



## Employing Overseas Workers

### Can I hire the worker?

In order to be able to offer a job to an overseas person in New Zealand, you must first check that that person is entitled to legally work here. You can do this by asking to see either a passport with a New Zealand residence class visa or a passport with a valid New Zealand visa with conditions allowing that person to work for you.

### What if they don't have a work or residence class visa?

If the overseas worker does not meet the above criteria, you can make a job offer to them but it needs to be conditional upon them obtaining a work or residence class visa. It is important to note that the person must not start working for you until they have the necessary visa.

### How do they get a work or residence class visa?

There are a number of different temporary work categories that the person may be eligible to apply under. The most common category is the Essential Skills Category which is for people who have a job offer from a New Zealand employer.

There are also two options for skilled workers wanting to apply for New Zealand residence being the Skilled Migrant Category and the Work to Residence Category. The Skilled Migrant Category works on a points system, with points being earned on the basis of an applicant's qualifications, work experience, age and occupation or job offer in New Zealand. Bonus points can be earned if the job, job offer or work experience is in an industry which has been identified as having a skills shortage or growth potential. The Work to Residence Category allows a person to obtain a temporary work visa as a step towards gaining permanent residence.

### What happens if I employ an overseas worker who does not have a work or residence class visa?

The Immigration Act 2009 makes it an offence for an employer to:

1. Employ a person who is not entitled to work in New Zealand - this carries a maximum fine of \$10,000.00.
2. Allow or continue to allow a person to work while knowing that person is not entitled to work - this carries a maximum fine of \$50,000.00.
3. Exploit a person who you have allowed to work while knowing that person was not entitled to work - this carries a maximum term of imprisonment of 7 years and/or a maximum fine of \$100,000.00.

### Where to from here?

We recommend that you contact an immigration lawyer before employing an overseas worker or applying for a work or residence class visa. We can assist by advising on the employment agreement, preparing the application, obtaining the necessary documentation, as well as liaising with Immigration New Zealand and any other relevant organisations

Our team at Govett Quilliam have a real interest in these practicalities and it is well worth talking to our team to enhance and protect the value of your business assets.



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