



3 May 2018

**IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2018/05**

**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 and operate in accordance with the amended instructions on and after 7 May 2018.

**Note**

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

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

## Summary of contents

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This amendment circular details changes to Immigration New Zealand's Operational Manual, and contains the following:

- The *Description of changes* section contains a summary of the changes to immigration instructions.
- Appendix 1 contains amended *Residence instructions* effective on and after 7 May 2018.
- Appendix 2 contains amended *Temporary Entry instructions* effective on and after 7 May 2018.

Changes to Residence instructions and Temporary Entry instructions have been highlighted for ease of reference.

## **Description of changes**

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### **Electronic copies of documents allowed for online resident visa applications**

*R2.1 Who may be included in an application*

*R2.40 Mandatory requirements for lodging an application for a residence class visa*

*R2.45 Additional requirements*

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*F2.20 Evidence*

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*F5.20 Dependent children under 16 whose parents are separated or divorced*

*F5.25 Dependent children under 16 with only one parent holding New Zealand citizenship or a New Zealand residence class visa*

Instructions have been amended to allow electronic copies of documents to be provided with online resident visa applications.

### **Automating the request of passports for certain online applications**

*E7.10 Considering an application*

Instructions have been amended to state under which circumstances a passport must be provided for temporary entry visa applications made online.

### **Preventing the automatic grant of interim visas to people holding a visa that the IPT ordered INZ to grant**

*I1.11 Automated and manual processing of interim visas*

Instructions have been amended to add people holding visas granted as a result of an order by the IPT to the list of circumstances where an interim visa will not be granted by an automatic system. These will instead go to an immigration officer for a decision.

**Appendix 1 – Amendments to Residence instructions effective on and after 7 May 2018**

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## R2.1 Who may be included in an application

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 20*

- a. Each principal applicant (see R2.1.1 below) must make a separate application.
- b. The following people may be included in a residence class visa application, regardless of whether they are living in the same country as the principal applicant:
  - i. The partner of a principal applicant (see R2.1.10 below); and
  - ii. The biological or adopted (see [R3](#)) dependent children of the principal applicant and/or partner (if the partner is included in the application) (see R2.1.30 below).

### R2.1.1 Definition of 'principal applicant'

- a. The principal applicant is the person who is declared to be the principal applicant on the residence class visa application form.
- b. When the application is assessed, the principal applicant will be the person first assessed against the criteria in residence instructions, unless the instructions indicate otherwise.

### R2.1.5 Definition of 'applicant'

An applicant is a person included in an application for a residence class visa and includes the principal applicant and secondary applicants (if any). All persons included in an application will be individually assessed against the criteria for the grant of residence in the residence instructions that apply to them.

### R2.1.10 Definition of 'partner'

- a. For the purpose of inclusion in a residence class visa application, 'partner' means a person who:
  - i. is legally married to the principal applicant; or
  - ii. is in a civil union partnership with the principal applicant; or
  - iii. is in a de facto relationship with the principal applicant.
- b. References to 'partner' in residence instructions mean 'partner' as defined in (a) above.
- c. A partner who does not meet the criteria in (a) above may not be included in a principal applicant's application and must apply for residence as a principal applicant in their own right.

### R2.1.15 When may partners included in an application be granted a residence class visa?

- a. For a 'partner' included in an application to be granted a residence class visa an immigration officer must be satisfied that they meet 'partnership' instructions which are:
  - i. that the principal applicant and partner are living together in a genuine and stable partnership (see F2.10.1); and
  - ii. that the couple have been living together in such a relationship for 12 months or more at the time the application is assessed; and
  - iii. that the partnership meets the minimum requirements for the recognition of partnerships set out at F2.15 in that:
    - o the couple were both aged 18 years or older at the time the application for residence class visa was made, or if aged 16 or 17 years old have the support of their parent(s) or guardian(s); and
    - o the couple have met prior to the application being made; and
    - o they are not close relatives (see [F2.15\(d\)](#)).
- b. When assessing if the duration of the partnership requirement in a. ii above is met immigration officers may include any period immediately prior to any marriage where they are satisfied the couple was living together in an interdependent partnership akin to a marriage.

#### R2.1.15.1 What happens if an immigration officer is not satisfied that a couple are living together in a partnership that is genuine and stable?

If an immigration officer is not satisfied the principal applicant and partner included in the application are living together in a partnership that is genuine and stable, then:

- a. the partner will not be granted a residence class visa; and
- b. if the principal applicant is reliant on:
  - i. the attributes of their partner included in the application; or
  - ii. the family relationship of their partner included in the application

those attributes or relationships will not be taken into account when determining eligibility of the principal applicant under residence instructions.

#### Examples:

~ Under the Skilled Migrant Category (see [SM9.5\(d\)](#)) a principal applicant's partner's skilled employment in

New Zealand will not qualify for points.

