

11 October 2016

IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2016/06

To: All Manual Holders

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 in Appendix 1 and operate in accordance with the amended instructions on and after 12 October 2016.

Note

The amendments described in this circular will be published in the Immigration New Zealand Operational on 12 October 2016.

Any enquiries about these amendments should be directed to the Immigration Contact Centre on 0508 558 855 or 09 914 4100 (Auckland only).

Changes to residence instructions effective on and after 12 October 2016

R6.1 New Zealand Residence Programme

R6.5 Allocation of places within the New Zealand Residence Programme

These provisions have been amended to give effect to the New Zealand Residence Programme (NZRP) for the 2016/17 to 2017/18 years. The planning range of the NZRP for this two-year period is 85,000 to 95,000 and includes a reduction in the cap for the Capped Family categories to 2,000 per year.

F4.10.15 Selection of Expressions of Interest

From 12 October 2016, no further selections will be made from the Parent Category Pool. F4.10.5 has been amended to advise that selections will cease from that date.

SM2 Overview of Skilled Migrant Category

SM3.15 Selection of Expressions of Interest

SM3.25 Invitation to apply for a resident visa under the Skilled Migrant Category

SM4.5 Approval of applications under the Skilled Migrant Category

SM4.15 Employability and capacity building requirements

Amendments have been made to SM2 and SM3.15 to raise the automatic selection mark for Expressions of Interest (EOIs) to be drawn from the Skilled Migrant Category (SMC) Pool to 160 points. Provision SM2(e)(ii) and SM3.15(c)(ii) allowing for selection of EOIs that have total points of more than 100 and less than 140 with points, where the submitter also has employment in New Zealand, have been removed.

Provisions at SM3.15(d) and *SM3.15.1 Additional selection criteria* have also been removed, as these additional selection criteria expired on 31 August this year and are not currently required to meet the New Zealand Residence Programme.

As the additional selection criteria have been removed, consequential amendments have been made to SM2(m)(iii), SM3.25(a)(ii), SM4.5(b) and (c), and SM4.15(a) to remove references to the additional selection criteria.

New provisions have been inserted at SM2(f) and SM3.15(d) to allow for the adjustment of the automatic selection mark where this is necessary to meet the requirements of the New Zealand Residence Programme.

References to selections being made 'periodically' have been removed from both SM2(d) and SM3.15(b).

SM5.5 Minimum standard of English language for principal applicants

SM5.5.1 Transitional provisions for principal applicants invited to apply on or before 11 October 2016

SM5.10 English language requirements for non-principal applicants

SM5.10.1 Transitional provisions for non-principal applicants included in applications for which the invitation to apply was issued on or before 11 October 2016

Instructions for SMC applicants at *SM5.5 Minimum standard of English for principal applicants* and *SM5.10 English language requirements for non-principal applicants* have been amended to give effect to new English language requirements.

Under the new English language requirements, evidence of English language that will be accepted in place of an English language test includes:

- citizenship of Canada, the Republic of Ireland, the United Kingdom (U) or the United States of America (USA), provided the applicant has spent at least five years in work or education in one or more of those countries or Australia or New Zealand
- a recognised qualification comparable to a New Zealand level 7 bachelor's degree, gained in Australia, Canada, New Zealand, the Republic of Ireland, the UK or the USA as a result of study undertaken for at least two academic years in one or more of those countries, or
- a recognised qualification comparable to a New Zealand qualification at level 8 or above, gained in Australia, Canada, New Zealand, the Republic of Ireland, the UK or the USA as a result of study undertaken for at least one academic year in one or more of those countries.

Instructions under which applicants can be considered to have an English-speaking background if they have been lawfully employed full-time in an occupation in New Zealand for a minimum of 12 months, that allow for a wide range of qualifications undertaken in English to be considered as evidence of meeting English language requirements, and that provide for immigration officers to otherwise be satisfied through other evidence that an applicant is a competent user of English have been removed.

Transitional provisions have been inserted to allow applicants invited to apply on or before 11 October 2016 to also meet the minimum English language requirements in place at the time they were invited to apply. Cross references to *SM5.5* have been amended in *SM5.15* and *SM17.5* as necessitated by these transitional provisions.

F4.10 Expressions of interest and applications under the Parent Category

F4.10.15 has been amended to state that, despite the provision allowing for selections from the Parent Category Pool at F4.10.15(a), no selections will be made from the Pool with effect from 12 October 2016.

F4.15 English language requirements for the Parent Category

F4.15.1 Minimum standard of English

Previously, the Parent Category English language requirements have referenced the English language provisions within the SMC. As the SMC English language changes detailed in this circular do not apply to Parent Category applicants, Parent Category instructions have been amended to explicitly list the English language requirements that apply to the Parent Category, instead of referring to SMC provisions. This does not represent a change to Parent Category English language requirements.

