



**LIVE IN NEW ZEALAND**

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## NEW ZEALAND IMMIGRATION POLICY

VIEW SKILLED MIGRATION

The New Zealand Government has established a long and complex immigration policy that is designed to recruit and retain desirable individuals from overseas to assist New Zealand to reach its economic goals, while maintaining social cohesiveness.

Unlike other areas of New Zealand Government policy, New Zealand's immigration policy changes frequently. This is due to the changing direction of the Government and the associated needs and requirements of the economy.

Even though New Zealand's set immigration target is one of the highest, per capita, in the developed world, its immigration policy is selective and it is considered more difficult to qualify for New Zealand residence than most other international jurisdictions that operate a controlled migration program.

### A TRANSPARENT SYSTEM?

One of the broad objectives of the New Zealand Government is for immigration policy to be transparent (and therefore fair).

However, in reality, the New Zealand Government's drive to increase transparency in the system has removed a significant degree of discretion from the immigration officers processing residence applications (Skilled Migrant Category applications in particular). While this may be perceived as a benefit, in practice it means that unless an individual is appropriately assisted or completely understands the immigration policy they are applying under, mistakes can easily be made for basic failure to understand how the policy is administered and processed, even if what the policy provides is understood.

Once you make the decision that you would like to obtain New Zealand permanent residence there are two choices

First, you can assess, complete, submit, and process your own applications directly with Immigration New Zealand (**INZ**). The difficulty in taking responsibility for your own application is that you will not receive direct or reliable assistance with your application from INZ. INZ will provide information to you; they will not provide personalised tailored advice. There is a huge difference between the two.

Second, you instruct the **Live in New Zealand** team to take full responsibility to ensure you qualify and therefore obtain the visas you require.

There are two main reasons why our team receives instructions to assist applications:

1. You may simply not have enough time or the ability to research and understand the regulations in sufficient detail to ensure that you will obtain residence
2. You wish to instruct our firm of New Zealand lawyers to assist you through the entire process to ensure you qualify and that you obtain the required visas in a timely and stress free manner

By submitting a significant number of temporary and residence applications per year at INZ branch offices internationally, our firm has built a reputation within INZ for providing professionally prepared applications that allow individuals to obtain visas as quickly as the INZ official processing the application can issue the visa into the passport.

Our firm has forged key relationships with front line processing staff within INZ internationally, alongside important connections and significant goodwill with temporary, residence, technical, and branch managers internationally.

We are selective with the instructions we receive on an immigration matter due to the fact that the goodwill that has been built up by our firm over the last 20 years is of significant benefit to all our clients moving through the immigration process.

Each immigration processing office and individual immigration officer has a set target of applications that they must process on a yearly basis. We have received advice in the past that applications tendered by our office had been fought over by immigration officers as those applications were complete and easy to approve as, unlike with individuals filing their own applications, there is no need for significant correspondence between INZ and the applicant requesting further information or documentation that should have been presented on submission. Our firm has also received instructions from clients who have been unofficially referred to us, where the person has asked INZ directly for a recommendation for a professional representative.

To us, our reputation with INZ is everything. The development of goodwill between our firm and INZ branches throughout the world is invaluable when, in some complex applications, discretion is exercised.

Once you ask the **Live in New Zealand** team to assist you in the entire immigration process, you will receive the tangible benefits of an experienced and professionally organised team to cut through the bureaucratic red tape to obtain the visas you require as quickly as they can possibly be obtained.

### **APPLICATION OF IMMIGRATION POLICY**

You either will have or will soon attempt to navigate the INZ website to determine your eligibility for New Zealand residence.

While the information provided in the INZ website is substantive in terms of application criteria and policy, relying on the information provided in that website alone is extremely dangerous. INZ will provide information to you. However, they will not provide tailored guidance to you in terms of your particular circumstances and the best way to achieve your migration goal, nor will INZ provide any advice or assistance if there is a potential issue with your application that could be easily corrected.

The New Zealand Government invites applications from individuals to apply for New Zealand residence while providing a comprehensive breakdown of the rules and application criteria. Your application is sorted and vetted strictly against these criteria. The key with many residence applications is how to present the application to INZ, and also to identify possible issues where genuine changes can be made to the application before submission to the New Zealand Government. You have one chance to file a correct and compliant application.