~ Under the Sibling and Adult Child Category instructions (see [F6.1\(c\)](#)) where a principal applicant and partner included in the application have combined income as evidence of meeting the required minimum income requirement only the principal applicant's income may be taken into account when determining the total family income per year.

#### **R2.1.15.5 What happens if the partnership is considered to be genuine and stable but is less than the 12 months required?**

- a. If an immigration officer is satisfied the principal applicant and partner included in the application are living together in a partnership that is genuine and stable, but the duration of that partnership is less than the 12 months required, then:
  - i. in any case where the grant of a residence class visa to a principal applicant is reliant on the relationship with or attributes of their partner the application must be declined under residence instructions; or
  - ii. in any case where the grant of a residence class visa to a principal applicant is not reliant on the relationship with or attributes of their partner the immigration officer may proceed with processing the principal applicant for the residence class visa but defer the final decision on the partner to enable the qualifying period to be met.
- b. If a partner's application for a residence class visa has been deferred as described in (a)(ii) above they may be granted a work visa (once an application has been made) for a period sufficient to enable the qualifying period to be met and any further assessment of their residence class visa application to be completed (see WF2.20).

#### **R2.1.20 Evidence of relationship with partner**

Principal applicants must provide:

- a. evidence of their relationship with their partner included in the application; and
- b. evidence that their partnership is genuine and stable. ([F2.20.15](#) sets out the types of evidence that are required).

**Note:** In each case where a person relies on being the partner of a principal applicant for the purposes of inclusion in an application (and subsequent grant of a residence class visa), the onus of proving that the person included is the partner of the principal applicant, that their partnership is genuine and stable, and of the required duration lies with the principal applicant and their partner (see [F2.5\(c\)](#)).

#### **R2.1.25 Polygamous marriages and relationships**

As an exception to the exclusivity requirement which forms part of the definition of a genuine and stable partnership (see F2.10) principal applicants in polygamous marriages or relationships (i.e. marriages or relationships with more than one partner) may have only one partner included in their application for a residence class visa.

#### **R2.1.27 When may dependent children be included in an application and be granted a residence class visa?**

For a 'dependent child' to be included in an application to be granted a residence class visa, an immigration officer must be satisfied that they are a dependent child.

#### **R2.1.30 Definition of 'dependent child'**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Regs, 4, 20*

For the purpose of inclusion in an application, and despite the definition in section 4 of the Immigration Act 2009, a child is dependent if they:

- a. are:
  - i. aged 21 to 24, with no child(ren) of their own; and
  - ii. single (see F5.5); and
  - iii. totally or substantially reliant on the principal applicant and/or the principal applicant's partner for financial support, whether living with them or not; or
- b. are:
  - i. aged 18 to 20, with no child(ren) of their own; and
  - ii. single (see [F5.5](#)); or
- c. are:
  - i. aged 17 or younger; and
  - ii. single (see [F5.5](#)); or
- d. are applying for a South Island Contribution resident visa and were previously determined to be dependent under [WR7.20.1](#).

- e. When determining whether a child of 21 to 24 years of age is totally or substantially reliant on the principal applicant and/or the principal applicant's partner for financial support immigration officers must consider the whole application, taking into account all relevant factors including:
  - o whether the child is in paid employment, whether this is full time or part time, and its duration;
  - o whether the child has any other independent means of financial support;
  - o whether the child is living with its parents or another family member, and the extent to which other support is provided;
  - o whether the child is studying, and whether this is full time or part time.

#### **R2.1.35 Evidence of dependence**

- a. Children up to 17 years of age are presumed to be dependent if they are single.
- b. Children aged 18 to 20 years of age are presumed to be dependent if they are single and have no child(ren) of their own.
- c. For children aged 21 to 24 years of age, evidence of actual dependence may be required.

#### **R2.1.40 Evidence of relationship with dependent children**

The principal applicant must provide one of the following documents as evidence of the relationship of the principal applicant and/or partner included in the application with any dependent child included in the application:

- a. the birth certificate showing the names of the parent(s); or
- b. adoption papers showing that the child has been legally adopted by the principal applicant or partner; or
- c. in the case of a child adopted by custom, a declaration by the adoptive parent(s) separate from, and in addition to, any similar declaration made on an application form (see R3.5.1).

