



23 December 2020

Immigration New Zealand Operational Manual: Amendment Circular No. 2020-55

To: All Manual Holders

AMENDMENTS TO THE IMMIGRATION NEW ZEALAND OPERATIONAL MANUAL

Introduction

This circular outlines changes to the Immigration New Zealand Operational Manual. A copy of the changes is attached.

All immigration officers dealing with immigration applications should read the amendments and operate in accordance with the amended immigration instructions from their effective dates.

Note

The amendments described in this circular will be published in the Immigration New Zealand Operational Manual in due course.

Information about these changes is available on our website www.immigration.govt.nz.

Description of changes

Implementing the New Zealand Government response to COVID 19

WK3.20 Requirements for applicants

Immigration instructions allow for the grant of an Essential Skills work visa based on employment paid below the median wage only if the applicant is not subject to a stand-down period.

Changes have been made to delay the stand-down by 12 months. These changes allow applicants who would otherwise be subject to the stand-down period to still be eligible for a further Essential Skills visa if they make an application between 1 January 2021 and 31 December 2021.

The instructions allowing a one-off six month visa for halal slaughterers who would otherwise be subject to the stand down has been removed as it is superseded with the more favourable change for all applicants.

Despite WK3.20(b) and WK3.20.5(d), an applicant who would otherwise be subject to a stand-down period may be granted an Essential Skills work visa based on employment paid below the median wage, valid for up to 6 months, if their application is made between 1 January 2021 and 31 December 2021.

These instructions are effective from 17 December 2020.

Additions to immigration instructions are highlighted for ease of reference.

Appendix 1 – Amendments to Temporary Entry instructions effective from 17 December 2020

WK3.20 Requirements for applicants

To grant an Essential Skills work visa, an immigration officer must be satisfied that the applicant:

- a. is suitably qualified by training and experience to do the work offered; and
- b. if the Essential Skills work visa applied for is based on employment paid below the median wage ([WK3.5.1.c](#)), is not subject to a stand-down period – see WK3.20.5.

WK3.20.1 Determining that an applicant is suitably qualified

- a. When assessing whether an applicant is suitably qualified by training and experience to do the work offered, immigration officers will consider the qualifications and work experience required by the occupation in the ANZSCO which substantially matches the applicant's proposed employment (see WK3.20.2 below).
- b. Immigration officers must consider whether:
 - i. the applicant holds a relevant qualification that is comparable to the qualification described for that occupation in the ANZSCO; or
 - ii. the applicant has the relevant work experience that the ANZSCO indicates may substitute for the required qualification; or
 - iii. the employment is in an occupation included on the Essential Skills in Demand Lists and the applicant meets the relevant requirements specified for that occupation.
- c. Immigration officers must be satisfied that the qualifications and/or work experience provided by the applicant are relevant to their proposed employment in New Zealand.

WK3.20.2 Assessment that employment substantially matches an ANZSCO occupation

- a. When assessing whether an offer of employment substantially matches a particular occupation in the ANZSCO, an immigration officer must be satisfied that the duties and responsibilities in the employment offer match the description of that occupation as set out in the ANZSCO.
- b. Where related occupations are described by the same task list in the ANZSCO, an immigration officer may disregard tasks not relevant to the occupation that most closely matches the employment offered.

WK3.20.5 Applicants who are required to spend time outside New Zealand (subject to a 'stand-down period')

- a. An Essential Skills work visa holder may hold visas based on employment that is paid below the median wage (as defined in [WK3.5.1](#)) for a maximum period of 3 years before they are subject to a stand-down period (see (d) below).
- b. For the purposes of (a) above, an Essential Skills work visa based on employment that is paid below the median wage includes an Essential Skills work visa based on lower-skilled employment (for which an application was made before 27 July 2020).
- c. The maximum 3 year period referred to in (a) above only includes time during which the Essential Skills work visa holder held visas based on employment that is paid below the median wage since the most recent period during which the visa holder spent 12 consecutive months outside New Zealand.
- d. Applicants subject to a stand-down period are not eligible for an Essential Skills work visa based on employment paid below the median wage until they spend 12 consecutive months outside New Zealand.
- e. A person who has spent 12 consecutive months outside New Zealand is no longer subject to a stand-down period and may be granted further Essential Skills work visas for the duration allowed by WK4.1(a)(iii).
- f. Essential Skills work visas applied for before 28 August 2017 are not considered when calculating the 3 year maximum period.

