



IMMIGRATION NEW ZEALAND

INTERNAL ADMINISTRATION CIRCULAR NO: 13/03

To:	Immigration New Zealand, all Managers	Date: 19 April 2013
	Immigration New Zealand, all Staff	

Varying the conditions of temporary work visas

Please **read** this information and ensure that all staff members who may be affected are aware of what is required of them.

Purpose

1. The purpose of this Internal Administration Circular (IAC) is to provide advice on the changes to instructions regarding the varying of conditions on temporary visas which took effect on 8 April 2013. These instructions provide greater clarity as to the circumstances where someone can or cannot vary the conditions of their temporary entry class visa. This circular supersedes the instructions regarding variations of conditions in IAC 09/05 *Work Policy and Changes in the Labour Market* dated 17 July 2009.

Varying the conditions of temporary visas from 8 April 2013

2. Holders of temporary visas are able to make a request for a Variation of Conditions (VoC) (see *E3.25.1 Varying the conditions of temporary entry class visas*) to change the conditions of their visa. These instructions were previously in the work chapter of the Operational Manual and have been moved to the generic temporary entry chapter to reflect that these instructions are applicable to any type of temporary entry class visa.
3. A new provision has been added at *E3.25.1(c)* that a VoC application must not be approved unless the new conditions will continue to meet the objectives of the instructions that the original visa was granted under, i.e. work, student or visitor visa. For example, an applicant who holds a work visa granted under the Graduate Work Experience work instructions will need to satisfy an immigration officer that their new offer of employment is relevant to the qualification they provided to obtain their initial work visa. If the varied conditions will not meet the objectives of the original instructions a new work visa application is required.

Varying the conditions of work visas

4. Immigration instructions now allow work visa holders to request to change their employer and/or their occupation and/or their place of employment. The place of employment is usually defined as the region/area where their employer is located e.g. Auckland or Wellington provided that E3.25.1(c) is met.
5. However in the case of Essential Skills work visa holders (E3.25.1 (d)), a variation of conditions can only be granted if:
 - the applicant's employer is the only condition being varied or
 - the new occupation is on one of the Essential Skills in Demand lists and the applicant meets the requirements of the list (in this case multiple visa conditions can be varied)
6. In all other Essential Skills cases, the applicant must submit an application for a new work visa and meet labour market testing requirements. See the examples below for further guidance.

Example 1:

An applicant who holds an Essential Skills visa to work as a mechanical engineering technician in the Otago region can make a request to have the conditions of their visa varied to work as a mechanical engineering technician in the Upper South Island for either the same employer or a new employer as the occupation is on the Immediate Skill Shortage List (ISSL) for both regions. However they will need to apply for a new work visa if they wish to move to any other region in New Zealand.

Example 2:

An applicant holding an Essential Skills work visa to work as a bar manager who has an offer of employment as a restaurant manager would be able to make a request for a variation of conditions for their new position if they meet the Immediate Skill Shortage List (ISSL) requirements for a restaurant manager i.e. National Certificate in Hospitality (Operations Supervision) Level 4 and the necessary work experience.

7. These instructions ensure that VoCs are not being used to avoid labour market testing and that the intent of Essential Skills work instructions is maintained when a VoC is approved.

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Disclaimer

Every care has been taken to ensure the information in this circular is accurate and current as at the date of this circular. The information on this circular is to assist you; however applications will be assessed by Immigration New Zealand according to the published Government immigration and Government residence instructions as set out in the Operational Manual. This circular is not a substitute for that policy.