#### **R2.1.45 Children under 16 whose parents are separated or divorced**

- a. If the parents of a child aged under 16 included in an application for a residence class visa are separated or divorced, the applicant parent must have the right to remove the child from the country in which rights of custody or visitation have been granted; or if no such rights have been granted, from the country of residence.
- b. Such children cannot be included in an application unless the applicant parent produces satisfactory evidence of their right to remove the child from the country in which the rights of custody or visitation have been granted or if no such rights have been granted, from the country of residence.
- c. Except where (d) applies, evidence of the right to remove the child from the country in which rights of custody or visitation have been granted must include:
  - i. legal documents showing that the applicant has custody of the child and the sole right to determine the place of residence of the child, without rights of visitation by the other parent; or
  - ii. a court order permitting the applicant to remove the child from its country of residence; or
  - iii. legal documents showing that the applicant has custody of the child and a signed statement from the other parent, witnessed in accordance with local practice or law, agreeing to allow the child to live in New Zealand if the application is approved.
- d. Where an immigration officer is satisfied that:
  - i. by virtue of local law, the applicant parent has the statutory right to custody of the child; and
  - ii. it is not possible or required under that local law to obtain individualised legal documents to verify that custodial right, the child may be included in the application.

#### **R2.1.50 Children under 16 with only one parent included in the application for a residence class visa.**

- a. If one of the parents of a child aged under 16 is not included in the application for a residence class visa, the applicant parent must have the right to remove the child from its country of residence.
- b. Such children cannot be included in an application unless the applicant parent produces satisfactory evidence of their right to remove the child from its country of residence.
- c. Except where (e) applies, evidence of the right to remove the child from its country of residence in cases where one parent is not included in the application for a residence class visa, but the parents are not separated or divorced, must include:
  - i. a written statement confirmed by both parents at interview; or
  - ii. a court order permitting the applicant to remove the child from its country of residence.
- d. If, because of the death of one of the parents of a child aged under 16, only one parent is included in the application, the death certificate of the other parent must be provided.
- e. The child may be included in the application where an immigration officer is satisfied that:
  - i. by virtue of local law, the applicant parent has the statutory right to custody of the child; and

- ii. it is not possible or required under that local law to obtain individualised legal documents to verify that custodial right.

**R2.1.55 Situation of dependent of partners included in an application**

- a. Any dependent child who is reliant on inclusion in an application solely by virtue of being the dependent child of the principal applicant's partner included in an application (i.e. they are not a child of the principal applicant) may not be granted a residence class visa unless their parent partner is granted a residence class visa.
- b. If their parent partner is granted a work visa as provided for in R2.1.15.5 (b) above then they may also be granted a temporary visa of a type appropriate to their needs (once an application has been made) for the same period.

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**Example:** a dependent child intending to attend school in New Zealand must apply for a student visa.

## R2.40 Mandatory requirements for lodging an application for a residence class visa

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 5, 20 and 23A.*

Unless [RV1.10.10](#) or [R2.40.1](#) applies, an application for a residence class visa made outside an immigration control area must:

- a. be made on an approved form; and
- b. be completed in English; and
- c. be signed by the applicant (unless the applicant is less than 18 years old, in which case it must be signed by a parent or guardian of the applicant); and
- d. include all dependants of the principal applicant where they hold or have applied for a temporary entry class visa based on their relationship to the principal applicant; and
- e. be given to an immigration officer together with the following material:
  - i. the applicant's passport (or a certified copy) or certificate of identity (or a certified copy), or if this is unavailable, his or her original full birth certificate (or a certified copy) or other identity document (or a certified copy); and
  - ii. two passport-sized photographs of the applicant's head and shoulders; and
  - iii. an original or certified copy of the applicant's full birth certificate or, if this is unobtainable, an original or certified copy of an identity card; and
  - iv. the appropriate fee and immigration levy (if any); and
  - v. any information and evidence required by the relevant immigration instructions that shows that the principal applicant fits the category or categories of residence instructions under which the application is being made; and
  - vi. a completed Medical Certificate for the applicant that is less than three months old, unless [A4.20\(d\)](#) applies; and
  - vii. a completed Chest X-ray Certificate for the applicant that is less than three months old (except for pregnant women and children under the age of 11), unless [A4.20\(d\)](#) applies; and
  - viii. a police or similar certificate, less than 6 months old, indicating the applicant's record of convictions or lack of convictions for their country of citizenship and for each country in which they have lived for 12 months or more during the past 10 years (except for applicants under 17 and except where the authorities of any such country will not generally provide certificates), unless [A5.10\(d\)\(iv\)](#) applies; and
  - ix. any other information, evidence and submissions that the principal applicant considers show fully that they are eligible to be granted a residence class visa in terms of the applicable residence instructions.

**Note:** Medical and Chest X-ray Certificates may be submitted directly to Immigration New Zealand by the physician who completed the examination.

