

VISA PAK ISSUE 420 — 11 OCTOBER 2019

AMENDMENT TO THE INTERPRETATION OF SPECIFIC PURPOSE WORK VISA INSTRUCTIONS

The purpose of this Visa Pak item is to update Visa Pak issue 399 regarding the interpretation of the specific purpose work visa instructions – in particular, the distinction between WS2.1.1(a) and WS2.1.1(b).

The previous advice was that WS2.1.1(a) applies where the New Zealand and offshore employers are different legal entities, while WS2.1.1(b) applies where the visa applicant is applying to come to New Zealand to work for the same legal entity. However, this advice did not align with the proper interpretation of New Zealand’s international trade obligations; in particular the interpretation of the term “intra-corporate transferee”.

Intra-corporate transferee

The definition of “intra-corporate transferee” in WS2.1.1(b) is interpreted more widely in New Zealand’s relevant international trade treaties. This means that a visa applicant can be considered to be an intra-corporate transferee where:

1. The applicant is being seconded to work in New Zealand for the same legal entity as their overseas employer, or
2. The applicant is being seconded to work in New Zealand for a different legal entity from their overseas employer, where:
 - a) More than 50 percent of the equity interest in the New Zealand entity is beneficially owned by their overseas employer; or
 - b) Their overseas employer has the power to name a majority of the directors of the New Zealand entity, or otherwise to legally direct its actions.