



29 May 2026

IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2026-14
AMENDMENTS TO THE IMMIGRATION NEW ZEALAND OPERATIONAL MANUAL

Introduction

This circular outlines changes to immigration instructions. A copy of the amended instructions is attached.

All immigration officers dealing with immigration applications should read the amendments and operate in accordance with the amended instructions from the effective date.

Note

The amendments described in this circular will be published in the Immigration New Zealand Operational Manual in due course.

Information about these changes is available on our website www.immigration.govt.nz.

Description of changes

D2.15.25 Deportation liability of residence class visa due to fraud, forgery, etc

D2.15.40 Deportation liability of residence class visa holder convicted or guilty of criminal offence

D2.25.43 Powers of entry and search relating to deportation

D2.25.44 Definition of Dwelling and Out of Hours

D5.5 Application for warrant of commitment

D5.10 Decision on application for warrant of commitment (non-claimant)

D5.11 Decision on application for warrant of commitment (claimant)

Administrative amendments have been made to reflect changes made to the Immigration Act 2009 under the Immigration (Fiscal Sustainability and System Integrity) Amendment Act 2025 which impact operational processes relating to compliance, detention and deportation.

Appendix 1: Amendments to the INZ Operational Manual, effective on and after 27 May 2026

D2.15.25 Deportation liability of residence class visa due to fraud, forgery, etc

See also Immigration Act 2009 s 158

A residence class visa holder is liable for deportation if:

- a. the person is convicted **or found guilty of, or plead guilty to**, an offence where it is established that:
 - i. any of the information provided in relation to the person's application, or purported application, for a residence class visa or entry permission was fraudulent, forged, false, or misleading, or any relevant information was concealed; or
 - ii. any of the information provided in relation to the person's, or any other person's, application, or purported application, for a visa on the basis of which the residence class visa was granted was fraudulent, forged, false, or misleading, or any relevant information was concealed; or
- b. the Minister determines that:
 - i. any of the information provided in relation to the person's application, or purported application, for a residence class visa or entry permission was fraudulent, forged, false, or misleading, or any relevant information was concealed; or
 - ii. any of the information provided in relation to the person's, or any other person's, application, or purported application, for a visa on the basis of which the residence class visa was granted was fraudulent, forged, false, or misleading, or any relevant information was concealed.
- c. A former citizen who is deemed by section 75 of the Immigration Act 2009 to hold a resident visa is liable for deportation if:
 - i. the person was deprived of his or her citizenship under section 17 of the Citizenship Act 1977 on the grounds that the grant, or grant requirement, was procured by fraud, false representation, or wilful concealment of relevant information; and
 - ii. that fraud, false representation, or wilful concealment of relevant information occurred in the context of procuring the immigration status that enabled the person to meet a requirement, or requirements, for the grant of New Zealand citizenship.

D2.15.40 Deportation liability of residence class visa holder convicted **or guilty of criminal offence**

See also Immigration Act 2009 s 161

A residence class visa holder is liable for deportation if they are convicted **or found guilty of, or plead guilty to**, in New Zealand or elsewhere:

- a. an offence for which the court has the power to impose imprisonment for a term of 3 months or more if the offence was committed at any time;
- b. when the person was unlawfully in New Zealand; or
- c. when the person held a temporary entry class visa; or
- d. not later than 2 years after the person first held a residence class visa; or
- e. an offence for which the court has the power to impose imprisonment for a term of 2 years or more, if the offence was committed not later than 5 years after the person first held a residence class visa; or
- f. an offence and sentenced to imprisonment for a term of 5 years or more (or for an indeterminate period capable of running for 5 years or more), if the offence was committed not later than 10 years after the person first held a residence class visa; or
- g. an offence against section 350(1)(a) or 351 **or 351A** of the Immigration Act 2009, if the offence was committed not later than 10 years after the person first held a residence class visa, and whether that visa was granted before or after this provision came into force.
- h. A person liable for deportation under this section may, not later than 28 days after being served with a deportation liability notice, appeal to the Tribunal
 - i. on humanitarian grounds against his or her liability for deportation; and
 - ii. if he or she is a refugee or a protected person, against any decision of a refugee and protection officer that he or she may be deported.
- i. For the purposes of (a)(iii), (b), (c), and (d), the periods of 2 years, 5 years, and 10 years after a person first held a residence class visa are to be determined exclusive of any time spent by the person in imprisonment following conviction for any offence.
- j. D2.15.40(c) applies:
 - i. whether the sentence is of immediate effect or is deferred or is suspended in whole or in part;
 - ii. if a person has been convicted of 2 or more offences on the same occasion or in the same proceedings, and any sentences of imprisonment imposed in respect of those offences are cumulative, as if the person had been convicted of a single offence and sentenced for that offence to the total of the cumulative sentences; or
 - iii. if a person has been convicted of 2 or more offences, and a single sentence has been imposed in respect of those offences, as if that sentence had been imposed in respect of a conviction for a single offence.

