

Under the Immigration Act 2009 (and the Immigration Act 1987), an employer must not employ a foreign national who is not entitled to work in New Zealand or entitled to work for that employer. This applies whether or not the employer knew that the foreign national was not entitled to work.

The Immigration Act 2009 came into effect on 29 November 2010. Under previous legislation, employers could plead ignorance if an employee had completed and signed an Inland Revenue form declaring he or she was entitled to work in New Zealand. The provision of an IR330 tax declaration form will no longer be a reasonable excuse for employing a person who is not entitled to work in New Zealand or entitled to work for that employer. Instead, an employer will have to show that they took reasonable precautions and exercised due diligence to check whether the foreign national was entitled to work for the employer in New Zealand.

Employers will now be obliged to:

- Ask if the person is entitled to do the work
- Seek documentary evidence of entitlement
- Check the evidence
- Keep a record of the evidence

The department of Immigration has developed an online service called VisaView, which will let an employer check a prospective employee's entitlement to work in New Zealand for that employer.

Employers will be required to register and be verified as a New Zealand employer to use VisaView. Employers are able to check whether a person is able to work for that employer, any conditions attached to that particular visa and the expiry date of that visa. VisaView is free of charge for employers to use.

Penalties for offences committed by employers remain the same as under the Immigration Act 1987. They are:

- The maximum penalty for allowing a foreign national who is not entitled to work in the employer's service to do that work is a fine of \$10,000.
- The maximum penalty for allowing or continuing to allow a foreign national to work while knowing that person is not entitled to work is a fine of \$50,000.
- The maximum penalty for exploitation of a foreign national whom the employer has allowed to work while knowing that person was not entitled to work is:
 - imprisonment for seven years, or
 - a fine of \$100,000, or
 - both

For more information about this law change and VisaView, visit:

<http://www.immigration.govt.nz/community/stream/visaview/> or contact Immigration New Zealand on 0508 WORK NZ (0508 9675 69)