

# Terra Nova *e-book*

## The Long Term Business Visa

*A possible pathway to residency in New Zealand for business people*

### Long Term Business Visa

It is very important to understand that the Long Term Business Visa is **NOT** a residence application; it is a temporary three year work visa application that may be applied for and, once granted, may be a pre-requisite for a residence visa application under the Entrepreneur Category instructions.

The application covers the whole family, i.e. your spouse / partner and dependent children.



*Welcome to New Zealand*

#### BC3 Summary of requirements

A principal applicant for a Long Term Business Visa/Permit must:

1. have completed a business plan that meets the requirements of BC4.5 for their business proposal; and
2. have business experience relevant to their business proposal; and
3. not have been involved in bankruptcy or business failure within the 5 years preceding the date their application was made; and
4. not have been involved in business fraud or financial impropriety; and
5. have obtained professional or occupational registration in New Zealand if registration is required for operating the proposed business; and
6. have, in addition to investment capital, sufficient funds (see BC6.1) for their maintenance and accommodation and that of any partner and/or dependent children who are applying for temporary visas and/or permits to accompany the principal applicant to New Zealand; and
7. meet Health and Character requirements policy (see A4 and A5); and
8. meet the minimum standard of English (see BF); and
9. satisfy a business immigration specialist that they are genuinely interested in establishing the business in New Zealand.

### The requirements

This is clearly described in instructions section BC3 above.

Those are the basic requirements that you as the applicant need to satisfy or meet.

While obviously all requirements are important, I wish to highlight numbers 2, 6 and 8 in more detail below.

#### BC3(2)

The main important words in section BC3 (2) are “business experience relevant to”.

Initially this meant that Immigration New Zealand would like you to operate a business in New Zealand similar to or the same as your business in your home country.

Interpretation has only recently been changed by Immigration New Zealand.

While relevancy is here one of the keys, Immigration New Zealand has become more flexible as they now will also look at your possible very

*5th edition*

### Terra Nova *e-book*

Terra Nova Consultancy Ltd is a commercial immigration company providing advise and immigration assistance to people who wish to immigrate to and or settle in New Zealand.

This is our *fifth edition* where we will discuss the requirements for a Long Term Business Visa and Entrepreneur (PR) based on the Immigration Policies as per June 2009.

The Managing Director of Terra Nova Consultancy Ltd is an IAA (Immigration Advisory Authority) **Licensed Immigration Adviser License number 200800214.**



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[info@terranovaconsultancy.co.nz](mailto:info@terranovaconsultancy.co.nz)

*J Peter Hendrikx-*

worthwhile transferrable skills! This means that as long as you are able to show that you have an excellent experience in operating a business, owner or top management position within the company, your application may also be approved.

Business ownership is also part of this. You have to provide evidence that you have owned a business for some time. While no minimum time of ownership is described in policy, Immigration New Zealand interprets that it should at least be 1 to 2 years.

In some cases, a high level position within a company with financial responsibility, hiring and firing of staff and responsibility in the direction of the company, may be sufficient experience accepted by Immigration New Zealand.

### BC3(6)

Sufficient funds to invest in your business does not require any further explanation.

However, in addition to the above named funds, you are required to have sufficient funds for maintenance and accommodation.

This is interpreted of having at least \$30,000 to \$35,000 per year, i.e. for the three years a total of between \$90,000 to \$105,000.

#### BC6 Funds for maintenance and accommodation

The business immigration specialist must be satisfied that the principal applicant has, in addition to their investment capital, access to sufficient funds or assets to provide for their own maintenance and accommodation, and that of any partner and dependants included in the application, for the duration of the visa.

### BC3(8)

Since November 2002, English language requirements are also to be satisfied by the main applicant. This is regulated in section BF2 as below

Please note that specific circumstances may be taken into consideration. For example when you have been working in NZ in an English language environment as an employee for at least 1 year.

Self employment does not count in this situation and will not be accepted by Immigration New Zealand.