In reality, no two residence applications are the same, and that is why our firm provides a free online assessment and consultation as part of our immigration service. Our online immigration assessment has been designed so that, within a few minutes of reviewing the form, we will be able to provide an opinion as to whether or not the individual is likely to qualify for New Zealand residence. However, this is only a preliminary assessment, and is by no means a full assessment of the process. If an individual would like to move forward with the immigration process and engage our firm to assist them, we would then follow up with a full consultation and a final assessment during that particular part of the process.

Many immigration consultants charge for an initial assessment on the pretence that the assessment is complex. These assessments however will not provide specifically detailed advice tailored to your particular circumstances. Only with a direct, in-depth conversation with an immigration adviser can accurate and comprehensive advice be provided.

### **APPLICATION CRITERIA**

The INZ Operational Manual (**Manual**) that contains the significant part of INZ policy is over 1000 pages long.

It would be impossible in this website to provide a full analysis of each policy, and what we offer here, therefore, is a broad summary of the main parts of immigration policy that apply to most overseas applicants wishing to reside in New Zealand.

By contacting the **Live in New Zealand** team and completing our online assessment, this form will record the basic details in order for our firm to assess your eligibility for New Zealand permanent residence under all current categories.

What we offer here is not so much of a substantive look at each policy. It is an overview, and a practical summary as to how each particular policy works.

For obvious reasons, we have decided not to set out all residence criteria, in favour of concentrating on the major policies.

## SKILLED MIGRANT CATEGORY

The main category of New Zealand residence is the Skilled Migrant Category (**SMC**). Under this category, residence will be granted to people who demonstrate that they:

1. Have the skills to fill identified needs and opportunities in New Zealand
2. Are able to transfer those skills to New Zealand in line with local needs and opportunities
3. Are able to demonstrate an ability to contribute to New Zealand both economically and socially
4. Are able to demonstrate an ability to successfully settle in New Zealand

It is also important to note that the SMC is not a passive application for New Zealand residence. This means that an application for New Zealand residence cannot be made directly to the INZ office and the application processed. An initial electronic application must be submitted to INZ for their review. A decision will be made by INZ as to whether or not to actually invite you to apply for New Zealand residence.

Accordingly, a successful application for New Zealand residence under the SMC requires a two stage process.

### EXPRESSION OF INTEREST

The first stage of a successful application for New Zealand residence under the SMC is the submission of an Expression of Interest (**EOI**) to INZ.

The **Live in New Zealand** team completes, in full, all EOIs to be submitted to INZ on behalf of our clients.

It is imperative that the information and advice provided in the EOI is accurate and complies with INZ policy, as the EOI itself will form the basis of the decision of INZ to invite the applicant to apply for New Zealand residence. It is imperative to understand that if an EOI is declined, there is no right of appeal.

Completed EOIs are submitted and enter a “pool”, as long as the applicant has (correctly) claimed a minimum of 100 points.

Depending on the points claimed and the circumstances of the applicant the EOI submitted to the SMC pool will be ranked in the following order or priority:

1. **Type A** – applicants claiming 140 points or more that includes either current or an offer of skilled employment
2. **Type B** – applicants claiming 140 points or more although their application does not include current or an offer of skilled employment
3. **Type C** – applicants claiming 100 to 135 points that includes current or an offer of skilled employment
4. **Type D** – applicants claiming at least 100 points that includes a claim of at least six years of full time work experience in an area of absolute skill shortage
5. **Type E** – applicants claiming at least 100 points which includes a claim of at least two years of work experience in an area of absolute skill shortage
6. **Type F** – applicants claiming at least 100 points that includes a claim for points for a recognised qualification in an area of absolute skill shortage
7. **Type G** – every other EOI claiming the minimum of 100 points

### SELECTION FROM THE POOL

EOIs of type A, B, and C will be selected from the SMC pool on every draw (every second Wednesday).

Type D, E, F, and G applications may be selected and invited to apply for New Zealand residence based on additional selection criteria that is set by INZ every six months.