D2.25.43 Powers of entry and search relating to deportation

See also Immigration Act 2009 s 286

For the purpose of serving any deportation liability notice, deportation order, or removal order, or executing a deportation order or removal order, an immigration officer authorised under section 388(2) of the Immigration Act 2009 may, without further authority than section 286 of the Immigration Act 2009, and by force if necessary:

- a. enter and search at any reasonable time by day or night (see [D2.30.10\(d\) and \(e\)](#) and [D2.40.1\(d\) and \(e\)](#)) any building or premises in which the officer believes on reasonable grounds that the person named in the notice or order is present; and
- b. serve the notice or order, or execute the deportation order or removal order.
- c. However, if an immigration officer intends to enter a dwelling or marae out of hours and search for the person named in the deportation liability notice, deportation order, or removal order and for the purposes set out in section 286(1) of the Immigration Act 2009, they must first obtain a warrant authorising them to do so.

D2.25.44 Definition of Dwelling and Out of Hours

See also Immigration Act 2009 s 286

- a. Dwelling means any building or part of a building that is used for residential accommodation of any kind, and includes a garage or shed associated with the building or part of the building
- b. Out of hours means –
 - i. Monday to Friday between 9pm and 7am on the following day:
 - ii. any time on a Saturday or Sunday:
 - iii. any time on a public holiday (as specified in section 44(1) of the Holidays Act 2003).

D2.25.45 Constables' powers

See also Immigration Act 2009 ss 286, 293

A constable has the same powers of entry and inspection as immigration officers, as set out in D2.25.20 to D2.25.42.

D2.25.50 Power of arrest - constables

See also Immigration Act 2009 ss 114, 115, 309, 310, 313, 327, 329

- a. The Immigration Act 2009 has a number of provisions which give constables powers of arrest.
- b. When arresting and detaining any person without warrant under section 313 of the Immigration Act 2009, the constable has a duty to: a.
 - i. inform the person at the time of arrest, unless in all the circumstances it is impracticable to do so, of the reason for the arrest and the fact that the arrest does not relate to a criminal matter; and
 - ii. if not in uniform, produce evidence that they are a constable; and
 - iii. inform the person that they may contact a lawyer, or (if appropriate), a responsible adult; and
 - iv. inform the person of the maximum duration of the detention.
- c. A constable arresting any person under the Immigration Act 2009 may call on any person nearby for assistance. That may include an immigration officer, who is then justified in assisting.

D2.25.55 Requirement on officers to identify themselves

See also Immigration Act 2009 s 465

- a. Immigration officers, Customs officers and constables are all required to identify themselves when exercising the powers of an immigration officer under the Immigration Act 2009.
- b. Suitable evidence of identity is as follows:
 - i. for immigration officers, the officer's warrant of designation.
 - ii. for Customs officers, evidence of the officer's appointment as a Customs officer.
 - iii. for constables, being in uniform is sufficient, otherwise the officer's badge or other evidence of being a member of the Police.
- c. If an officer is seeking entry to any premises, building or craft in the course of their duties under the Immigration Act 2009, the officer must, if called upon to do so, state the provision or provisions of the Immigration Act 2009 which entitle them to entry.

