



30 March 2020

Immigration New Zealand Operational Manual: Amendment Circular No. 2020-12

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 instructions and instruments of delegation on and after 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.

Summary of contents

This amendment circular details changes to Immigration New Zealand's Operational Manual, and contains the following:

- The description of changes section contains a summary of the changes to immigration instructions.
- Appendix 1 contains amended *Temporary Entry instructions* effective on and after 25 March 2020

Additions to immigration instructions are highlighted for ease of reference. Deletions have not been highlighted.

Description of changes

Implementing the New Zealand Government response to the novel coronavirus (COVID-19) outbreak

W2.2 Definitions

Changes have been made to immigration instructions to relax visa restrictions for two groups of current supermarket employees for a period of 30 days:

- work visa holders to allow them to work in roles other than specified on their visa;
- student visa holders to allow them to work more than 20 hours per week

These changes have been made in response to supermarkets experiencing immediate labour supply issues, particularly to meet the increased demand for shelf re-stocking, and their subsequent request to relax visa restrictions for migrant workers.

The definition of 'work' in the Immigration Act 2009 (replicated in immigration instructions) is "any activity undertaken for gain or reward." However, section 4 of the Act allows for activities to be excluded from the definition by way of immigration instructions. Currently immigration instructions exclude groups such as those undertaking official business in the service of any government, or studying or training under a scholarship or other award recognised by the Minister, and so on. The two groups described in the first paragraph above are now also included in the group of exclusions.

The definition of 'supermarket' is tightly defined, limited to retailers selling primarily food and groceries, who are affiliated with Woolworths New Zealand or Foodstuffs Limited.

Appendix 1 contains amended immigration instructions effective on and after 25 March 2020. Additions to the instructions have been highlighted for ease of reference. Deletions have not been highlighted.

Appendix 1 - Amendments to Temporary Entry instructions effective on and after 25 March 2020

W2.2 Definitions

See also Immigration Act 2009, s4

W2.2.1 Definition of 'work'

- a. Work means any activity undertaken for gain or reward, but does not include:
- i. visits by persons undertaking business activities detailed in V3.5(b);
 - ii. official business in the service of any government, or of any inter-governmental or international organisation that is entitled to any privileges and immunities under the Diplomatic Privileges and Immunities Act 1968 (see H2);
 - iii. study or training under a scholarship or other award recognised by the Minister;
 - iv. visits by guests of government (guest of government status is granted by the Visits and Ceremonial Office, Department of Internal Affairs);
 - v. visits by persons who meet the special requirements under V3.55, V3.85, V3.130, V3.140 or V3.150;
 - vi. volunteer work for the Department of Conservation;
 - vii. from 25 March 2020 to 25 April 2020 (inclusive), any tasks associated with the supply of goods to, from, or within a supermarket undertaken by a student or work visa holder who was an employee of a supermarket on 23 March 2020.
- b. For the purposes of W2.2.1 (vii), a 'supermarket' is a retailer selling food and groceries affiliated with one of the following:
- i. Woolworths New Zealand Limited
 - ii. Foodstuffs North Island Limited
 - iii. Foodstuffs South Island Limited
- c. 'Gain or reward' includes any payment or benefit that can be valued in terms of money, such as board and lodging, goods (e.g. food or clothing) and services (e.g. transport).

Note: This definition does not require work as an 'employee'. It also covers self-employment.

W2.2.5 Definition of 'New Zealand' for work purposes

- a. A person is considered to be undertaking work in New Zealand if at any time they are working:
- i. on or in relation to any craft, artificial island, installation, or structure anywhere within the territorial sea of New Zealand; or
 - ii. on or in relation to any artificial island, installation, or structure anywhere within the exclusive economic zone of New Zealand or on or above the continental shelf of New Zealand; or
 - iii. on board any craft that is registered in New Zealand and is engaged in activities anywhere:
 - o within the New Zealand exclusive economic zone; or
 - o on or above the New Zealand continental shelf.
- b. A person is considered to be undertaking work in New Zealand whether or not a New Zealand or overseas resident is providing the payment or benefit for the activity.

W2.2.10 Definition of 'full-time employment'

Unless otherwise specified, full-time employment is considered to be at least 30 hours of work per week for the purpose of all work instructions.

W2.2.15 Definition of 'New Zealand market rate'

- a. For the purposes of work instructions (with the exception of WH1 Recognised Seasonal Employer instructions), the New Zealand market rate is the rate of pay which would be required to recruit a New Zealand citizen or residence class visa holder to do equivalent work.
- b. When assessing the New Zealand market rate, factors immigration officers may consider, include, but are not limited to:
- i. the typical rate of pay a New Zealand citizen or residence class visa holder receives for equivalent work;
 - ii. rates of pay provided by collective agreements for the relevant industry;
 - iii. the region of employment;
 - iv. the period of employment;
 - v. the other terms and conditions of employment (such as the hours of work);
 - vi. the level of training and experience required for the position.