The New Zealand Government operates strict immigration criteria and controls the numbers of individuals applying for and obtaining New Zealand permanent residence per year. The number of EOIs then selected from the SMC pool, and ultimately invited to apply for New Zealand residence, depends directly on the numbers of applications for New Zealand residence being processed in the system and whether or not the New Zealand Government is close to reaching their migration target.

Type A, B, and C applications are most desirable, in order, for an individual to qualify for New Zealand residence. Type D, E, F, and G (in that order) are ranked, and a decision is made by the Government every selection date as to what types of application are accepted.

For example, individuals with type D applications in most instances will be selected from the SMC pool to undertake further verification. However, type D, E, F, and G applications are not guaranteed to be selected from the SMC pool for verification.

These additional selection criteria ranks, in descending order, the priority of EOIs selected from the SMC pool. In essence, the lower the type of your application, the less likely you will be selected from the SMC pool to receive an invitation to apply for New Zealand residence.

Currently, the additional selection criteria are as follows:

1. **Type D** – applications claiming six or more years of work experience in an area of absolute skill shortage (in descending order of their points total). If there are more available places, then:
2. **Type E** - applications claiming two years of work experience in an area of absolute skill shortage (in descending order of their points total). If there are more available places, then:
3. **Type F** – holding a qualification in an area of absolute skill shortage (in descending order of their points total). If there are more available places, then:
4. **Type G** – all other applications left in the pool (in descending order of their points total)

For obvious reasons, an individual who is in a type G application, claiming a minimum of 100 points, is not in a favorable position.

EOIs submitted to the SMC pool are valid for a period of six months. If the EOI is not selected within that six month period, the EOI lapses and a second application would need to be made in order for the application to be submitted to the SMC pool for further draws.

In reality, however, no EOI application should be tendered to the SMC pool unless it will be selected and the individual invited to apply for New Zealand residence. No EOI submitted by this firm to the SMC pool has ever lapsed.

The main issue with EOI applications is individuals miscalculating their points allocation, as they do not hold the required understanding of the policy that applies in terms of the points criteria. It is in your interest to get the application right the first time. If we believe you will not be selected from the SMC pool and invited to apply for New Zealand residence we will not accept instructions from you to assist in the immigration process.

#### **INVITATION TO APPLY FOR NEW ZEALAND RESIDENCE**

After your EOI has been selected from the SMC pool, INZ will undertake a preliminary verification of the information supplied to ensure that the points allocation has been calculated correctly and to be satisfied that there is a prima-facie case for New Zealand residence.

Once the verification process is undertaken, an invitation to apply for New Zealand residence is issued. Although, it is very important to understand that receiving an invitation to apply for New Zealand residence is not a guarantee that New Zealand residence will be granted.

An invitation to apply for New Zealand residence allows an applicant to tender their formal application for New Zealand residence under the SMC to INZ, although the application will be processed against full SMC policy criteria. It is at this stage of the process that the applicant will be required to objectively prove information recorded in their EOI.

Once an invitation to apply has been issued and the applicant has submitted a full SMC application, the next stage of the process for INZ will be to decide whether or not the individual has demonstrated an ability to settle and contribute to New Zealand. This is a very important part of the process.

Applicants who are deemed by INZ to have demonstrated an ability to settle and contribute to New Zealand will be granted permanent residence outright. In order to be granted New Zealand permanent residence outright, an individual must either:

1. Hold an offer of skilled employment or be in current skilled employment in New Zealand, or
2. Have undertaken full-time study for at least two years in New Zealand that resulted in:
  - a. the award of a Doctorate or Masters Degree, or
  - b. a qualification in an area of identified future growth or relevant to an occupation in absolute skill shortage

Applications that have not been able to demonstrate an ability to settle and contribute to New Zealand by one of the above means are required to undertake a further assessment of their ability to realise their potential to successfully settle and contribute to New Zealand.

There are three outcomes at this part of the assessment:

#### 1. RESIDENCE GRANTED

If an applicant is able to demonstrate that he or she has high potential to readily obtain skilled employment in New Zealand, residence will be granted (subject to conditions to be applied, if any).