**APPENDIX 1: AMENDED IMMIGRATION INSTRUCTIONS EFFECTIVE ON AND
AFTER 12 OCTOBER 2016**

R6.1 New Zealand Residence Programme

- a. The New Zealand Residence Programme (NZRP) consists of all persons approved for residence class visas in the two years beginning 1 July 2016 and ending 30 June 2018.
- b. The NZRP is set for the duration of the two year period, unless a review is directed by the Minister of Immigration. Any changes will be advised by an amendment to these instructions.
- c. The NZRP for the two year period is 85,000 to 95,000 approved places.

Note: Permanent resident visas granted to holders of resident visas or second or subsequent resident visas granted to former holders of resident visas are not counted towards the NZRP.

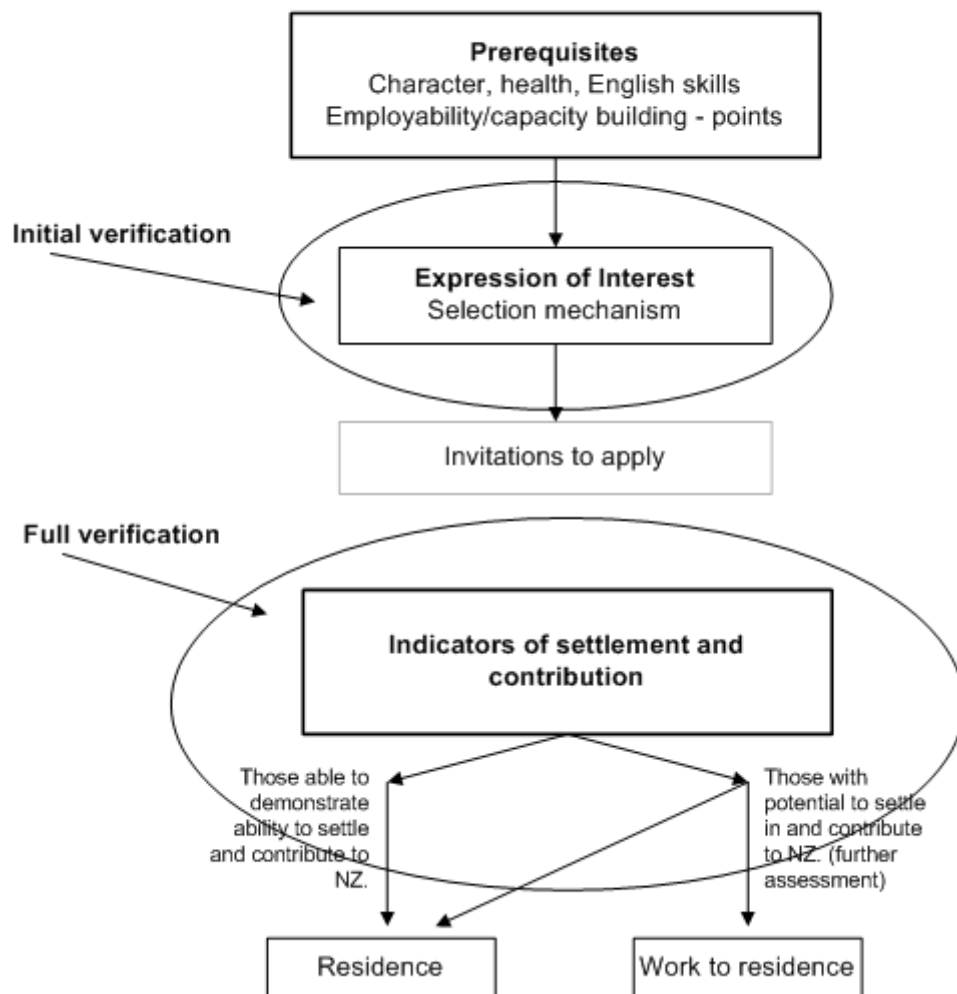
R6.5 Allocation of places within the New Zealand Residence Programme

- a. There are three streams within the New Zealand Residence Programme (NZRP):
 - i. The Skilled/Business stream;
 - ii. The Family stream;
 - iii. The International/Humanitarian stream.
- b. The Government may, from time to time, reallocate places for approvals within the three streams and/or add places to the three streams.
- c. The allocation of places for each stream across the two-year NZRP period is as follows:
 - i. The Skilled/Business stream is allocated approximately 50,500 to 57,500 places.
 - ii. The Family stream is allocated approximately 27,000 to 29,000 places.
 - iii. The International/Humanitarian stream is allocated approximately 7,500 to 8,500 places.
- d. For the places available under the Family stream, 4,000 places in total are available for approvals under the Capped Family categories.
- e. These places for Capped Family category approvals include places for approvals under the Parent, Sibling and Adult Child categories for applications lodged on or before 16 May 2012 and approvals under the Parent Category for applications lodged after 16 May 2012.

