
IMMIGRATION

MAJOR IMMIGRATION LAW AND POLICY CHANGES UNDERWAY

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Recent changes to immigration law and policy will have a significant impact on businesses employing or seconding personnel from overseas.

Changes to the skilled migrant category

Changes to the skilled migrant category were introduced on 4 February this year. They relate to the assessment of whether an applicant's job or job offer constitutes "skilled employment", and which qualifications are recognised by Immigration New Zealand (INZ).

In recognising occupations, the INZ will now be relying on the Australian and New Zealand Standard Classification of Occupations (ANZSCO).

The ANZSCO comprises a list of occupations with designated "skill levels" numbered between one and five (with one being the highest level of skill). It is INZ's policy that, in most cases, levels one, two or three amount to "skilled employment".

The ANZSCO can be searched on the Australian Bureau of Statistics website at: <http://www.abs.gov.au>

In other changes, qualifications at level four of the NZQA's New Zealand Register of Quality Assured Qualifications will now only be awarded points under the skilled

migrant category if they are also:

- National Qualifications, Framework Qualifications (Trade Certificates) or;
- assessed as comparable to a New Zealand National Certificate by the NZQA.

Only those qualifications at level three which are listed on the register as exceptions will be recognised for the award of points.

The Hon David Cunliffe also recently announced some changes to the points system in the skilled migrant category which include:

- an increase to the bonus points awarded for skilled employment, a recognised qualification and work experience in an identified future growth area; and a reduction in the number of years of New Zealand work experience required to claim those points.
- An increase in the bonus points awarded for the principal applicant's partner's recognised qualification and skilled employment in New Zealand.
- Changes to the points available for study in New Zealand, including the introduction of bonus points for post-graduate New Zealand qualifications.

Licensing of immigration advisers

The Immigration Advisers Licensing Act 2007 makes it an offence to knowingly provide immigration advice without being licensed and imposes a maximum penalty of either imprisonment for a term not exceeding seven years, a fine of up to \$100,000, or both.

The term “immigration advice” has a broad meaning and includes advising, directing, assisting or representing another person on an immigration matter relating to New Zealand, whether directly or indirectly, and whether or not for gain or reward. The provision of information that is publicly available is excluded from the definition.

The new licensing regime under the Act will enable advisers to obtain a licence on a voluntary basis from 4 May 2008, with mandatory licensing commencing on 4 May 2009.

Lawyers are exempt from the requirement to be licensed under Section 11 of the Act, as are certain volunteers for Citizens Advice Bureaux and Community Law Centres (with certain provisos).

It will be important for businesses which routinely provide advice to employees relocating from overseas to ensure that they do not unwittingly breach the legislation in the course of providing in-house advisory services.

The Immigration Bill

The Immigration Bill (the Bill), currently with the Transport and Industrial Relations Select Committee, aims to streamline and simplify the system for authorising travel and immigration to New Zealand. The committee is due to report back on 16 April.

The terms “permit” and “exemption” will be removed from the legislation, and all permissions to travel to and stay in New

Zealand will be “visas”. The categories of visa will be permanent resident, resident, temporary, interim, limited and transit visas.

It also includes a proposal to require widespread collection of bio-metric information.

Clause 50 of the Bill specifies that subject to any regulations made under the legislation, an applicant for a visa must allow the collection of bio-metric information. Refusal to do so entitles the Minister or an immigration officer to refuse to grant the visa applied for.

Clause 88 similarly requires any person attempting to board a craft travelling to New Zealand to allow the collection of bio-metric information, with the exception of those who are able to produce a New Zealand passport, or a foreign passport containing evidence of New Zealand citizenship.

Bio-metric information is defined to include a photograph of the person, the person’s fingerprints and an iris scan.

The Bill also maintains the advance passenger processing system. This imposes obligations on a carrier to obtain certain information (prescribed by regulation) from its passengers.

Active Investor Migrant Policy

The Active Investor Migrant Policy opened on 26 November 2007. Its aim is to attract investor migrants with business experience, international connections and financial capital to New Zealand, to support the economic transformation and contribute to the development of innovative, productive, and globally competitive firms in New Zealand.

The policy is divided into three categories:

- **Global Investor Category** – for migrants investing NZ\$20 million in New Zealand, including at least NZ\$5 million in active investment.
- **Professional Investor Category** – for migrants investing NZ\$10 million in New Zealand, including at least NZ\$2 million in active investment.
- **General (Active) Investor Category** – for migrants investing a minimum of NZ\$2.5 million in New Zealand, who have an additional NZ\$1 million for settlement funds.

The different requirements that applicants under the three categories must meet are outlined in the table below.

In addition to the requirements specified below, there are health and character requirements. Bell Gully would be happy to provide detailed advice if required.

	Global Investor Category	Professional Investor Category	General (Active) Investor Category
Investment funds	NZ\$20 million for four years, \$5 million of which must be actively invested (see below)	NZ\$10 million for four years, \$2 million of which must be actively invested (see below)	NZ\$2.5 million for four years
Minimum settlement funds	None	None	NZ\$1 million
Maximum age	None	64	54
Minimum English language	None	IELTS level four for two out of four bands	IELTS level five for two out of four bands
Minimum time in New Zealand	73 days each year	109 days each year	146 days each year

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