



Policy and Guidelines for Temporary Immigration Work Permits

March 2010

Immigration New Zealand policy:

New Zealand's immigration law and regulation with regard to work permits for non New Zealanders is described within the Operations Manual of government agency Immigration New Zealand. The Manual itself meets the requirement of section 13A of the Immigration Act 1987 that Government policy for visas and permits be published.

All individuals from outside New Zealand, excepting Australian citizens or residents, require a work permit before they can legally undertake any form of employment in New Zealand. This requirement includes all screen production industry personnel working on productions filmed in New Zealand even if they are contracted and receive payments for their work from outside New Zealand.

Immigration New Zealand regulations specific to the Screen Production Industry.

Section WS3.1 of the Immigration New Zealand Operations Manual describes the regulations in the form of criteria that every production company, producer or employer must comply with before making a decision to engage a non New Zealander on any production to be undertaken in New Zealand.

The criteria are:

- i. adequate evidence that the applicant is of international distinction or merit, or particular ethnic significance, or is manifestly essential to the presentation or production; **and**
- ii. adequate evidence that the applicant's employment does not put at risk the employment of New Zealand entertainers or professionals in equivalent work unless the wider benefits to be obtained from the applicant's employment outweigh the loss of job opportunities for New Zealanders; **and**
- iii. adequate evidence that they have given appropriate consideration to employing available New Zealand entertainers or professionals

Producers Obligations:

It is the obligation of every production company, producer or employer who engages or intends to engage an individual from outside New Zealand to work in New Zealand to comply with the relevant law and regulation.

The production company, producer or employer must be able to provide the evidence that they have satisfied all three criteria.

NZF&VTG Role:

The production company, producer or employer is required in the regulation to consult and seek agreement from the relevant union or professional association. The consultation is carried out by submitting all relevant information and requesting a Letter of Non Objection for each applicant.

The NZF&VTG undertakes the assessment of the required criteria with respect to all screen production personnel except producers, actors and directors.

The NZF&VTG also takes into account factors such as domestic industry common practice and precedence.

In practice, in the first instance, the NZF&VTG only requests basic information about the production and the individual and requests the complete evidence should the application appear to be in breach of the regulations.

A successful assessment results in the provision of a "Letter of Non Objection"

Appropriate consideration to employing available New Zealanders:

The NZF&VTG requires that this evidence is a thorough examination of all suitably experienced personnel within New Zealand. This is to avoid the situation where a limited number of personnel were considered but are unavailable due to other commitments.

Domestic Production:

Domestic Production is defined as any video & film production which is either financed or commissioned in New Zealand or is primarily made for the purpose of screening in New Zealand or is considered from a creative aspect to be a New Zealand work and is made in New Zealand.

Due to precedence, industry common practice and the expertise within the New Zealand industry, the NZF&VTG does not consider that any international personnel meet the criteria for domestic production unless there is a verifiable industry shortage of personnel due to a high level of screen production within New Zealand.

Exclusions:

- i) Australian citizens, or the holders of a current Australian permanent residence visa including a current Australian resident return visa.

Due to the "Trans Tasman Travel Arrangement" Australians and New Zealanders can travel to and live and work in one another's country without restriction.

As such, Australians are excluded from the criteria and are free to work within the New Zealand screen production industry.

- ii) Productions certified as Official Co-Productions.

Any provision with respect to personnel within the relevant co-production treaty takes precedence over the criteria in WS3.1 for any feature film or television drama production certified as an Official Co-Production by the New Zealand Film Commission.

In this circumstance, the producer is not required to obtain approval from the relevant union or professional association. However, the NZF&VTG will issue a letter of non objection on request to assist with the timely immigration processing of the applicant.

Extract of Immigration New Zealand Operations Manual section WS3.1

WS3.1 Evidential and other requirements for entertainers, performing artists and associated support personnel, film and video production and post-production crew, producers, and directors

- a. Employers, promoters, agents or producers must provide, and visa and immigration officers must be satisfied with, the following evidence and information:
 - i. adequate evidence that the applicant is of international distinction or merit, or particular ethnic significance, or is manifestly essential to the presentation or production; **and**
 - ii. adequate evidence that the applicant's employment does not put at risk the employment of New Zealand entertainers or professionals in equivalent work unless the wider benefits to be obtained from the applicant's employment outweigh the loss of job opportunities for New Zealanders; **and**
 - iii. adequate evidence that they have given appropriate consideration to employing available New Zealand entertainers or professionals; **and**
 - iv. the full names, nationalities, dates and places of birth of each applicant; **and**
 - v. a guarantee of accommodation and repatriation for each applicant.
- b. Employers must submit this evidence and information in writing to the nearest branch office of the NZIS at least 10 working days before the proposed engagement.
- c. The NZIS may waive the time limit of 10 working days if in exceptional circumstances the availability of a performer (or a replacement) cannot be confirmed until closer to the date of the event.

WS3.1.1 Obtaining the agreement of the relevant New Zealand performers' union or professional association

- a. Visa and immigration officers must sight evidence that the information required in WS3.1 above has been supplied to the relevant performers' union(s) or professional association(s) depending on the specific occupations of all those involved in the performance or production.
- b. Details of the relevant unions/professional associations and their officers are published on the NZIS Internet Website.
- c. If the relevant union or professional association does not object to the application, the NZIS may authorise the appropriate New Zealand overseas branch or post to issue a work visa.

- d. If the relevant union or professional association objects to the application, the union must notify the NZIS within 3 working days of receiving the information required by WS3.1.1(a) above from the promoter, agent or producer.
- e. The NZIS will then consult with the parties to resolve the disagreement as quickly as possible. Note: In the case of film production, the NZIS may also seek advice from the New Zealand Film Commission or any other appropriate industry or government organisation.
- f. If the parties cannot reach an agreement, the NZIS refers the application to the Minister of Immigration for a decision.