## Requirement -v- Interpretation

### BF2 Minimum standards of English

- a. Unless instructions specify otherwise, principal applicants who lodge applications under any business immigration category, meet the minimum standard of English if:
  - i. they provide a certificate (no more than 2 years old at the time the application is lodged) from the International English Language Testing System (IELTS), which shows an overall band score of at least 4 in the IELTS General or Academic Module; or
  - ii. they provide evidence that they have an English-speaking background (see BF2.1) which is accepted by a business immigration specialist as meeting the minimum standard of English; or
  - iii. they provide other evidence which satisfies a business immigration specialist that, taking account of that evidence and all the circumstances of the application, the person meets the minimum standard of English (see BF2.5).
- b. In any case under (a) (ii) or (iii), a business immigration specialist may require an applicant to provide an IELTS certificate in terms of paragraph (a)(i). In such cases, the IELTS certificate will be used to determine whether the applicant meets the minimum standard of English.

The most important requirements under these instructions are, without any doubt, the "Benefit to New Zealand", this as is described in section BC4.15 below.

The business plan you submit with your application must

#### BC4.15 Criteria for a business benefiting New Zealand

- a. A business may be considered to benefit New Zealand if it promotes New Zealand's economic growth through, for example:
    - i. introducing new, or enhancing existing, technology, management or technical skills; or
    - ii. introducing new, or enhancing existing, products or services; or
    - iii. creating new, or expanding existing, export markets; or
    - iv. creating employment for a New Zealand citizen or resident; or
    - v. revitalising an existing business; and
  - b. in the opinion of a business immigration specialist it appears likely that 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 application is made.
- Note: For the purposes of these instructions, the employment of non New Zealand citizens or residents is not considered an acceptable example of a business benefiting New Zealand.

very clearly address this part of the instructions. The relevant section provides at least 5 examples to help you along. However the main part of this instruction is in the wording in the first paragraph that states, "if it promotes New Zealand's

economic growth through..".

In other words, this may also be interpreted, that as long as your business promotes NZ's economic growth, and even when it does not fall within the 5 examples given in the instructions, you may satisfy this part of the immigration instructions.

Many applicants are not aware of this interpretation and try to follow the given examples to the letter. The majority of applicants (99%) will try to employ additional staff over and above self (as per section) as that appears to be the most easiest of them all.

Understandable indeed as it gives more security, however there are more ways "to skin a cat" as they say!

### Investment funds

Many applicants ask how much funds they need to invest in their business to meet INZ requirements.

The answer is quite simple as the level of investment is not described.

However, Immigration New Zealand may use the below section BC5 to determine and decide the application when the investment is much lower than

#### BC5 Principal applicant's genuine interest in establishing a business in New Zealand

A business immigration specialist must be satisfied that the principal applicant is genuinely interested in establishing the business in New Zealand, and will abide by the conditions of the visa and/or permit.

the normal average or other applications.

In other words, the level of investment in your business confirms your commitment to New Zealand!

### Decision making time

And then the case officer has to make a decision on your application.

It is well possible that you may receive a Potential Prejudicial Information letter, aka PPI letter, requesting for further clarification or additional supporting and evidential documents.

#### BC8 Business immigration specialist's discretion

If an application fails to meet policy, business immigration specialists must weigh up all the circumstances of the case to see whether an exception to policy is justified. In doing this, they will take into account any circumstance that would warrant an exception.

### Discretion

As below section BC8 confirms, Immigration New Zealand case officers have a certain level of discretion in assessing and deciding a LTBV application.

Assume that you have met all instruction criteria, the business plan is excellent, benefit to NZ is there, however you have not owned a business in your home country. You worked though as an assistant manager.

Case officers are allowed to take that into consideration, and despite the fact that you do not meet the instructions on that specific section, your personal circumstances coupled with the fact that you have met all other requirements, may allow the case officer to approve your application as an exception to policy.

### Decision time

After 3 to 4 months, currently, you will be advised that your application is or declined or approved. When declined, you may request for a review and this is done by another case officer.



When approved you will be advised to submit your passports. These will be endorsed initially with a 9 months work permit.

This time-frame is given to you to liquidate your assets in your home country and transfer the funds to New Zealand, and, more importantly, you can start to establish and operate your business.

