

4 September 2009

**IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2009/11**

***To: All Manual Holders***

**AMENDMENTS TO RETURNING RESIDENTS' VISA POLICY**

**Introduction**

This circular outlines changes to Government immigration policy and Government residence policy in the INZ Operational Manual. A copy of the amended policy is attached to this circular.

All visa and immigration officers dealing with immigration applications should read the amended policy and operate in accordance with it on and from 7 September 2009.

**Note**

The amendment described in this circular will be published in the INZ Operational Manual in due course.

**Any enquiries about this policy should be directed to the Immigration Contact Centre on 0508 558 855.**

**Changes to policy effective from 7 September 2009**

***X2.5 Right to have a returning resident's visa issued***

***X4.1 Summary***

***X4.25 Second and subsequent returning resident's visa (indefinite)***

***X4.30 Second and subsequent returning resident's visa (12 months)***

***X4.35 Second and subsequent returning resident's visa (14 days)***

***X7.5 Declining applications for returning residents' visas***

Amendments to these policies have been made so that an individual who would be subject to travel sanctions, were it not for the fact that they hold New Zealand residence, may be issued with a Returning Resident's visa (RRV) for a period of 14 days only, even if they would otherwise meet the requirements for an RRV of a longer validity.

***E2.32 Ban on the issue of temporary visas or permits to individuals associated with the December 2006 Fiji coup***

Amendments have been made to clarify that the Fiji banned policy in generic temporary entry policy relates specifically to temporary entry visas and permits.

***S1.38 Ban on the issue of residence visas and residence permits to individuals associated with the December 2006 Fiji coup***

Policy has been amended to state that a person subject to the Fiji banned policy may not be issued with a residence permit unless they hold a current RRV.

## Appendix 1: Amended Policy

### X2.5 Right to have a returning resident's visa issued

*Immigration Act 1987 ss 14C(2) and 18(a)*

#### X2.5.1 Persons holding a current residence permit

When a visa officer is satisfied that an applicant holds a current residence permit under section 14C(2) of the Immigration Act 1987, the officer must issue that person with an RRV.

**Note:** No other policy requirements apply.

#### X2.5.5 Persons not holding a current residence permit

When a visa officer is satisfied that an applicant has held a residence permit, they may issue that person with an RRV, provided that:

- a. their eligibility under RRV policy is established; and
- b. if applicable, they meet health and character requirements (see [X3.10.5](#)); and
- c. they are not a person who would otherwise be prohibited for entry to New Zealand if it were not for their New Zealand residence status.

#### X2.5.10 New Zealand citizen

*Immigration Act 1987 s 3*

- a. New Zealand citizens do not need a permit to be in New Zealand.
- b. The only acceptable evidence of New Zealand citizenship on arrival in New Zealand is a current New Zealand passport.
- c. New Zealand citizens travelling on the passport of another country, who produce that passport when seeking entry to New Zealand, will be regarded as a citizen of that other country and may need a permit to enter New Zealand. If, on return to New Zealand, they wish to have a residence permit placed in that passport, they should hold a current RRV.
- d. New Zealand citizens travelling on foreign passports recognised by New Zealand may be issued with RRVs current for an indefinite period, unless the issuing state has advised that the particular individual's passport is invalid.

**Note:** If the basis for granting the RRV is New Zealand citizenship, New Zealand is to be shown as the nationality on the visa label.

## X4.1 Summary

- a. The general policy provides for returning residents' visas of differing periods of currency:
- first RRV for all applicants except those who applied under the Investor Category on or after 4 July 2005 (2 years)
  - first RRV for applicants who applied under the Investor Category on or after 4 July 2005 (five years)
  - second and subsequent RRV (indefinite)
  - second and subsequent RRV (12 months)
  - second and subsequent RRV (14 days).
- b. Unless X4.35(a)(ii) applies, principal applicants can obtain a second and subsequent RRV of indefinite currency by demonstrating a commitment to New Zealand by any one of five means (see [X4.25](#)).
- c. Unless X4.35(a)(ii) applies, principal applicants not able to obtain an RRV of indefinite currency may obtain an RRV of 12-month currency by any one of two means to give them further opportunity to demonstrate a commitment to New Zealand (see [X4.30](#)).
- d. A 14-day RRV must be issued to all applicants holding a current residence permit who are not eligible for an RRV of longer currency (see [X4.35](#)) or to whom X4.35(a)(ii) applies.

**Note:** With the exception of a 14-day RRV, eligibility for a second and subsequent RRV is generally dependent on the circumstances of the principal applicant at the point in time the application for the RRV is made.

#### **X4.25 Second and subsequent returning resident's visa (indefinite)**

- a. Unless X4.45 (Active Investor Migrant Policy) **or X4.35(a)(ii)** applies, [principal applicants](#) will be issued with an RRV current for an indefinite period if they:
- i. can demonstrate a commitment to New Zealand by meeting the requirements set out in any one of the five subsections below (X4.25.1 to X4.25.20); and
  - ii. held a residence permit at a time which was a minimum of 2 years before the current application for an RRV was made; and
  - iii. have met any requirements previously imposed under section 18A.