#### 2. 12 MONTH DEFERRAL

If an applicant has not demonstrated an ability to settle and contribute to New Zealand, INZ will grant a 12-month work visa in order for the individual to travel to New Zealand and obtain full time employment in New Zealand as they have demonstrated a potential to settle and contribute.

#### 3. RESIDENCE DECLINED

If INZ believe that the applicant has failed to demonstrate either an ability to settle and contribute or having the potential to settle and contribute, the application will be declined. This is very rare.

In most instances, where a further assessment is undertaken, INZ will offer a 12-month open work visa to allow the main applicant to travel to New Zealand to source a full-time offer of skilled employment. Once the applicant has worked in that position for a period of 3 months (within the 12-month visa period) INZ will grant New Zealand residence to the individual.

### COMPLEXITY

The information provided above regarding the SMC provides a general summary regarding selection criteria, although it does not provide any detailed advice as to how an individual can claim the points required in order to reach the most desirable type of EOI/SMC application.

The information contained in this website, and also the INZ website, will lead you to the logical conclusion that there is far more to submitting an SMC application than merely filling in a form. Likewise, there is much more that our Live in New Zealand team will assist with than merely filling in the forms. Anybody can do that.

If you would like our firm to undertake an initial free assessment as to whether or not you do have a chance of securing New Zealand residence we would encourage you to complete our free online assessment form. Please click on the following link:  
<http://www.liveinnewzealand.co.nz/take-an-assessment.php>

We will respond to you within five working days with our initial opinion as to whether or not you potentially qualify for New Zealand residence. We refer you to the testimonials/case studies on this website from individuals who we have assisted through the immigration process. We have, on many occasions, had to step in and correct many applications from individuals who have instructed an immigration consultant or tried to process their applications themselves. It is much more difficult and expensive to repair something after it has been broken.

### HOW DOES IT WORK?

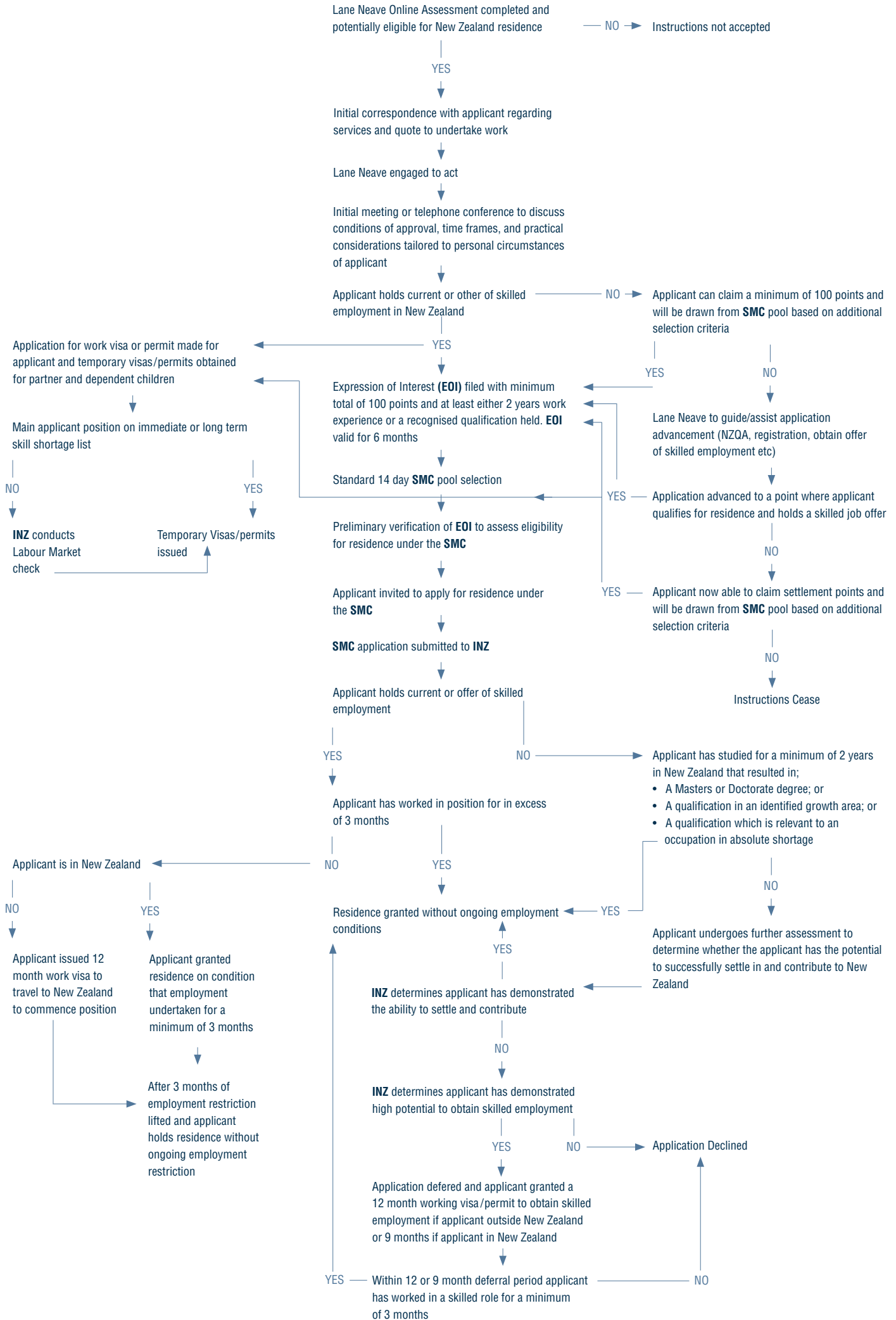
In most applications, the main applicant will require a full-time offer of skilled employment to obtain New Zealand permanent residence.