SM2 Overview of Skilled Migrant Category

- a. A person who is interested in applying for a resident visa under the Skilled Migrant Category must complete an Expression of Interest (EOI) form in the prescribed manner.
- b. EOIs which meet prerequisites for health, character, English language and age, and have a point score of 100 or more points are entered into the Pool of EOIs.
- c. Points for employability and capacity building factors are claimed by a person expressing interest in accordance with the requirements set out in the Skilled Migrant Category.
- d. EOIs in the Skilled Migrant Category Pool are selected from that Pool on the Government's behalf by the Ministry of Business, Innovation and Employment.
- e. EOIs that have total points of 160 or more are selected automatically from the Pool.
- f. The automatic selection mark for EOIs may be adjusted as necessary to manage the achievement of the overall New Zealand Residence Programme (NZRP), by the Minister of Immigration certifying amended Residence instructions.
- g. A selected EOI may result in an invitation to apply for a resident visa under the Skilled Migrant Category being granted, subject to an assessment of the credibility of the information provided in the EOI and whether the EOI indicates the presence of any health or character issues that may adversely affect the ability of the person expressing interest to be granted a resident visa under the Skilled Migrant Category.
- h. Whether, in any particular case, an EOI has been selected from the Pool, it may not result in an invitation to apply for a resident visa under the Skilled Migrant Category.
- i. Only a person invited to apply may apply for a resident visa under the Skilled Migrant Category.
- j. If a person is invited to apply, information provided in the EOI, and any further evidence, information and submissions provided by the applicant (including information concerning ability or potential to successfully settle in and contribute to New Zealand), will form the basis for determination of a subsequent application for a resident visa under the Skilled Migrant Category.
- k. Applications for a resident visa, resulting from an invitation to apply, must include:
 - i. information and evidence to support the claims made in the EOI; and
 - ii. information concerning any relevant fact (including any material change in circumstances that occurs after the EOI was selected) if that fact or change in circumstances may affect the decision on the application. Such a relevant fact or change in circumstances may relate to the principal applicant or another person included in the application, and may relate to any matter relevant to Skilled Migrant Category.
- l. Applications will be assessed against instructions set out in sections SM4 to SM21 of the Skilled Migrant Category.
- m. Principal applicants under the Skilled Migrant Category will be assessed against:
 - i. health, character and English language requirements; and
 - ii. employability and capacity building requirements; and
 - iii. settlement and contribution requirements.
- n. Assessment against settlement and contribution requirements (see SM21) will take into consideration the application as a whole including information gained at interview, if an interview is conducted. The assessment concerning settlement and contribution may result in:
 - i. the grant of a resident visa; or
 - ii. deferral of the decision on the resident visa application and the grant of a work visa to enable a principal applicant to obtain an offer of ongoing skilled employment in New Zealand; or
 - iii. decline of the resident visa application.
- o. If a decision is deferred on the resident visa application and the principal applicant becomes established in ongoing skilled employment in New Zealand, the application for a resident visa will be approved.

Selection Framework



SM3.15 Selection of Expressions of Interest

- a. As Expressions of Interest (EOI) are entered into the Pool they will be ranked on the basis of total points claimed for employability and capacity building factors in accordance with the Skilled Migrant Category. The ranking of EOIs relative to each other will change as EOIs enter, or are withdrawn from, the Pool.
- b. EOIs in the Skilled Migrant Category Pool are selected from that Pool on the Government's behalf by the Ministry of Business, Innovation and Employment.
- c. EOIs that have total points of 160 or more are selected automatically from the Pool.
- d. The automatic selection mark for EOIs may be adjusted as necessary to manage the achievement of the overall New Zealand Residence Programme (NZRP), by the Minister of Immigration certifying amended Residence instructions.

SM3.25 Invitation to apply for a resident visa under the Skilled Migrant Category

- a. People whose Expressions of Interest (EOIs) have been selected from the Pool may be issued with an invitation to apply for a resident visa under the Skilled Migrant Category if:
 - i. the information provided does not indicate the presence of any health or character issues which may adversely affect their ability to be granted a resident visa under the Skilled Migrant Category; and
 - ii. an immigration officer considers that the person's claims in regard to points for employability and capacity building factors and English language which were the basis for selection from the Pool are credible.
- b. An immigration officer may seek further evidence, information and submissions from a person who's EOI has been selected from the Pool, for the purpose of determining whether their claims are credible and whether there are any health or character issues which may adversely affect their ability to be granted a resident visa under the Skilled Migrant Category.
- c. Whether, in any particular case, an EOI has been selected from the Pool, it may not result in an invitation to apply for a resident visa under the Skilled Migrant Category.

Note: An immigration officer's decision to invite a person to apply for a resident visa under the Skilled Migrant Category (based on information evidence and submissions provided prior to application) does not guarantee:

- ~ the points claimed by the applicant; or
- ~ a positive assessment against health, character or English language requirements;

in any subsequent application for a resident visa.

