

IMMIGRATION BASICS AND ADVICE ON ENGAGING WITH IMMIGRATION NEW ZEALAND

1. Immigration policy is continuously changing. It can be a complex and time-consuming area to navigate and must be balanced with sometimes competing employment law obligations.
2. Getting good advice on engaging migrant employees and dealing with Immigration New Zealand (INZ) is recommended.
3. Only lawyers, licensed immigration advisors, or other people exempt from licensing are legally able to provide advice on immigration matters.

Upcoming Changes - Compulsory Employer Accreditation

4. From November 2021, INZ is replacing six temporary employer-specific work visa categories with a single work visa category.
5. Employers must be accredited to support an employee's work visa under the new category.
6. There are three different standards of Employer Accreditation status, each with their own criteria:
 - 6.1 Standard Employer Accreditation - for employers who employ 1-5 employer-assisted foreign workers within a 12-month period.
 - 6.2 High Volume Employer Accreditation - for employers who employ more than 5 employer-assisted foreign workers within a 12-month period.
 - 6.3 Labour Hire Accreditation - for labour hire companies.
7. Employers should begin preparing now to ensure that they can meet the necessary requirements to continue to recruit and employ their migrant workforce.

What is ANZSCO?

8. Australian and New Zealand Standard Classification of Occupations (ANZSCO) is the job classification list that INZ uses to assess the skill level of a person's role. Occupations are listed as Skill Level 1-5, with Skill Level 1 being considered the highest skilled roles.
9. ANZSCO sets out the level of work experience or qualification required to undertake each occupation. Foreign qualifications may need to be assessed by the New Zealand Qualifications Authority if they are not exempt from assessment.
10. For Essential Skills work visas ANZSCO is no longer used to determine the skill level or duration of the visa, but INZ will use ANZSCO to assess the qualifications/work experience required by the applicant, and whether the role is on a Skills Shortage List.

Keeping Track of Visa Conditions

11. It is crucial for employers to keep track of the visa conditions of foreign workers to ensure compliance with immigration policy and employment law and mitigate financial and reputational exposure of the business.
12. We recommend all employers implement a visa tracking system noting each employee's visa conditions, which can be checked by employers using INZ's VisaView tool.

Visa Renewals and Interim Visas

13. Employers should be open and communicative with employees regarding the expiry of their visa, and prospective visa renewal applications.
14. Sufficient time should be allowed to any prepare any necessary documentation. The documents that need to be provided will depend on category of the visa application, the employee's role, location of work and payrate. It may include evidence that there are no New Zealand citizens or residents who are suitably qualified/experienced or readily trainable for the role. Any supporting documentation should be provided to the employee well in advance of their visa expiry date.
15. If an employee has submitted a new temporary visa application, but their current visa has expired, the employee should (at INZ's discretion) be automatically granted an interim visa to allow them to remain lawfully in New Zealand.
16. In some instances, an interim visa will allow the employee to continue working. The visa conditions will depend on the visa the individual previously held, and the visa applied for. A careful assessment must be made about the employee's ability to continue work in these circumstances.

Strategy to manage workforce retention

17. Employees often intend to secure New Zealand residency and seek employment that provides them with this opportunity. Employers may wish to consider obtaining advice to understand the different ways that employees can qualify for New Zealand residence, and how to implement measures within the business that can provide foreign workers with a sense of security in their role.

Engaging with INZ

18. Engagement with INZ can occur in a number of forms including:
 - 18.1 lodging initial application documentation;
 - 18.2 providing a written response to a Potentially Prejudicial Information (PPI) letter, detailed questionnaires, or requests for further information;
 - 18.3 telephone interviews; and
 - 18.4 employment site visits.
19. Advice is recommended *before* information is provided to INZ, to provide the best strategy for success and avoid unintended detriment.
20. INZ takes the provision of false or misleading information seriously. All information should be reviewed to check accuracy before it is submitted to INZ. This may be particularly pertinent for applicants who are not fluent in the English language.
21. INZ obtains and shares relevant information with other government departments. Agencies will only be provided with access to information they are legally entitled to, and INZ forms advise on this. All declarations in INZ forms should be carefully reviewed and legal obligations and authorisations understood prior to signing the form.
22. Refusing to provide information, providing insufficient information, or not adhering to deadlines could lead to INZ raising formal concerns via a PPI letter, or declining a visa application.



Privacy

23. It is important to ensure that information and documentation shared with INZ does not breach the Privacy Act 2020.

Our team of specialist workplace lawyers throughout the country are always happy to answer your questions, [contact us here](#)

Disclaimer: We remind you that while this e-resource provides commentary on employment law, health and safety and immigration topics, it should not be used as a substitute for legal or professional advice for specific situations. Please seek legal advice from your lawyer for any questions specific to your workplace