The main question that is posed at the initial stage of the process is: how is this achieved?

The easiest way to set out how the process is completed, from first contact with our firm to the eventual grant of New Zealand residence, is by way of the flow chart below. However, a point needs to be made that every individual case is different, and, depending on your personal circumstances, a different or slightly varied option to the route set out in the flow chart below may be required.

Our firm will tailor its advice and assistance to your particular circumstances. For some applicants, one way of obtaining New Zealand residence may not suit another. (The best example is a couple with no children as compared to a couple with children.) Not only are there technical qualifications that need to be adhered to, there are also the practical considerations of actually transferring your lives from one side of the planet to the other. The flow chart below will provide some idea as to how the process is undertaken, although full tailored advice will be provided in our first telephone discussion or meeting once you have determined that you would like our firm to assist you.

# SKILLED MIGRATION



Please contact us so that we can identify the most appropriate and efficient way for you to gain New Zealand residence.

## **WORK TO RESIDENCE VISA**

This part of immigration policy is designed to assist and facilitate the short-term (and long-term) employment of individuals with high levels of skill that are readily transferable to New Zealand, or individuals with particular skills sets that are sought after and needed by important New Zealand employers.

There are two main work to residence applications.

### **1. TALENT (ACCREDITED EMPLOYER) WORK POLICY**

- a. Certain employers in New Zealand are accredited. Accredited employers enjoy a position of trust with the New Zealand Government and are able to recruit their own employees who they deem necessary for the fulfilment of their business and financial objectives.
- b. In order for an applicant to obtain a work to residence visa the applicant must be paid a minimum base salary of \$55,000.00 per annum (based on a 40-hour week) and, among other things, satisfy health and character criteria usually applied to applications for New Zealand residence.
- c. On approval, a visa will be granted for a 30-month period, and following the applicant being employed in New Zealand for a period of two years for their accredited employer they will be eligible to apply for and obtain New Zealand residence under the residence from work scheme.
- d. An important point to note (as with the long-term skill shortage talent visa below) is that in order for an individual to qualify for New Zealand residence after two years of employment, they must be less than 56 years of age when they submit their residence application.

### **2. LONG TERM SKILLS SHORTAGE LIST**

- a. If an applicant obtains a full time offer of employment in New Zealand in an area of absolute skill shortage the applicant will be granted a 30-month visa to allow the individual to be employed in that occupation in New Zealand.
- b. The difference in this policy, compared to the accredited employer scheme, is that if an individual is able to obtain an employment position in an area of absolute skill shortage, then the individual can be employed by any employer as long as the person is paid a base salary of a minimum of \$55,000.00 per annum, and meets the requirements specified in the long term skill shortage list (minimum qualifications/experience).
- c. Like the accredited employer work to residence visa, it is also important to note that the individual must be less than 56 years of age when they submit their residence application.