SM4.5 Approval of applications under the Skilled Migrant Category

- a. Principal applicants under the Skilled Migrant Category are assessed against:
 - i. health, character and English language requirements; and
 - ii. employability and capacity building requirements; and
 - iii. settlement and contribution requirements.
- b. An application under the Skilled Migrant Category will be approved if:
 - i. the principal applicant and family members included in the application meet health and character, and English language requirements where required; and
 - ii. the principal applicant qualifies for the points for employability and capacity building factors on the basis of which their Expression of Interest was selected from the Pool; and
 - iii. the principal applicant is less than 56 years of age; and
 - iv. the principal applicant is assessed as having the ability to successfully settle in and contribute to New Zealand; and
 - v. all necessary verification of the application has been completed.
- c. Despite SM4.5(b)(ii) above, if a principal applicant does not qualify for the points for employability and capacity building factors on the basis of which their Expression of Interest was selected from the Pool, an immigration officer may, on a case by case basis, determine that the application may nevertheless be approved, where:
 - i. the principal applicant has satisfied the immigration officer that there was a reasonable basis for making the claim for points in the Expression of Interest and that in making that claim there was no fraud or intent to deceive; and
 - ii. the principal applicant qualifies for the points for employability and capacity building factors on the basis of which a subsequent selection was made, within the period that their Expression of Interest would have been current.

Note: Where SM4.5 (c) applies, officers may defer a decision on the application until such time as an Expression of Interest's currency (had it remained in the SMC Pool) expires.

SM4.15 Employability and capacity building requirements (SM7 to SM20)

- a. Employability and capacity building factors are assessed using a points system.
An application for a resident visa under the Skilled Migrant Category will be declined if a principal applicant does not qualify for the points for employability and capacity building factors on the basis of which their Expression of Interest was selected from the Pool, unless [SM4.5\(c\)](#) applies.
- b. An application for a resident visa under the Skilled Migrant Category will be declined if the principal applicant does not qualify for points for either work experience (see [SM11](#)) or qualifications (see [SM14](#)).

SM5.5 Minimum standard of English language for principal applicants

- a. Applications under the Skilled Migrant Category must be declined if the principal applicant has not met the minimum standard of English.
- b. Principal applicants under the Skilled Migrant Category meet the minimum standard of English if they provide a Test Report Form (no more than 2 years old at the time the application is lodged) from the International English Language Testing System (IELTS), showing they achieved an overall band score of at least 6.5 in the IELTS General or Academic Module.
- c. Other evidence that a principal applicant meets the minimum standard of English is:
 - i. citizenship of Canada, the Republic of Ireland, the United Kingdom or the United States of America, provided the applicant has spent at least five years in work or education in one or more of those countries or Australia or New Zealand; or
 - ii. a recognised qualification (SM14) comparable to a New Zealand level 7 bachelor's degree and gained in Australia, Canada, New Zealand, the Republic of Ireland, the United Kingdom or the United States of America as a result of study undertaken for at least two academic years in one or more of those countries; or
 - iii. a recognised qualification (SM14) comparable to a New Zealand qualification at level 8 or above and gained in Australia, Canada, New Zealand, the Republic of Ireland, the United Kingdom or the United States of America as a result of study undertaken for at least one academic year in one or more of those countries.
- d. In any case, an immigration officer may require a principal applicant to provide an IELTS certificate in terms of paragraph SM5.5 (b). In such cases, the IELTS certificate will be used to determine whether the principal applicant meets the minimum standard of English.

Note: Full consideration must be given to all evidence of English language ability provided before a decision to request an IELTS certificate under SM5.5 (d) is made. If an IELTS certificate is requested the reason(s) behind the decision must be clearly documented and conveyed to the applicant.

SM5.5.1 Transitional provisions for principal applicants invited to apply on or before 11 October 2016

For principal applicants whose invitation to apply was issued on or before 11 October 2016 an immigration officer may, on a case by case basis, also consider the following as evidence of the principal applicant meeting the minimum standard of English if:

- a. they provide evidence that their recognised qualification(s):
 - i. was gained as a result of a course or courses of study in which English was the only medium of instruction; and
 - ii. (if that qualification was gained in New Zealand) the qualification had a minimum completion time of at least two years and is at least a bachelor degree or it is a post-graduate qualification and the applicant has an undergraduate qualification that qualifies for points; or
- b. they have current skilled employment in New Zealand for a period of at least 12 months that qualifies for points (see [SM7](#)); or
- c. they provide other evidence which satisfies an immigration officer that, taking account of that evidence and all the circumstances of the application, they are a competent user of English. These circumstances may include but are not limited to:
 - i. the country in which the applicant currently resides;
 - ii. the country(ies) in which the applicant has previously resided;
 - iii. the duration of residence in each country;
 - iv. whether the applicant speaks any language other than English;
 - v. whether members of the applicant's family speak English;
 - vi. whether members of the applicant's family speak any language other than English;
 - vii. the nature of the applicant's current or previous employment (if any) and whether that is or was likely to require skill in English language;
 - viii. the nature of the applicant's qualifications (if any) and whether the obtaining of those qualifications was likely to require skill in the English language.
- d. In any case, an immigration officer may require an applicant to provide an IELTS certificate in terms of paragraph SM5.5 (b). In such cases, the IELTS certificate will be used to determine whether the principal applicant meets the minimum standard of English.

Note: Full consideration must be given to all evidence of English language ability provided before a decision to request an IELTS certificate under SM5.5.1(d) is made. If an IELTS certificate is requested the reason(s) behind the decision must be clearly documented and conveyed to the applicant.

