

## Accredited Employer Job Check and Work Visa applications – location of employment

This Visa Pak provides guidance when assessing the location of employment for Accredited Employer Job Check applications, including roles where travel is required or for employment in multiple locations. It also reminds immigration officers that the terms and conditions of any travel or change in the location of employment must be set out in the proposed employment agreement and must not be to the potential disadvantage of the employee.

### Immigration instructions

Accredited Employer Work Visas are subject to the condition that the holder may only work in a specified location ([WA4.15\(d\)](#)). The location of work is determined as part of a Job Check assessment ([WA3.50\(d\)\(iii\)](#)), and then applied during the determination of the corresponding Work Visa ([WA4.10.1\(c\)\(i\)](#)).

Under Accredited Employer immigration instructions, location means “...*the place where the work is entirely or principally carried out or based...*” ([WA3.35\(a\)](#)). If the work will be carried out or take place in more than one location, an immigration officer may determine that the job is located in multiple locations ([WA3.35\(b\)](#)).

### The location of employment

As the location is the place where the work is principally carried out or based, immigration instructions provide some flexibility for Accredited Employer Work Visa holders to work in a place outside of the location stated as a visa condition. While the degree of flexibility allowed will depend on the circumstances of a particular case, the following factors are likely to be relevant in most cases:

- how long the person is working in a different location
- what work they are doing
- the reasons they are working in a different location
- the nature of the role.

The purpose of specifying a location as a visa condition (and thereby restricting other locations) is to ensure New Zealanders are first provided the opportunities to take up these roles. Multiple location employment then may be appropriate when the employer has made genuine attempts to recruit New Zealanders in the locations where the work will be carried out, and where the employment in each of those locations is genuine. Multiple location employment may also be appropriate in situations where a labour market test is not required, and where the employment in each of those locations is genuine.

### Employment based in one location but requiring some travel

There are a number of employment scenarios which may require an employee to travel for work while still being based principally in one location. There are two main types of employment scenarios which these roles fall into:

<p><b>A person usually works in one location, but they occasionally work in different locations</b></p>	<p>Included in this cohort are 'based in an office' type roles who may need the employee to travel to other locations across New Zealand to attend, for example, in-person meetings or training.</p> <p>The employee may for example be based in Wellington but attends a fortnightly stakeholder meeting in Auckland or may be selected to take part in a training course that is only being run in Christchurch.</p>
<p><b>A person is based in one location, but the nature of the role requires them to work in different locations</b></p>	<p>A trucking company is based in Tauranga. The driver picks up deliveries each day from the depot in Tauranga but may undertake deliveries all the way up the North Island to Kaitaia.</p> <p>A further example is an emergency response worker who may be based in Wellington for the vast majority of their job but could be deployed to other parts of the country in response to an event occurring, e.g., the Christchurch earthquakes, or the more recent White Island explosion.</p>

In these types of employment scenarios, employers are only required to test the labour market in the region where the work will be principally carried out or is based, and this location may be recorded as the location in the Job Check (if all other requirements are met) and subsequent Work Visa (if it is granted).

This approach allows some flexibility for people to work in different locations, without requiring employers to undertake a labour market check in each of the locations an employee may at some point in time work in. How much flexibility can be applied will depend on the circumstances of each case, noting however that occasional or in some cases regular travel is likely to be acceptable, especially where this is clearly communicated and approved at both the Job Check and Work Visa application stages and *is appropriate for the particular role*.

In terms of the work undertaken by Compliance teams, whether a migrant who is working in a location different to that recorded as a visa condition is considered in breach of their visa will depend on the circumstances of a particular case. The same factors set out above are likely to be relevant in most cases.

Examples of situations where a change in the location of work may result in a visa holder working in breach of their visa conditions are provided below:

<p><b>A person usually works in one location, but the employer requires them to move to a second location.</b></p>	<p>A company which owns an accommodation premises in Auckland, has purchased another premises in Queenstown. The employer moves an Auckland staff member to Queenstown to take over the operations.</p> <p>Without first varying the conditions of their Work Visa, the visa holder may be made liable for deportation. The employer may also be issued an infringement notice and have their accreditation revoked.</p>
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<p><b>A person usually works in one location, but they regularly work in a different location.</b></p>	<p>A company which owns hospitality premises in two locations moves staff to cover rostered days off. They move a Queenstown staff member to Dunedin, to cover the local staff days off, on a regular basis.</p> <p>Without first varying the conditions of their Work Visa, the visa holder may be made liable for deportation. The employer may also be issued an infringement notice and have their accreditation revoked.</p>
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### **Not potentially disadvantaging the employee**

If travel or changing locations is part of the proposed employment, the terms and conditions of that travel or change of locations must be set out in the proposed employment agreement ([WA3.15\(m\)\(i\)](#)); and not have the potential to disadvantage the employee ([WA3.15\(m\)\(ii\)](#)).

Whether working in multiple locations (and the associated travel required) are to the potential disadvantage of the migrant, will depend on a range of factors including:

- the notice period employees are given when being required to change location; and
- the compensation provided to employees when being required to travel or change location, including for travel and accommodation; and
- what the process or outcome is when an employee is unable to change locations or undertake the travel.

The terms and conditions for changes of location or travel must be set out in the employment agreement ([WA3.15\(m\)\(i\)](#)) and when appropriate or relevant to a particular assessment activities, immigration officers may review these requirements when assessing a Job Check application.