

14 September 2009

Jonathan Coleman
Minister for Immigration
Parliament Buildings
WELLINGTON

Dear Jonathan

Re: Immigration policy and employer questionnaire

I am writing to you to express concern at two issues:

- a questionnaire Immigration New Zealand is asking employers to complete when recruiting migrant workers (Annex 1 refers)
- the changed provisions to Section 313(3) of the Immigration Bill to a generic requirement on employers to take “reasonable precautions” and exercise “due diligence to ascertain whether the person was entitled to do the work.”

Immigration policy settings can impact on the level of our economic growth and productivity. Immigration brings with it resources for economic growth: capital, technology and skills, and access to international networks. We need to ensure that our immigration policy and operational settings contribute and support economic growth and productivity improvement – specifically the productive capacity of firms.

With rising unemployment, Business NZ recognises there is a need to re-evaluate labour market testing across all immigration policies to ensure New Zealand workers are effectively assessed for their ability to do particular jobs before turning to overseas sources. However, we must also take care to ensure that immigration policy and implementation supports the productive capacity of firms – now and in the future.

We want to see an integrated approach to immigration policy and implementation, one that facilitates the flow of entrepreneurial, innovative and skilled people to locate in New Zealand. With this in mind, we think there is considerable scope for you and your department to review and streamline the process of selecting and managing immigrant labour with the aim of supporting the productive capacity of firms.

With regard to the questionnaire, we think that it is in urgent need of revision. The information requested in questions 14 and 15 is outside reasonable requirements, patently impracticable for other than very small organisations, and potentially in breach of privacy laws. The practical impact is to place significant obstacles in the path of businesses seeking to recruit scarce skills.

With regard to Section 313(3) of the Immigration Bill and the requirement on employers to take “reasonable precautions” and exercise “due diligence to ascertain whether the person was entitled to do the work,” care must be taken to minimise compliance costs. Clarifying what employers’ obligations and defences are under the law, and facilitating employers’ compliance with the law remain a priority. In our view, the enactment of Section 313(3) raises significant issues for government and employers.

I look forward to discussing these and other immigration related issues with you when we next meet on 17 September.

Kind regards,

A handwritten signature in black ink, appearing to read 'P. O'Reilly', with a stylized flourish extending from the end.

Phil O'Reilly
Chief Executive

Annex 1 Immigration New Zealand Employer Questionnaire



Please note the information you provide is confidential and will not be released without your express written permission.

From: Warathip Sanyaprasoet
Immigration New Zealand
INZ, Bangkok Branch

Our Ref: 8352902

To the Prospective Employer

Applicant's Name: Kiattisak Trisin

We have received information that your company has offered the above named applicant employment within your company/organization. As such we need your assistance in verifying the terms of that offer of employment.

The information that we are seeking may be considered to be commercially sensitive however we advise that the information provided will be kept confidential and will not be used for any other purpose.

Part A: EMPLOYER INFORMATION DETAILS

1. Name of Company:

2. Full name of company if not registered as a limited liability company and trading name:

3. Have you changed address in the last two years? If so what is the companies previous address?

4. Please attach a copy of the company registration.

5. Company address:

9. Registered for GST: Yes / No

If yes, please write GST No: _____

10. Company's business scope:

11. Site address of premises where it is intended that the applicant will be employed:

12. When did the company first employ staff?

13. How many employees are currently employed?

14. Please provide evidence of the following with respect to your company:

- a) positions held by existing employees
- b) their job descriptions
- c) copies of their wage and time records
- d) hours of employment
- e) remuneration or salary details

15. Please supply evidence to demonstrate your ability to financially meet your employment contract obligations including:

- financial statements for the last 3 years as prepared by a Chartered Accountant
- PAYE certificates for the last 3 years
- GST certificates / GST return documents for the last 3 years
- Company bank statements for the last 3 years

16. Does the position being offered to the applicant required by law to have Occupational Registration?

Yes / No

Part B: EMPLOYMENT OFFER DETAILS

1. Position offered. Please provide the letter of offer on company letterhead AND contract agreement which includes detailed job description/duties

2. Why do you believe that the applicant is the most suitable person to fill this position? Please cite any specific qualifications or work experience that the applicant possess that makes him/her suitable for the job.

3. Is the job offer still valid at this time? If yes, then how long is it valid for?

4. Please select one which describes the terms of the applicant's offer of employment:

- permanent
- contract
- at least 12 months with option for further terms

5. Terms of employment:

Salary _____ (state amount per hour or per annum)

Full time / part time

6. How was the employment contact initiated with the applicant?

7. Is there a performance review/salary review after a certain period?

8. Did you interview the client?

9. Did you conduct any reference checks or verify the work experience/qualification?

10. Are you offering or have you offered other job offers to different persons who are also applying or have applied for residence to New Zealand? If yes, please list their names.

11. Is this a new position? If yes, then what factors/circumstances lead to the creation of the new position?

12. If the position is not new, then who was performing the duties in the past? What happened to that person?

13. When was the offer made to the applicant?

14. What is your relation to the applicant?

15. Have you tried to recruit any local people in New Zealand? If yes, then for how long and through what means?

Please feel free to provide any additional information relating to the position offered.

Name of Employer _____

Contact Number _____

Signature _____

Date _____

Thank you for taking the time to complete the questionnaire