WK3.20.6 One-off deferral of the stand-down period for essential health workers to support the response to COVID-19

- a. Despite WK3.20.5(a), an Essential Skills work visa holder may hold a visa based on employment that is paid below the median wage (as defined in [WK3.5.1](#)) for a maximum period of 4 years before they are subject to a 'stand-down' period (see WK3.20.5(d)) if:
 - i. they held an Essential Skills work visa (or an interim visa immediately after holding an Essential Skills work visa) and were employed in an occupation listed in WK3.20.7 on 23 March 2020; and
 - ii. they have continued to hold visas allowing work in an occupation listed in WK3.20.7; and
 - iii. they have continued to be employed in an occupation listed in WK3.20.7; and
 - iv. the Essential Skills work visa applied for is based on employment in an occupation listed in WK3.20.7.
- b. For the purposes of (a) above, an Essential Skills work visa based on employment that is paid below the median wage includes an Essential Skills work visa based on lower-skilled employment (for which an application was made before 27 July 2020).
- c. Essential Skills work visas applied for before 28 August 2017 are not considered when calculating the 4 year maximum period.

WK3.20.7 Essential Health Worker Occupations

The occupations referred to in WK3.20.6 are:

- Medical Doctors
- Nurses
- Midwives
- Psychologists
- Physiotherapists
- Technical and support staff working in:
 - Theatre
 - Laboratory
 - Radiology
 - Cardiology Blood service
 - Nuclear medicine
 - Oncology
 - Haematology
 - Pathology
 - Hyperbaric medicine
 - Mortuary
 - Research Staff
- People employed in the following sectors:
 - Aged care
 - Palliative/hospice care
 - Mental health
 - Child health
 - Forensic care workers

WK3.20.9 12-month deferral of the stand-down

- a. Despite WK3.20(b) and WK3.20.5(d), an applicant may be granted an Essential Skills work visa based on employment paid below the median wage, valid for up to 6 months, if their application is made between 1 January 2021 and 31 December 2021.

WK3.20.10 Determining an Essential Skills work visa application where an applicant is awaiting a Skilled Migrant Category decision

- a. Despite WK3.1 (a)(ii), an applicant may be granted an Essential Skills work visa, valid for 1 year without an immigration officer being satisfied that there are no New Zealand citizens or residence class visa holders available to do the work offered if:
- i. they currently hold a temporary work visa; and
 - ii. they have applied for an Essential Skills work visa to continue working in the role they currently hold; and
 - iii. they meet all other requirements of Essential Skills work visa instructions; and
 - iv. they have been issued an Invitation to Apply under the Skilled Migrant Category and retain the ability to apply (see [SM3.1](#)), or have made an application for residence under the Skilled Migrant Category and that application has not yet been completed; and
 - v. their Expression of Interest was selected in part on the basis of points claimed for skilled employment in the role they currently hold.
- b. One further Essential Skills work visa, valid for six months, may be granted in exceptional circumstances to an applicant who continues to meet the requirements of (a) above.