D5.5 Application for warrant of commitment

See also Immigration Act 2009 s 316

- a. An immigration officer may apply to a District Court Judge for a warrant of commitment (or a further warrant of commitment) authorising a person's detention for up to 28 days in any case where it becomes apparent, in the case of a person detained in custody under Part 9 of the Immigration Act 2009, that before the expiry of the period for which detention is authorised:

- i. there will not be, or there is unlikely to be, a craft available to take the person from New Zealand; or
 - ii. the person will not, or is unlikely to, supply satisfactory evidence of his or her identity; or
 - iii. the Minister has not made, or is not likely to make, a decision as to whether to certify that the person constitutes a threat or risk to security; or
 - iv. for any other reason, the person is unable to leave New Zealand.
- b. Every application under this section:
 - i. must be made on oath; and
 - ii. must include a statement of the reasons why the person should be the subject of a warrant of commitment; and
 - iii. may include any other supporting evidence.
- c. The Judge must determine the application under section 317, 317AA, 318, or 323 of the Immigration Act 2009 as appropriate.
- d. Immigration officers applying for mass arrival warrants of commitment, variations of mass arrival warrants of commitment, or further warrants of commitment in respect of members of a mass arrival group must apply in the manner specified in [D5.75](#).

D5.10 Decision on application for warrant of commitment (non-claimant)

See also Immigration Act 2009 s 317

- a. On an application for a warrant of commitment under section 317 of the Immigration Act 2009 for a person who is a non-claimant, a District Court Judge:
 - i. must, if satisfied on the balance of probabilities that the person is not the person named in the application for the warrant of commitment, order that the person be released from custody immediately; and
 - ii. may in any other case, either:
 - issue a warrant of commitment in the prescribed form authorising the person's detention, in a place named in the warrant, for a period of up to 28 days; or
 - order the person's release from custody on conditions under section 324F of the Immigration Act 2009, if not satisfied that detention is warranted.
- b. A judge may issue a warrant of commitment if satisfied on the balance of probabilities that the person in custody is the person named in the application and that any 1 or more of the following applies:
 - i. A craft is likely to be available, within the proposed period of the warrant of commitment, to take the person from New Zealand:
 - ii. The reasons why a craft was not available to take the person from New Zealand are continuing and are likely to continue, but not for an unreasonable period:
 - iii. The other reasons the person was not able to leave New Zealand are still in existence, and are likely to remain in existence, but not for an unreasonable period:
 - iv. The person has not supplied satisfactory evidence of his or her identity.
- c. If (b) does not apply, the Judge may, nevertheless, issue a warrant of commitment if it is, in all the circumstances, in the public interest to do so.
- d. In determining whether to issue a warrant of commitment, or whether to order the person's release on conditions, the Judge must have regard to, among other things, the needs to seek an outcome that maximises compliance with the Immigration Act 2009.
- e. Unless there are exceptional circumstances, the Judge must not release the person on conditions if:
 - i. the identity of the person is unknown; or
 - ii. the person's identity has not been established to the satisfaction of the court; or
 - iii. a direct or indirect reason for the person being unable to leave New Zealand is, or was, some action or inaction by the person occurring after the person was:
 - served with a deportation liability notice; or
 - arrested and detained for the purpose of deportation or turnaround; or

D5.11 Decision on application for warrant of commitment (claimant)

See also Immigration Act 2009 s 317AA

- a. This instruction applies to a person who:
 - iv. A District Court Judge is satisfied is a claimant; and
 - v. Is not subject to a mass arrival warrant under section 317A of the Immigration Act 2009.
- b. On an application for a warrant of commitment under section 316 of the Immigration Act 2009 for a person who is a claimant, a District Court Judge:
 - i. must, if satisfied on the balance of probabilities that the person is not the person named in the application for the warrant of commitment, order that the person be released from custody immediately; and
 - ii. may in any other case, either:
 - o issue a warrant of commitment in the prescribed form authorising the person's detention, in a place named in the warrant, for a period of up to 28 days, if satisfied that:
 - o on the basis of the application and the information contained in it, the person poses a clearly articulated threat or risk; and
 - o detention is reasonable in all the circumstances, proportionate, and the least restrictive measure necessary to manage that threat or risk; or
 - o order the person's release from custody on conditions under section 324F of the Immigration Act 2009, if not satisfied that detention is warranted.
- c. In assessing whether a person poses a clearly articulated threat or risk, a Judge:
 - i. may consider the person's irregular entry into New Zealand; but
 - ii. must not be satisfied that the person poses a clearly articulated threat or risk solely on the basis that the person entered New Zealand irregularly.
- d. In this instruction, threat or risk includes, without limitation, a threat or risk to:
 - i. public order;
 - ii. public health; or
 - iii. security

Note: threat or risk to public order includes, in relation to a person and without limitation, a threat or risk of the person absconding for the purpose of avoiding compliance with the Immigration Act 2009, or failing to comply with that Act.