SM5.10 English language requirements for non-principal applicants

- a. Unless [SM5.15](#) applies, partners and dependent children aged 16 and older, who are included in Skilled Migrant Category applications, must:
 - i. show that they meet a minimum standard of English to enable successful settlement in New Zealand; or
 - ii. pre-purchase ESOL training.
- b. Non-principal applicants meet the minimum standard of English if they provide a Test Report Form (no more than 2 years old at the time the application is lodged) from IELTS, showing they achieved an overall band score of at least 5 in the IELTS General or Academic Module.
- c. Other evidence that a non-principal applicant meets the minimum standard of English is:
 - i. citizenship of Canada, the Republic of Ireland, the United Kingdom or the United States of America, provided the applicant has spent at least five years in work or education in one or more of those countries or Australia or New Zealand; or
 - ii. a recognised qualification (SM14) comparable to a New Zealand level 7 bachelor's degree and gained in Australia, Canada, New Zealand, the Republic of Ireland, the United Kingdom or the United States of America as a result of study undertaken for at least two academic years in one or more of those countries; or
 - iii. a recognised qualification (SM14) comparable to a New Zealand qualification at level 8 or above and gained in Australia, Canada, New Zealand, the Republic of Ireland, the United Kingdom or the United States of America as a result of study undertaken for at least one academic year in one or more of those countries.
- d. In any case, an immigration officer may require a non-principal applicant to provide an IELTS certificate in terms of paragraph SM5.10(b). In such cases, the IELTS certificate will be used to determine whether the applicant meets the minimum standard of English.

Note: Full consideration must be given to all evidence of English language ability provided before a decision to request an IELTS certificate under SM5.10 (d) is made. If an IELTS certificate is requested the reason(s) behind the decision must be clearly documented and conveyed to the applicant.

SM5.10.1 Transitional provisions for non-principal applicants included in applications for which the invitation to apply was issued on or before 11 October 2016

For non-principal applicants included in applications for which the invitation to apply was issued on or before 11 October 2016 an immigration officer may, on a case by case basis, also consider the following as evidence of the applicant meeting the minimum standard of English if:

- a. (if they are the partner of a principal applicant), they have current skilled employment in New Zealand for a period of at least 12 months that qualifies for points (see [SM10](#)); or
- b. they provide evidence of one of the following:
 - i. completion of all primary education and at least 3 years of secondary education (that is, the equivalent of New Zealand Forms 3 to 5 or years 9 to 11) at schools using English as the language of instruction;
 - ii. completion of at least 5 years of secondary education (that is, the equivalent of New Zealand Forms 3 to 7 or years 9 to 13) at schools using English as the language of instruction;
 - iii. completion of a course of at least 3 years duration leading to the award of a tertiary qualification at institutions using English as the language of instruction;
 - iv. that the applicant holds General Certificate of Education (GCE) "A" Levels from Britain or Singapore with a minimum C pass (the passes must specifically include the subjects English Language or Literature, or Use of English);
 - v. that the applicant holds International Baccalaureate – full Diploma in English Medium;
 - vi. that the applicant holds Cambridge Certificate of Proficiency in English – minimum C pass;
 - vii. that the applicant holds Hong Kong Advanced Level Examinations (HKALE) including a minimum C pass in Use of English;
 - viii. that the applicant holds STPM 920 (Malaysia) – A or B pass in English Literature;
 - ix. that the applicant holds University of Cambridge in collaboration with University of Malaya, General Certificate of English (GCE) "A" levels with a minimum C pass. The passes must specifically include the subjects English or General Paper;
 - x. that the applicant holds South African Matriculation Certificate, including a minimum D pass in English (Higher Grade);

- xi. that the applicant holds South African Senior Certificate, including a minimum D pass in English (Higher Grade), endorsed with the words 'matriculation exempt';
 - xii. that the applicant holds a New Zealand Tertiary Entrance Qualification gained on completing the seventh form.
- c. In any case, an immigration officer may require a non-principal applicant to provide an IELTS certificate in terms of paragraph SM5.10 (b). In such cases, the IELTS certificate will be used to determine whether the applicant meets the minimum standard of English.

Note: Full consideration must be given to all evidence of English language ability provided before a decision to request an IELTS certificate under SM5.10 (e) is made. If an IELTS certificate is requested the reason(s) behind the decision must be clearly documented and conveyed to the applicant.

SM5.15 English language requirements for partners where bonus points are claimed for the partner's skilled employment or recognised qualifications

A partner's skilled employment in New Zealand (see [SM10](#)) or recognised qualifications (see [SM17](#)), only qualify for points if the partner meets the English language requirements for principal applicants (see [SM5.5](#) or [SM5.5.1](#)).

