



Temporary Work Permits A guide to employers and permit holders

Introduction

Unemployment has increased dramatically in the last 12 months and is predicted to increase again over the next 12 months. The New Zealand Governments' priority is for New Zealanders to be given first priority on any jobs that become available as an overseas worker's temporary work permit expires. This can create real pressure for some employers especially when there are no suitable New Zealanders available to take up the work on offer. As a result, the Tourism Association, NZ Hotel Council and Hospitality Association of NZ have been working with Immigration New Zealand (INZ) and Work and Income to facilitate a more effective application process.

Purpose of this guide

This guide is designed to assist employers and temporary work permit holders through the process of applying for a further temporary work permit. The parties you and your employee will be dealing with in this process are:

- Immigration New Zealand
- Work and Income

It is important to be aware that before a temporary work permit application is approved, Work and Income and INZ need to be satisfied that there are no suitable New Zealanders available and capable with training, of filling the role. INZ need to be sure that the employer has made genuine attempts to source New Zealanders for the job, and that the terms and conditions on offer meet the New Zealand market. This is called the labour market test (LMT).

It is important to be aware that advertising the position in such a manner that only the migrant meets the job criteria, or in a way that puts suitable New Zealanders off applying, is not a genuine attempt. It is also important to be aware that whether the migrant is well liked by the employer and/or has gained experience in the role is irrelevant. What is relevant is the availability of suitable New Zealanders, as established through the LMT.

The Australian and New Zealand Standard Classification of Occupations (ANZSCO) see appendix 2 attached, differentiates between occupations at different skill levels. Skill levels (1 high - 5 low) are attached to each occupation. Occupations at skill levels 1-3 are considered higher skilled, and those at skill level 4-5 are considered lower skilled (such as waiters and cleaners).

The LMT is mandatory for all applications in occupations that are not on either the Immediate Skill Shortage List (ISSL) or Long Term Skill Shortage List (LTSSL). These lists can be viewed at www.immigration.govt.nz. Advice from Work and Income is mandatory for skill level 4 and 5 occupations. Advice from Work and Income can also be sought for occupations at skill levels 1-3 at the discretion of INZ.

As part of the LMT, Work and Income are asked to provide advice on whether or not they have clients available for the position or that could possibly be trained for the role.

This guide recommends specific timelines which have been agreed by Work and Income and INZ to enable the most efficient and effective decision making process at least 30 days prior to the expiry of any current temporary work permit.

In a tighter labour market, it is in your best interest to manage/monitor work permit expiry dates actively. Don't leave it to chance. Follow this process as closely as possible to ensure the best possible outcome for you and your employee.



90 days from permit expiry

1. The employer decides whether the position will still be available beyond the end of the migrant workers work permit period. Once this decision is made, the employer should discuss the process with the employee to determine what steps should be taken by both parties. This should include advising the employee that the position must be advertised to meet Work and Income and INZ requirements.
2. If both parties decide to proceed with the work permit application, the employer must advertise the role with Work and Income, by calling:
 - ξ Employer line on 0800 77 808,
 - ξ visit www.workandincome.govt.nz, or
 - ξ contact the local Work and Income branch (see Appendix 5 attached)
 - a. It is in your best interest to establish a good working relationship with the key contact at your local Work and Income Branch early in the process. This relationship will enable you to monitor progress and discuss issues that arise.
 - b. The employer should ensure that the job description and the person specification for the role are as detailed as possible. This must include any specific skills, experience, knowledge, training, work conditions, hours/shifts, languages, technical skills which are required. To ensure the effectiveness of the process, Work and Income must understand each position's unique characteristics and why you need a person with specific skills.
 - c. For each interviewee sent by Work and Income, you should complete the form (Appendix 1 attached) as fully as possible.
3. Undertake any other recruitment for the role as may be appropriate, which could include:
 - ξ web advertising
 - ξ newspaper advertising
 - ξ internal search

NB: The more comprehensive the search for a New Zealander, then the easier it will be for Immigration NZ to approve a work permit if **NO** suitably qualified and experienced New Zealander can be found.

60 days from permit expiry

1. Following any Work and Income interviews which may have been undertaken, the employer will need to review whether they still have a position available and require the current employee to go through the process of applying for a temporary work permit.
2. If so, have the temporary work permit holder submit an application to INZ (see Appendix 3 attached).
3. As the employer, you should complete the Employer Supplementary Form (see Appendix 4 attached) providing as much detail as possible to outline why your current employee is required, along with any evidence supporting the renewal request. This material should include the Work and Income vacancy number which will speed up the process. It should include reference to the applicable ANZSCO* classification for the role (see Appendix 2 attached).
4. Once the application is lodged with Immigration NZ, they will request a labour market test from Work and Income. This process will already be underway due to steps previously taken.

30 days from permit expiry

1. INZ will endeavour to advise the employee of the decision no later than 30 days before the expiration of the current permit. In establishing these guidelines, both Work and Income and INZ have acknowledged the need to give both employee and employer as much certainty as possible in advance of any potential stand down period.
2. If the decision is negative and the employer still believes a good case exists, you can apply for a reconsideration of the decision. Detail the reasons why the decision should be reviewed and overturned and provide any new information relevant to the application.
 - a. Should you decide to proceed with a reconsideration, you should issue the employee with notification they may have to stand down if the decision is not made by the expiration date of their current temporary work permit.
3. If you accept the negative decision, you will need to issue a Termination Letter to the employee detailing the final date of employment. (NB: It would be prudent to amend your current Employment Agreement to include a clause covering this).



Resources

The attached appendices will assist completing the process.

Appendix 1 – Work and Income form

Completing this form and including with the application to INZ will assist and speed up the process.

Appendix 2 - The ANZSCO list (Australia and New Zealand Standard Classification of Occupation Structure).

Using this list and detailing the appropriate job title and number will speed up the process. It is still very important to provide a detailed description of the roles, responsibilities, employment conditions and person specifications for the role. The more detail you provide, the more specific you are, the better match Work & Income may be able to make. The ANZSCO can be viewed at:

<http://www.immigration.govt.nz/migrant/general/generalinformation/anzsco>

Appendix 3 - Immigration Services application form for a temporary permit renewal.

Appendix 4 - Employer Supplementary Form

Appendix 5 - Contact details for regional offices of Work and Income.

Appendix 6 - Contact details for regional offices of Immigration NZ.