##### **X4.25.1 Significant period of time spent in New Zealand**

- a. They have held residence permits for a total of 184 days or more in each of the two 12-month portions of the 24 months immediately preceding their application for an RRV (ie, in each of the two 12-month portions, a period or periods that amount to 184 days or more).

##### **X4.25.5 Tax residence status in New Zealand**

- a. They have held residence permits for a total of 41 days or more in each of the two 12-month portions of the 24 months immediately preceding the date the application for an RRV was made (ie, in each of the two 12-month portions, a period or periods that amount to 41 days or more); and
- b. they are assessed as having [tax residence status](#) for 24 months in the 2 years before their application.

##### **X4.25.10 Investment in New Zealand**

- a. They have been approved residence under the Business Investor Category, and have met any requirements imposed under section 18A of the Immigration Act 1987 (see [BI12](#) or [BK10](#)), or
- b. they have been approved residence other than under the Business Investor Category, and have maintained an investment in New Zealand of N.Z.\$1,000,000 or more that complies with the rules for investment funds set out in X4.25.10(c) below for a period of two years, or more after the date their residence visa was issued or their initial residence permit was granted.
- c. Principal applicants applying for an RRV under X4.25.10 (b) must meet the following rules for investment funds:
- i. investment funds must originally have been transferred to New Zealand through the trading bank system, or have been earned or acquired lawfully in New Zealand, and
  - ii. investment funds must be invested in New Zealand in New Zealand currency; and under normal circumstances, be capable of providing a commercial return, and
  - iii. apart from the interest earned from the investment, investment funds must not be used for their own personal use, for instance investment in assets such as a personal residence, car, boat or similar, and
  - iv. investment funds must not be used as collateral for any loan during the 2 year investment period, unless the money loaned remains within New Zealand and in New Zealand dollars only, and

- v. if the investment funds are moved from one investment to another during the two year period each investment must also meet the rules for investment funds.

**Note:** Investments in New Zealand with international exposure are acceptable only for the proportion of the investment that is retained in New Zealand.

**Example:** An investment in a unit trust with sole international exposure would completely fail to meet the above requirement that an investment be "invested in New Zealand".

#### **X4.25.15 Establishment of a business in New Zealand**

- a. They have been approved residence under any category, and have successfully established a business in New Zealand that has been trading successfully and benefiting New Zealand in some way for at least 12 months immediately preceding the date the application for the RRV was made.
- b. Principal applicants applying for an RRV under this policy will be considered to have successfully established a business in New Zealand if:
  - i. they have established or purchased, a business operating in New Zealand; or
  - ii. they have invested in a business in New Zealand by purchasing 25% or more of the shareholding of an established business.
- c. For the purposes of this policy evidence that a business is trading successfully and benefiting New Zealand in some way is production of a set of the latest accounts relating to that business certified by a New Zealand chartered accountant and which confirm that in their view the business is a going concern.

#### **X4.25.20 Base established in New Zealand**

- a. They have established a base in New Zealand. A principal applicant is considered to have established a base in New Zealand if:
  - i. each and every member of their immediate family who was included in their application for residence has resided in New Zealand for at least 184 days in the two year period immediately preceding the date the application for the RRV was made, and
  - ii. they have held residence permits for a total of at least 41 days in the 12 months immediately preceding the date the application for the RRV was made, and either
  - iii. they own and maintain a family home in New Zealand, or
  - iv. they are engaged in full time continuous genuine employment in New Zealand immediately preceding the date the application for the RRV was made.
- b. For the purpose of this policy applicants are considered to own and maintain a family home in New Zealand if:
  - i. they have purchased a residential property in New Zealand within 12 months of the date they were initially granted a residence permit and still own that property either solely or jointly with members of their immediate family who were included in the application for residence, and
  - ii. they and/or members of their immediate family who were included in the application for residence occupy that property.

- c. Evidence of owning and maintaining a home in New Zealand includes but is not limited to items in the name of the applicant and/or members of their immediate family who were included in the application for residence such as:
- mortgage documents or title deeds to the residential property
  - rates demands
  - home and contents insurance cover
  - invoices for telephone, electricity, gas, or water
  - documents showing that household effects have been moved to New Zealand
- d. For the purpose of this policy applicants are considered to have been engaged in full time continuous employment in New Zealand if they can produce evidence of genuine full time paid employment in New Zealand for a period or periods amounting to at least 9 months in the 24 months immediately preceding the date the application for the RRV was made. Employment involving payment by commission and/or retainer is not acceptable. Self-employment is acceptable if they can produce evidence of genuine lawful active involvement in the management and operating of a business in New Zealand which the principal applicant has established, purchased, or has a shareholding in.

#### **X4.30 Second and subsequent returning resident's visa (12 months)**

- a. Unless X4.35(a)(ii) applies, principal applicants must be issued with an RRV current for 12 months if they:
- i. meet the requirements set out in either **one** of the two subsections below, **and**
  - ii. held a residence permit at a time which was a minimum of 1 year before the current application for an RRV was made, **and**
  - iii. have met any requirements previously imposed under section 18A.