WK3.20.15 Determining an Essential skills work visa application for Filipino dairy workers who have provided false documents

- a. The intent of this section of Essential Skills instructions is:

- i. to recognise that the dairy industry is of particular importance to the New Zealand economy, particularly in regional and rural New Zealand;
 - ii. to acknowledge significant levels of false and misleading information have been identified in previous work visa applications to work in the dairy industry; and
 - iii. to acknowledge that declining a large number of work visa applications for failing to meet the requirement to be of good character would have a detrimental effect on the dairy industry.
- b. These instructions apply to people who:
- i. are nationals of the Philippines;
 - ii. are in New Zealand holding an Essential Skills work visa (or an interim visa based on holding an Essential Skills work visa at the time they made an application);
 - iii. are subject to [A5.45\(b\)](#) as an immigration officer has established that, on the balance of probabilities, in the course of applying for a New Zealand visa they provided any statement, information, evidence or submission that was false, misleading or forged;
 - iv. were granted an Essential Skills work visa to work on a dairy farm before 1 September 2015; and
 - v. are applying for a further Essential Skills work visa to work on a dairy farm.
- c. Despite the character requirement set out at [A5.45\(b\)](#) a person to whom (b) above applies may be granted an Essential Skills work visa if they:
- i. have not subsequently withheld information or provided further false information to INZ, in particular with regard to the application in which they originally supplied false information; and
 - ii. meet all other criteria for the grant of an Essential Skills visa.

WK3.20.20 Minimum income requirement for dependent children of Essential Skills work visa holders

See also Immigration Act 2009 s 49(1)(b)

- a. Essential Skills visa holder workers who wish to support their dependent child's visitor or student visa application, must meet a minimum income threshold specified at [V3.10.10](#) or [U8.20.5.b](#) . The visa holder's dependent child will be assessed against criteria set out in [V3.10.5](#) or [U8.20.5](#).
- b. Parents holding Essential Skills work visas may be liable for deportation if the dependent child's visa application is declined under these instructions and the dependent child becomes unlawful.
- c. It will be a condition of the dependent child's visa and the parent/s visa(s) that the parent/s must maintain the minimum income threshold for the duration of their dependent child's visa. If the threshold is not maintained the parent/s and child may be liable for deportation.

Note: Where both parents hold Essential Skills work visas, their incomes may be combined to meet the minimum income threshold.

The minimum income threshold excludes employment-related allowances (for example tool or uniform allowances) and must be calculated on the basis of no more than 40 hours' work per week

WK4.1 Currency of Essential Skills work visas

- a. An Essential Skills work visa may be granted for the period for which the employment is offered, up to a maximum of:
 - i. 3 years for employment paid at or above the median wage; or
 - ii. 6 months for employment paid below the median wage, where the application is made between 27 July 2020 and 10 January 2022 inclusive, unless a 6 month visa would result in the holder exceeding the relevant maximum period allowed under [WK3.20.5](#) or [WK3.20.6](#); or
 - iii. 1 year for employment paid below the median wage, where the application is made from 11 January 2022, unless a 1 year visa would result in the holder exceeding the relevant maximum period allowed under [WK3.20.5](#) or [WK3.20.6](#); or
 - iv. 3 years for employment for an accredited labour hire company; or
 - v. 1 year or 6 months if the applicant meets the requirements at [WK3.20.10](#) for people also applying under the Skilled Migrant Category for a resident visa.
- b. Where the grant of a 6 month or 1 year visa, for employment paid below the median wage, would result in the holder exceeding the relevant maximum period allowed under [WK3.20.5](#) or [WK3.20.6](#), the visa may be granted for the remainder of the relevant maximum period.
- c. Despite (a) above, if an application for a work visa is approved on the basis of approval in principle issued prior to 27 July 2020, the duration of that work visa may be consistent with the duration stated in that approval in principle.
- d. Despite (b) above, a visa may be granted for up to 6 months in accordance with [WK3.20.9](#)

Note: The maximum periods allowed under [WK3.20.5](#) are based on the total period that the applicant held Essential Skills work visas to work in employment assessed as paid below the median wage (and/or lower-skilled employment for applications made prior to 27 July 2020), and applies regardless of whether the holder was inside or outside New Zealand while holding the visa.