## **HOW DO WORK TO RESIDENCE VISAS FIT WITHIN SMC POLICY?**

- a. Many employees under the work to residence category (either accredited employer list or long-term skill shortage list) are under the misunderstanding that in order for them to qualify for New Zealand residence they will be required to work for their New Zealand based employer for a period of two years.
- b. In fact, most individuals who travel to New Zealand on a work to residence visa actually also qualify for New Zealand residence under the SMC.
- c. While applicants can apply for a work to residence visa, once the applicant travels to New Zealand an application for New Zealand residence under the SMC should be lodged as soon as possible. This allows New Zealand residence to be granted to the individual, giving the right to reside in New Zealand indefinitely.

## **BUSINESS POLICY**

The objective of Business Immigration Policy is to contribute to New Zealand's economic growth by fostering outside links, increasing New Zealand's level of human capital and encouraging enterprise and innovation.

Business Immigration Policy is a special category. There are five main applications of interest.

## **INVESTOR CATEGORY**

The Investor category of residence is split into three investment tiers depending on the amount of available investment.

The table below sets out a summary of each particular investment tier. The Global Investor, Professional Investor, and General (Active) Investor:

<b>INVESTMENT CAPITAL</b>	Global Investor \$20M At least \$5M active*	Professional Investor \$10M At least \$2M active*	General (Active) Investor \$2.5M Must be at least semi-active*
<b>MINIMUM BUSINESS EXPERIENCE</b>	4 years*	4 years*	4 years*
<b>MAXIMUM AGE</b>	None	Up to 64	Up to 54
<b>MINIMUM ENGLISH LANGUAGE REQUIREMENT</b>	None	IELTS 4 (two band scores)	IELTS 5 (two band scores)
<b>MINIMUM SETTLEMENT FUNDS</b>	None	None	\$1M
<b>MINIMUM TIME IN NZ</b>	20% every year	30% every year	40% every year

The following points are of interest:

#### **SEMI-ACTIVE AND ACTIVE INVESTMENT\***

The investment required under all three tiers cannot be passive.

In relation to semi-active investment, INZ have determined that these investments include managed funds, and minor shareholding.

In relation to fully active investments, these have been determined by INZ as major shareholding (minimum 10%), being a partner in a business and/or a sole proprietor of a New Zealand business.

It should also be specifically noted that funds are not able to be invested directly or indirectly in residential property development, even if these are sound investment opportunities capable of providing a commercial return.

#### **BUSINESS EXPERIENCE\***

A minimum of four years business experience is required under each tier. The business experience will need to include activity which required *“planning, organization, senior change-management, direction setting and mentoring acquired through ownership of, or management level experience in a lawful business expertise”*.

Further, the business must employ at least five full-time employees and have an annual turnover of at least NZ\$1million.

#### **MINIMUM SETTLEMENT FUNDS**

In the General (Active) Investor tier a minimum of NZ\$1million is required for settlement funds. This means that not only is an applicant required to demonstrate they have in excess of NZ\$2.5million to invest in New Zealand for a period of 4 years in a semi-active investment; the applicant must also demonstrate they have NZ\$1million of extra funds in order to financially maintain themselves during the investment period.

#### **PHYSICAL PRESENCE**

The physical presence requirement varies from tier to tier, with the lowest form of investment requiring the most time physically in New Zealand.

In terms of a New Zealand tax perspective (refer our tax section) an applicant is automatically a New Zealand tax resident and thus required to pay income tax in New Zealand on their world wide income if they have resided in New Zealand for a period of six months in any one year (there are exceptions to this – refer our tax section).

It should be noted that applicants staying less than six months in New Zealand can be deemed a tax resident in New Zealand, depending on their personal and family circumstances. Therefore, any individual considering investing in New Zealand and wishing to avoid a New Zealand tax liability should seek appropriate professional advice before committing to the application. In most instances tax liability can be avoided by sound planning.