##### **X4.30.1 Time spent in New Zealand**

- a. They have held residence permits for a total of 184 days or more **in at least one** of the two 12-month portions in the 24 months immediately preceding the date the application for an RRV was made (ie, in at least one of the two 12-month portions, a period or periods that amount to 184 days or more).

##### **X4.30.5 Tax residence status plus limited time spent in New Zealand**

- a. They have held residence permits for a total of 41 days or more **in at least one** of the two 12-month portions of the 24 months immediately preceding the date the application for an RRV was made (ie, in at least one of the two 12-month portions, a period or periods that amount to 41 days or more); **and**
- b. are assessed as having tax residence status for 12 months in the 2 years before their application.

#### **X4.35 Second and subsequent returning resident's visa (14 days)**

- a. Applicants must be issued with an RRV current for 14 days if they hold a residence permit and they:
  - i. do not meet the requirements for an indefinite or further 12-month RRV; or
  - ii. would otherwise be prohibited for entry to New Zealand if it were not for their New Zealand residence status.
- b. Applications for second or subsequent RRVs made outside New Zealand, which do not meet the requirements of RRV policy, may be declined.
- c. Applications for second or subsequent RRVs made outside New Zealand by applicants who have failed to meet any requirements imposed under section 18A of the Immigration Act 1987, may be declined whether or not they are otherwise eligible under general or transitional RRV policy.

**Note:** Nothing prevents a visa officer from issuing an RRV of any currency to any person who, because of exceptional circumstances, is not eligible for the issue of an RRV under these policies (see [X2.10\(c\)](#)).

## **X7.5 Declining applications for returning residents' visas**

- a. Applications made in New Zealand by residence permit holders cannot be declined (see [X2.5.1](#))
- b. Applications for second or subsequent RRVs made outside New Zealand, which do not meet the requirements of RRV policy or where the applicant would otherwise be prohibited for entry to New Zealand if it were not for their New Zealand residence status may be declined.
- c. Applications for second or subsequent RRVs made outside New Zealand by applicants who have failed to meet any requirements imposed under section 18A of the Immigration Act 1987, may be declined whether or not they are otherwise eligible under general or transitional RRV policy.

### **X7.5.1 Requests for reconsideration**

- a. An applicant may seek to have the decision to decline an application for an RRV reconsidered, if it was declined because:
  - i. the visa officer was not satisfied with the evidence of residence produced, or
  - ii. the application was outside policy.
- b. Another officer with a grading the same as or higher than the officer who made the original decision will review the decision.
- c. The review process involves checking that policy and procedures were correctly applied when the application was processed.

## E2.32 Ban on the issue of temporary visas or permits to individuals associated with the December 2006 Fiji coup

- a. The New Zealand government wishes to take action in an immigration respect against:
  - i. all people who are (or were on 6 December 2006), members of the Republic of Fiji Military Force (RFMF), and
  - ii. those people associated with supporting the December 2006 Fiji coup who are named on the list approved by the Minister of Immigration, held by Immigration New Zealand (INZ) and updated from time to time (see [Z10](#)), and
  - iii. close associates of those described in (ii) above who are named on the list approved by the Minister of Immigration, held by Immigration New Zealand (INZ) and updated from time to time, and
  - iv. permanent secretaries of Fijian government departments, and
  - v. all persons who are appointed by the Fiji interim government to boards of statutory authorities and public enterprises who are named on the list approved by the Minister of Immigration, held by Immigration New Zealand (INZ) and updated from time to time, and
  - vi. immediate family members of those described in (i), (ii), (iv) and (v) above. (Immediate family members are partners, children and children's partners.)

**Note:** For the purposes of this policy RFMF personnel includes members of the territorial force of the RFMF.

- vii. Despite any other provisions of Government immigration policy, none of the people described in (a) above may be issued a temporary visa to enter New Zealand (including a transit visa) or granted any temporary permit to be in New Zealand.

### **S1.38 Ban on the issue of residence visas and residence permits to individuals associated with the December 2006 Fiji coup**

- a. The New Zealand government wishes to take action in an immigration respect against:
- i. all people who are (or were on 6 December 2006), members of the Republic of Fiji Military Force (RFMF), and
  - ii. those people associated with supporting the December 2006 Fiji coup who are named on the list approved by the Minister of Immigration, held by Immigration New Zealand (INZ) and updated from time to time (see [Z10](#)), and
  - iii. close associates of those described in (ii) above who are named on the list approved by the Minister of Immigration, held by Immigration New Zealand (INZ) and updated from time to time, and
  - iv. permanent secretaries of Fijian government departments, and
  - v. all persons who are appointed by the Fiji interim government to boards of statutory authorities and public enterprises who are named on the list approved by the Minister of Immigration, held by Immigration New Zealand (INZ) and updated from time to time, and
  - vi. immediate family members of those described in (i), (ii), (iv) and (v) above. (Immediate family members are partners, children and children's partners.)

**Note:** for the purposes of this policy RFMF personnel includes members of the territorial force of the RFMF.

- b. None of the people described in (a) above may be issued a residence visa.
- c. None of the people described in (a) above may be issued a residence permit unless they hold a current returning resident's visa.