As soon as you have started your business, and within that 9 months period, and you are able to support that with evidential documents, Immigration New Zealand will issue you with the remainder 27 months of the three year long LTBV visa.

Please note that the passports from your dependents will be issued with visas in line with your visa.

### Permanent Residence

Now you have your LTBV and you have started to operate your company. However you did this with a final goal in mind: to obtain a permanent residence visa for New Zealand. What to do now?

Your next step is to apply for Residence under the Entrepreneur Category guidelines.

### Guidelines

To be successful, again you have to meet certain criteria.

First of all, you need to have been self employed in your business for a minimum of 2 years. Being away from your business for longer than 2 to 4 weeks will raise eyebrows and a request for a valid reason, normally business reasons. When you have been away from your business longer than half a year, you may have some issues.

Secondly, you have to confirm through evidential documents why your business is benefiting New Zealand. This could be con-

#### BD3.10 Criteria for a business benefiting New Zealand

A business may be considered to benefit New Zealand if it promotes New Zealand's economic growth through, for example:

1. technology, management or technical skills; or
2. products or services; or
3. export markets; or
4. employment (including employment of the principal applicant only); or
5. an existing business.

firmed through IRD PAYE documents confirming that you have employed additional people in your business. When exporting this could be done through export documentation. In short, it depends how you wish to meet the relevant criteria.

Many documents are required, such as Financial statements, IRD docs, etc and are all part of the application to confirm that you have met the criteria for this Residence Visa.

### Conclusion

There are many obstacles to overcome, interpretation of instructions to understand and explanation of documents etc to Immigration New Zealand. It can be confusing and complex and for that reason, we suggest to use a Licenced Immigration Adviser.

WHY? When you are sick, you visit a GP, when you have issues with the Law you retain the services of a Lawyer. So when you have Immigration applications to deal with, you use a Licenced Immigration Adviser. Quite simple really.

### Contributor

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## THE LONG TERM BUSINESS VISA EXPLAINED IN OTHER WORDS

**LTBV Explanation**

Firstly, an LTBV is a temporary work permit that allows you on approval to operate your business in New Zealand.

Once approved you will receive a 9 month permit and upon providing evidence that the company/business is established and operating, the remainder 27 months will be given.

You have a total of 3 years to operate the business for 2 years as a self employed person before you are eligible to lodge an Entrepreneur application to obtain Permanent Residence, aka as PR, in New Zealand.

When submitting an LTBV, you need to address the below policies;

**BC4.5 Requirements for a business plan**

Business plans must:

- a. be no more than 3 months old on the date the application is made; and
- b. include satisfactory evidence that the principal applicant has access to sufficient capital to finance their business proposal; and
- c. include realistic financial forecasts; and
- d. include evidence to satisfy a business immigration specialist that the principal applicant has business experience that is relevant to their business proposal; and
- e. demonstrate to the satisfaction of a business immigration specialist the principal applicant's knowledge about the proposed business and the New Zealand business environment; and
- f. include information about how the proposed business will benefit New Zealand; and
- g. include sufficient supporting documentation (including the documentation listed from section C of the business plan form onwards).

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Note: IELTS is an international organisation that provides an assessment of ability in English. Its General and Academic Modules provide band totals (test results) showing overall ability as well as performance in listening, reading, writing and speaking.

You are also required to meet the health and character requirements.

The policy does not state a minimum level of income, however the business must be beneficial to NZ, in other words, it should be able to cover expenses such as your wages AND the wages of an addition full time person.

You may purchase a minimum of 25% of an existing business, establish a brand new one or purchase a business as a going concern. In general, buying an existing business appears to be more favoured while it may be more challenging to meet the requirements as discussed under policy section BC4.15.

A visit to New Zealand to research the market and speak to your New Zealand advisers and make a selection of a business, would be seen as a positive sign and would also confirm your commitment. Next to the basic health and character requirements, you will need to provide evidence of assets and relevant business ownership experience.

When reaching the time to apply for residency, immigration policy requires you to provide evidence of the benefit to New Zealand. In 99% of the cases this is done through submitting evidence that you employ additional staff over and above yourself. Please refer to policy section BC4.15 (1) (4) and BC4.15 (2)

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