## **LONG TERM BUSINESS VISA AND ENTREPRENEUR CATEGORY**

### **LONG TERM BUSINESS VISA POLICY**

There is a broad assumption that the Long Term Business Visa (**LTBV**) category is a type of New Zealand residence application. This is not the case. The LTBV is essentially a 3 year temporary work visa which allows an individual the opportunity to make an investment in a New Zealand business (minimum 25%) by purchasing or establishing a new business. After operating the business for a 2 year period within the 3 year currency of the LTBV, an application for New Zealand residence can then be made under the Entrepreneur Category (refer below).

There are various requirements for a successful LTBV application, and considerable discretion can be exercised by the immigration officer processing the application. Generally however, in order to obtain an LTBV the individual applying for the visa must:

1. Hold a satisfactory business plan
2. Have business experience relevant to the business proposal
3. Have not been involved in bankruptcy or business failure within the 5 years preceding the date of the application
4. Have not been involved in business or financial impropriety
5. Have, in addition to the investment capital required for the business plan, sufficient funds for the maintenance and accommodation of the applicant applying and/or family members included in the application for the entire currency of the LTBV
6. Satisfy INZ that the applicant is genuinely interested in establishing a business in New Zealand

### **BUSINESS PLAN**

The most crucial part of an LTBV application is the business plan.

It is advisable that the business plan is prepared by a New Zealand Chartered Accountant, and preferably, a Chartered Accountant who has previous experience in preparing business plans for LTBV applications.

There are two crucial parts of the plan that should be given significant attention.

First, demonstrating that the applicant has the required knowledge and has conducted sufficient research regarding the plan and New Zealand business environment.

Second, providing information as to how the proposed business will actually benefit New Zealand and prove to INZ that the business will be profitable or at least have the potential to be trading profitably at the time an Entrepreneur Category application is lodged.

### **RESEARCH**

We would discourage individuals from applying for an LTBV unless the individual has actually traveled to New Zealand to undertake some market research and received advice from their New Zealand accountant to be instructed to draft the plan.

Although not impossible to obtain an LTBV before traveling to New Zealand, immigration officers are usually hesitant to grant LTBV's if the individual in question has never been to New Zealand and therefore does not understand the New Zealand business environment.

With any serious business plan, market research must be undertaken, and although a New Zealand based Chartered Accountant can assist with this, it will be materially important for any applicant to demonstrate that they have taken the time to travel to New Zealand to research their proposal.

## **THE BENEFIT AND PROFITABILITY TEST**

INZ will need to be suitably satisfied that the business has the potential to actually benefit New Zealand and be profitable. A business will be considered to benefit New Zealand and satisfy the profitability test if it contributes to New Zealand's economic growth. INZ will take into consideration (among other things) the following:

1. Whether the business will introduce new, or enhance existing technology, management or technical skills; or
2. Whether the business will introduce new or enhance the existing products or services; or
3. Whether the business plan will create new, or expand existing export markets; or
4. Whether the business plan will create employment (other than employment for the applicant); or
5. Whether the business proposal will revitalise an existing business; and
6. Whether it appears likely the business will be trading profitably at the time any subsequent application under the Entrepreneur Category is made, or clearly has the potential to be trading profitably within 12 months after the date of the submission of the Entrepreneur Category application

While the applicable policy above provides a guide as to how a business is determined to benefit New Zealand, what applicants should be aware of is the actual way INZ practically apply the policy. INZ want to see business plans which require significant investment, that are going to introduce something that is perhaps new to an area, that are not merely going to create more competition, and are not merely going to employ the applicant and/or their family members but also actually create employment opportunities for New Zealand citizens or New Zealand residents.

While obtaining an LTBV can be a difficult process in itself, it is very much only the first stage of the process for an applicant to move towards holding the right to indefinitely reside in New Zealand. The second stage of the process, which is more important than the initial LTBV application, is the subsequent application for New Zealand residence under the Entrepreneur Category.

Before any LTBV application is considered, it is also material to consider the current policy governing the grant of residence under the Entrepreneur Category. Many applicants who do not receive accurate advice and assistance do not consider this policy before applying for an LTBV.

