visa work conditions.

While it can be argued that contracting (e.g. as an Uber driver) is not self-employment and thus could be considered allowable under student instructions, INZ's position is that self-employment as referred to under the student visa instructions includes contracting.

Definition

While a definition of self-employment does not exist under the Immigration Act 2009, Section 4 of the Act does define an employee as "*a person who does work for an employer (whether under a contract of service or a contract for services)*". Conversely, it defines an employer as "*a person who employs or engages a person to do work, whether under a contract of service or a contract for services*". A contract of service is the standard employment agreement between an employee and employer. A contract for service is a contractor type arrangement where an individual is engaged as a contractor by a third party. For example, a web designer is contracted by MBIE to undertake a specific piece of web development or a person contracting to drive for Uber.