

UPDATE ON THE ENTREPRENEUR WORK VISA

It has now been over a year since the inception of the Entrepreneur Work Visa and it seems that there are a number of issues that will need to be addressed.

The Business Migration Branch ("BMB") provided an update this year which showed that there were 114 applications on hand in October 2014. The approval rate dropped to 26 percent from around 70-80% under the old Long Term Business Visa category.

Clearly, this was not the intent of the immigration instructions. Therefore, the Business Migration Branch (BMB) is now reviewing the immigration instruction to provide clarity with some contentious terms. It is anticipated that there will be changes to the following provisions:

- 1) BB1 – Objectives; and
- 2) BB6.1.50 – Definition of working capital.

In particular, BB3.15 requires that the proposed business must meet the objectives of the Entrepreneur Work Visa Category as outlined in BB1.

BB1 provides that the objective of this category is to contribute to economic growth by enabling experienced business people to grow or establish a high growth and innovative business with export potential in NZ.

This provision would suggest that any business proposal will need to be:

- 1) high growth; AND
- 2) innovative; AND
- 3) has export potential.

This approach has been very restrictive and may have been a factor in the substantial drop in approval rate. BMB has now taken an "or" approach until BB1 has been formally amended. As such, the proposed business will need to either need to be:

- 1) high growth; OR
- 2) innovative; OR
- 3) has export potential.

BMB is looking to move away from the current definition of working capital given its complexity. Until recently, BMB was applying the following approach:

“If you can depreciate it then you can treat this as an expense.”

It seems that BMB will no longer be taking this approach. Provided that the nominated investment funds are utilised for the business it will be acceptable. However, passive investment such as holding cash in the business bank account will not be considered part of the investment fund.

We anticipate that the changes foreshadowed herein will be incorporated in the Immigration Instruction before the end of this year.

Contact us for expert business immigration advice.

Disclaimer: This publication is necessarily brief and general in nature. You should seek professional advice before taking any further action in relation to matters dealt with in this publication.

About the author

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