SM17.5 Bonus points for a partner's recognised qualifications

- a. Recognised qualifications (see [SM14.5](#)) held by the partner of a principal applicant qualify for the following points:

Level on the New Zealand Qualification Framework	Points
three – must be on the List of Qualifications Recognised as an Exception (SM14.10.10) four – must be recognised in SM14.10 (d) or (e) five, or six	10
seven to 10	20

- b. A partner's recognised qualification only qualifies for points under this provision if:
- the partner is included in the application; and
 - the partner meets the English language requirements for principal applicants (see SM5.5 or [SM5.5.1](#)); and
 - an immigration officer is satisfied that the principal applicant and their partner have been living together for 12 months or more in a partnership that is genuine and stable (see [F2.10.1](#)) and otherwise meets Partnership instructions (see [F2.15](#)).
- c. Despite (a), if a partner of a principal applicant holds a recognised New Zealand qualification at levels three, four, five, and six on the NZQF, they will be eligible for 20 points if:
- the qualification would have met the requirements for the award of points under the Skilled Migrant Category that was in effect on 24 July 2011; and
 - the qualification was completed before 25 July 2011 or they had commenced a course of study, resulting in the qualification for which they are claiming points, on 24 July 2011.

F4.10 Expressions of interest and applications under the Parent Category

F4.10.1 Expressing interest in being invited to apply for residence under the Parent Category

- a. A person notifies that they are interested in being invited to apply for a resident visa under the Parent Category by submitting an Expression of Interest (EOI) to Immigration New Zealand (INZ) in the prescribed manner. In order to submit an EOI in the prescribed manner, a person must submit to an immigration officer:
 - i. a completed prescribed Parent Category EOI form; and
 - ii. the appropriate fee (if any).
- b. By completing an EOI, a person provides a declaration about their and any potential secondary applicant's:
 - i. identity, health and character; and
 - ii. English language ability or an intention to agree to pre-purchase English for Speakers of Other Languages (ESOL) tuition [F4.15](#); and
 - iii. relationship to their sponsoring adult child and any other children the applicants have (see [F4.20](#)); and
 - iv. adult child's eligibility to sponsor them for New Zealand residence under the Parent Category (see [F4.25](#)); and
 - v. guaranteed lifetime minimum income, settlement funds, or the income of their sponsor, or of their sponsor and their sponsor's partner [F4.30](#) and [F4.35](#)).
- c. It is the responsibility of the person submitting the EOI to ensure that the information given is correct in all material respects.

Note: For the purposes of F4.10.1(b)(v), people submitting EOIs under tier two will only be required to declare their sponsor and/or their sponsor's partner's income.

F4.10.5 Implications of providing false or misleading information

See Immigration Act 2009, ss 93 and 158

- a. The Immigration Act 2009 provides that there is sufficient grounds to decline an application for a resident visa and for the holder of a resident visa granted under the Parent Category to become liable for deportation in cases of:
 - i. the provision of false or misleading information as part of an EOI or associated submission; or
 - ii. the withholding of relevant potentially prejudicial information from an EOI or associated submission; or
 - iii. failure to advise an immigration officer of any fact or material change in circumstances that occurs after an EOI is submitted that may affect a decision to invite the person to apply for a resident visa or to grant a resident visa.
- b. Information relating to a claim made in an EOI that is factually inaccurate and is relevant to the issuing of an invitation to apply or the assessment of a resident visa application will be considered misleading unless the principal applicant can demonstrate that there is a reasonable basis for making that claim.

F4.10.10 Submission of Expressions of Interest to the Pool

- a. EOIs submitted in the prescribed manner may be entered into a pool of Expressions of Interest (the Pool).
- b. A person may only have one EOI in the Pool at any time (regardless of the tier of the EOI).
- c. Each EOI will be entered into the Pool in either tier one or tier two as indicated in the EOI form.
- d. Despite (c) above, if permission is given by the person expressing interest, an EOI may be entered into the alternative tier of the Pool (see [F4.10.10\(e\)](#) and [\(f\)](#)).
- e. If a person with an EOI in the Pool under tier two updates their information and becomes eligible to be entered into the Pool under tier one, their EOI will be entered into the Pool under tier one based on the original date the EOI was previously entered under tier two.
- f. If a person with an EOI in the Pool under tier one updates their information and is no longer eligible under tier one, but is eligible under tier two, their EOI will be entered into the Pool under tier two based on the original date the EOI was previously entered under tier one.
- g. Where a person with an EOI already entered into the Pool updates their information and no longer meets the requirements of the Parent Category under either tier, their EOI will be withdrawn from the Pool and lapsed.

F4.10.15 Selection of Expressions of Interest

- a. EOIs will be selected from the pool in the following order:
 - i. Tier one EOIs will be selected first and in order based on the date the EOIs were entered into the Pool; and
 - ii. Residence applications lodged under the Parent and Sibling and Adult Child categories before 16 May 2012 will be selected second, in date order; and
 - iii. Tier two EOIs will be selected third and in order based on the date the EOIs were entered into the Pool, only if there are no tier one EOIs and no applications that were lodged before 16 May 2012.
- b. The ranking of EOIs will change as EOIs enter, or are selected from, the Pool or any given tier of the Pool.
- c. EOIs will be selected in sufficient numbers to meet the requirements of the New Zealand Residence Programme (NZRP) at the time of selection (subject to any adjustment to the number or distribution of places in the NZRP determined by the Government) (see [R6](#)).
- d. EOIs are selected from the Pool periodically on the Government's behalf by the Ministry of Business, Innovation and Employment.
- e. Despite F4.10.15 (a) above, with effect from 12 October 2016, no selections will be made from the Pool.