## **ENTREPRENEUR CATEGORY**

The objective of the Entrepreneur Category is to attract migrants who can demonstrate that they have been actively participating in a business and contributing to New Zealand's economic development.

An applicant must demonstrate that they have been legally involved in the management and operation of their own business in New Zealand for a minimum of two years immediately preceding the application, the business is profitable, and is benefiting New Zealand in some way.

An individual will be considered to have successfully established a business in New Zealand if they have established or purchased or made a substantial investment (at least 25%) in a business operating in New Zealand and the main applicant of the Entrepreneur Category application has been self employed in the New Zealand business for at least two years preceding the date the application for residence under the Entrepreneur Category is made.

INZ have been very strict in relation to the definition of an applicant operating a business. An applicant will not be termed to be operating the business if the investment has been passive or speculative in nature only.

## **ENTREPRENEUR CATEGORY BENEFIT TEST**

Under the Entrepreneur Category, INZ will determine whether or not the business at the time of submission of the application is also materially benefiting New Zealand. The same benefit test is applied to individuals demonstrating that the business will benefit New Zealand in an LTBV application.

It is, therefore, very important that when an LTBV application is submitted, the benefits to New Zealand are not padded, as the benefits advised in the LTBV application will be a starting point for the INZ officer processing the Entrepreneur Category application.

Obviously, if the business environment has negatively impacted on a business and some benefits envisaged in the LTBV did not eventuate, this would be explainable.

The bottom line, however, is that if an applicant is able to demonstrate the full time employment of at least one New Zealand citizen or resident, then this is currently enough to reach the benefit test.

### **EMPLOYEE OF A RELOCATING BUSINESS CATEGORY**

The objective of this category is to promote New Zealand as a place in which to invest and locate businesses. This is facilitated by granting residence to employees of businesses relocating to New Zealand who do not qualify for residence under any other existing category.

This category is designed for large corporations or multi-national companies intending to establish a branch in or relocate to New Zealand who require a key employee (or a number of key employees) to also relocate to ensure the successful establishment and operation of the business.

### **FAMILY CATEGORY**

The objective of the New Zealand family immigration policy is to contribute to nation building and strengthen families and communities while reinforcing the Government's overall immigration policy objectives.

Family applicants for New Zealand residence can be submitted if the applicant is living in a stable relationship with a New Zealand citizen/resident, or they are a parent, dependent child, adult sibling, or adult child of a New Zealand citizen or New Zealand residence holder.

Various requirements relate to each particular category. If you have a partner or family member who is a New Zealand resident or citizen, we suggest you contact us for advice as to whether you would qualify for residence under family policy.

### **SPECIAL DIRECTION FROM MINISTER OF IMMIGRATION**

You do not qualify? All is not lost.

For cases that are truly exceptional, an approach can be made directly to the Minister of Immigration for the grant of a special direction.

Our firm has assisted many individuals to apply for and obtain New Zealand permanent residence by a direct approach to the Minister. In New Zealand's immigration policy, the Minister has the right to determine what policy criteria will apply and, also, the power to grant New Zealand permanent residence to an individual at his or her absolute discretion.

There are many cases where applicants will be able to provide significant benefit to New Zealand but are unable to fit within the strict policy criteria for reasons personal to the applicant. In such cases, where exceptional circumstances exist, a direct submission can be made to the Minister of Immigration and New Zealand permanent residence granted.

During the initial assessment process we will be able to determine whether or not we believe there are alternative circumstances which may warrant the submission of a special direction application to the Minister. For obvious reasons we will only receive and accept instructions in applications we believe have a sound chance of obtaining a special direction.

### **SHOULD YOU USE A LAWYER?**

If you are considering using an advisor to represent you with INZ, you need to choose carefully.

We will not accept instructions from you unless we are confident that you will obtain a visa. If there is any risk that an application will be declined (due to a medical or character issue, for example) you will be advised in detail to allow you to make a fully informed decision before instructing our firm to process your application.

What you are undertaking here is a significant process. There are a myriad of practical considerations to take into consideration. We are sure that you will find it invaluable having a professional advisor who is able to confirm you will be eligible, obtain the required visa for you, and practically guide you through the immigration process from start to finish.