F4.10.20 Invitation to apply for a resident visa under the Parent Category

- a. People whose EOIs have been selected from the Pool may be issued an invitation to apply for a resident visa under the Parent Category.
- b. An immigration officer may decline an EOI if they are not satisfied claims made within the EOI are:
 - i. credible; or
 - ii. sufficient to meet the requirements of the Parent Category.
- c. An immigration officer may, but is not required to, seek further evidence, information and submissions from a person whose EOI has been selected from the Pool, for the purpose of determining whether their claims are credible and whether there are any health or character issues that may adversely affect their ability to be granted a resident visa under the Parent Category.
- d. If an immigration officer is not satisfied the claims made in an EOI selected from the Pool under tier one would be sufficient to meet the requirements of the Parent Category under tier one, but believes the EOI would meet the requirements under tier two, the EOI will be re-entered into the Pool under tier two. Despite F4.10.10(d), an immigration officer is not required to gain permission from the person expressing interest in order to do this. The EOI's place in the Pool will be based on the date the EOI was first entered into the Pool under tier one.
- e. In any particular case, the selection of an EOI from the Pool may not result in an invitation to apply for a resident visa under the Parent Category.

Note: A decision to invite a person to apply for a resident visa under the Parent Category does not guarantee in any subsequent application for a resident visa a positive assessment of any requirements for the Parent Category or generic residence (including health, and character).

- f. For the purposes of [F4.10.20\(d\)](#), re-entry into the Pool does not guarantee a person will be invited to apply once their EOI is selected from the Pool under tier two.

F4.10.25 Assessing Parent Category applications

- a. A person who is sent an invitation to apply for residence under tier one of the Parent Category may only apply for residence using tier one requirements (see [F4.30](#)).
- b. A person who is sent an invitation to apply for residence under tier two of the Parent Category may make a Parent Category application using the requirements for either tier one or tier two (see [F4.30](#) and [F4.35](#)).
- c. Applications received under tier one of the Parent Category:
 - i. will be assessed against the requirements for tier one at F4.30 and the generic requirements for the Parent Category (sections [F4.15](#) to [F4.25](#)); and
 - ii. despite R5.20(c), cannot be assessed against the requirements for tier two at F4.35.
- d. Applications received under tier two of the Parent Category:
 - i. will be assessed against the requirements for tier two at F4.35 and the generic requirements for the Parent Category (sections [F4.15](#) to [F4.25](#)); and
 - ii. may be assessed against tier one requirements at F4.30 in accordance with [R5.20\(c\)](#).

- e. Applications received under the Parent Category before 16 May 2012 will be processed using the requirements in force at the time they were accepted for processing.
- f. Applications under the Parent Category will be approved if the applicants included in the application meet:
 - i. health and character requirements applicable at the time their residence application was lodged; and
 - ii. the additional requirements for the particular tier (see [F4.30](#) or [F4.35](#)) on the basis of which they were invited to apply for residence or, in the case of tier one applications, the alternative requirements listed at F4.30 (a), (b) or (c) that were applicable at the time their residence application was lodged; and
 - iii. the other criteria on the basis of which they were invited to apply for residence.

F4.15 English language requirements for the Parent Category

F4.15.1 Minimum standard of English

- a. Applications under the Parent Category must be declined if any applicant included in the application has not met the minimum standard of English or the requirements to pre-purchase English for speakers of other languages (ESOL) tuition.
- b. Applicants under the Parent Category meet the minimum standard of English if they provide:
 - i. a Test Report Form (no more than two years old at the time the application is lodged) from the International English Language Testing System (IELTS) that shows they meet at least two competencies of level 4 or above or shows they achieved an overall band score of at least 5 in the IELTS General or Academic Module; or
 - ii. other evidence that satisfies an immigration officer that, taking account of that evidence and all the circumstances of the application, they are a competent user of English. These circumstances may include but are not limited to:
 - the country in which the applicant currently resides;
 - the country(ies) in which the applicant has previously resided;
 - the duration of residence in each country;
 - whether the applicant speaks any language other than English;
 - whether members of the applicant's family speak English;
 - whether members of the applicant's family speak any language other than English;
 - the nature of the applicant's current or previous employment (if any) and whether that is or was likely to require skill in English language;
 - the nature of the applicant's qualifications (if any) and whether the obtaining of those qualifications was likely to require skill in the English language; or
 - iii. evidence of one of the following:
 - completion of all primary education and at least 3 years of secondary education (that is, the equivalent of New Zealand Forms 3 to 5 or years 9 to 11) at schools using English as the language of instruction;
 - completion of at least 5 years of secondary education (that is, the equivalent of New Zealand Forms 3 to 7 or years 9 to 13) at schools using English as the language of instruction;
 - completion of a course of at least 3 years duration leading to the award of a tertiary qualification at institutions using English as the language of instruction;
 - that the applicant holds General Certificate of Education (GCE) "A" Levels from Britain or Singapore with a minimum C pass (the passes must specifically include the subjects English Language or Literature, or Use of English);
 - that the applicant holds International Baccalaureate – full Diploma in English Medium;
 - that the applicant holds Cambridge Certificate of Proficiency in English – minimum C pass;
 - that the applicant holds Hong Kong Advanced Level Examinations (HKALE) including a minimum C pass in Use of English;
 - that the applicant holds STPM 920 (Malaysia) – A or B pass in English Literature;
 - that the applicant holds University of Cambridge in collaboration with University of Malaya, General Certificate of English (GCE) "A" levels with a minimum C pass. The passes must specifically include the subjects English or General Paper;
 - that the applicant holds South African Matriculation Certificate, including a minimum D pass in English (Higher Grade);
 - that the applicant holds South African Senior Certificate, including a minimum D pass in English (Higher Grade), endorsed with the words 'matriculation exempt';
 - that the applicant holds a New Zealand Tertiary Entrance Qualification gained on completing the seventh form; or
 - iv. are citizens of Samoa who have applications assessed under the Parent Category at the Apia Immigration New Zealand (INZ) branch and, after an interview, satisfy an immigration officer that they have sufficient English language ability.
- c. When applying (b) (iv) above, the interviewing immigration officer determines if applicants meet the minimum English language requirement by assessing whether they are able to:
 - i. read English; and
 - ii. understand and respond to questions in English; and
 - iii. maintain an English language conversation about themselves, their family or their background.
- d. In any case in terms of (b) (i) above, an immigration officer may require any or each applicant to provide an IELTS certificate. In such cases, the IELTS certificate will be used to determine whether the applicant meets the minimum standard of English.

Note: Full consideration must be given to all evidence of English language ability provided before a decision to request an IELTS certificate under [F4.15.1 \(d\)](#) is made. If an IELTS certificate is requested, the reason(s) behind the decision must be clearly documented and conveyed to the applicant.

F4.15.5 Pre-purchase of English for Speakers of Other Languages (ESOL) tuition

- a. Instead of meeting the minimum standard of English, any applicant may pre-purchase ESOL tuition. ESOL tuition must be pre-purchased from the Tertiary Education Commission (TEC) by paying the required charge to INZ (who collect this charge on behalf of TEC).
- b. Applicants must pay any ESOL charge due, sign the ESOL Agreement and return it to INZ within the time specified by INZ before a resident visa is able to be granted (see F4.15.20).

F4.15.10 The amount of ESOL tuition to be pre-purchased by applicants

For the purposes of the Parent Category, the amount of ESOL tuition to be paid is NZ\$1,735 per applicant, which gives an ESOL entitlement of NZ\$1,533.33 per applicant.

F4.15.15 TEC to arrange ESOL tuition

- a. The applicant is entitled to tuition to the value of the ESOL entitlement of the ESOL tuition charge. This does not include the INZ and TEC administration costs.
- b. TEC advises the applicant of the list of suitable ESOL tuition providers in New Zealand, from which the applicant may nominate one of their own choice.
- c. TEC will manage the contract between the ESOL tuition provider and the applicant.
- d. The applicant must advise TEC of their New Zealand address.

F4.15.20 Applicant's agreement with TEC

- a. Each applicant who pre-purchases ESOL tuition must sign an Agreement with TEC by which they agree, among other things, that they understand the rules for taking up ESOL tuition in New Zealand and the refund provisions.
- b. The content of the Agreement is determined by INZ and TEC.
- c. Included with the Agreement is a Schedule that sets out the personal details of the applicant and the amount of tuition to be purchased.

F4.15.25 Completion of Agreement

- a. When an application for a resident visa is approved in principle, applicants will be given two copies of the Agreement to complete for each person in the application undertaking ESOL tuition.
- b. After completion of the Agreement, one copy is retained by the applicant, and the other copy is returned to the relevant INZ processing office with the tuition fee(s).
- c. If the Agreement is not signed and returned to INZ within the time specified by INZ, the resident visa application must be declined.
- d. The INZ copy of the Agreement should be sent to the TEC.

F4.15.30 Failure to pre-purchase ESOL tuition

Any ESOL tuition fee must be paid before a resident visa may be granted. If the tuition fee is not paid to the INZ within the specified time, the resident visa application must be declined.

F4.15.35 Limited period to use ESOL tuition

- a. If ESOL tuition is purchased, the applicant must complete the tuition within five years from the date of payment.
- b. ESOL tuition will not be available without further payment, nor will refunds be given, to applicants who do not take up ESOL tuition within the time limits specified at F4.15.35 (a).

F4.15.40 Refund of ESOL tuition fees

- a. If ESOL tuition fees are paid but the applicant does not take up residence by being a residence class visa holder in New Zealand, a refund of the ESOL tuition fee may be granted upon request to INZ. The request must be made in writing.
- b. Requests for refunds must be declined if they are made more than six months after the expiry of the travel conditions allowing travel to New Zealand.
- c. Immigration officers considering requests for refunds must be satisfied that none of the applicants included in the application have:
 - i. entered New Zealand as residents; or
 - ii. hold resident visas with current travel conditions.

- d. The person who paid the ESOL tuition fee will only be refunded the ESOL entitlement. INZ and TEC administration costs will not be refunded.