### R2.40.1 Mandatory requirements for lodging an online application for a residence class visa

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 23A.*

- a. An application for a residence class visa may be made online if electronic forms have been provided for that purpose by Immigration New Zealand [the Ministry of Business, Innovation and Employment].
- b. The application must be made using the electronic form provided.
- c. The electronic form requires the applicant to:
  - i. complete the form in English; and
  - ii. state his or her full name; and
  - iii. state his or her date and place of birth; and
  - iv. state the details of his or her passport or certificate of identity; and
  - v. upload a photograph of the applicant's head and shoulders that complies with the standards specified for the purpose by the Immigration New Zealand [Ministry of Business, Innovation and Employment]; and
  - vi. produce the information and evidence required by immigration instructions to demonstrate he or she fits the residence class visa category under which he or she is applying; and
  - vii. acknowledge that the details supplied in support of the application are true and correct to the best of the applicant's knowledge; and
  - viii. agree that, if his or her circumstances change before any visa is granted, or before the application is determined, the applicant will notify an immigration officer of the change; and
  - ix. pay the prescribed fee or arrange for its payment in a manner acceptable to the immigration officer processing the application; and
  - x. pay the immigration levy that is payable by the applicant (if any), or arrange for its payment in a manner acceptable to the immigration officer processing the application.

## **R2.40.2 Mandatory requirements for lodging an application for a resident visa at an immigration control area**

*See also Immigration Act 2009 ss 4, 28*

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Regs 7, 8*

- a. An application for a resident visa can be made at an immigration control area by:
  - i. an Australian citizen;
  - ii. a holder of Australian permanent residence visas (including a resident return visa)
  - iii. a person who previously held a resident visa.
- b. An application for a resident visa made by a person described in (a) at an immigration control area must:
  - i. be made on the approved form; and
  - ii. relate to only one person; and
  - iii. be completed in English; and
  - iv. be signed by the applicant, unless the applicant is less than 18 years old, in which case it must be signed by a parent or guardian (if the applicant is accompanied by a parent or guardian), or it is not required to be signed (if the applicant is not accompanied by a parent or guardian); and
  - v. be given to an immigration officer together with the applicant's passport or certificate of identity.
- c. A person who meets (a)(i) or (ii) above and is eligible to use the automated electronic system, may meet the requirements at (b)(v) above by giving their passport to the automated electronic system.

### **R2.40.5 Definition of 'current'**

'Current' means, in relation to any document provided in support of an application or Expression of Interest, to meet:

- a. mandatory requirements for lodgement of an application; or
- b. other evidential requirements of residence instructions,

that, at any relevant stage during the life of an application or an Expression of Interest (e.g. at the time an application or Expression of Interest is lodged, during assessment of the application or Expression of Interest and at the date of final decision on an application), that document is not expired.

### **R2.40.10 Authority to waive mandatory requirements**

Immigration officers may only waive those mandatory requirements for which they have delegated authority to make a special direction.

### **R2.40.15 Requests for applications to be lodged otherwise than on an approved form**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Regs 21, 22*

- a. The Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 allow for applications to be made otherwise than on the approved form. The purpose of these provisions is to allow for applications for visas to be processed rapidly, where the decision to grant or refuse a visa is straightforward and in an immigration officer's view any verification requirements are minor in nature.
- b. Because of the complex nature of residence class visa applications and the high level of verification required, requests to lodge residence class visa applications otherwise than on the approved form will normally be refused.

### **R2.40.20 Evidence of identity**

- a. Mandatory requirements (see R2.40 above) relating to proof of identity require applications to include full birth certificates for every applicant, which usually state:
  - i. the applicant's name; and
  - ii. their date of birth; and
  - iii. their place of birth; and
  - iv. the names and occupations of their parents.
- b. If a full birth certificate is unobtainable, the applicant may submit an identity card.
- c. A full birth certificate is considered to be obtainable even if there is a possible delay or expense in obtaining it.

## **R2.45 Additional requirements**

*See also Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, regs 5, 7, 8 and 23A.*

Before determining the application, an immigration officer processing an application may require the applicant:

- a. to appear before an immigration officer for an interview; and/or
- b. to produce any other photographs, documents, evidence, and information the officer thinks necessary to help in determining the application; and/or
- c. to undergo a further medical examination (unless the applicant previously held a resident visa and is applying for a resident visa at an immigration control area).

## R2.55 How to submit documents

- a. Unless the application has been made online (R2.40.1), all documents submitted in support of an application for a residence class visa must be originals, or certified copies.
- b. Certified copies must be stamped or endorsed as being true copies of the originals by a person authorised by law to take statutory declarations in the applicant's country or in New Zealand.

**Examples:** a lawyer, notary public, Justice of the Peace, or court official.

- c. Uncertified electronic copies of documents may be provided in support of an application that has been made online.
- d. For all applications, including an online application, an immigration officer may request the original document where it has not been supplied with an application.

### R2.55.1 Translations

- a. Any documents not in English must be accompanied by an English translation containing the information normally found in an equivalent New Zealand document, or sufficient information to show that the applicant has met the criteria set out in instructions.
- b. INZ may, at its discretion, require applicants to provide full English translations of documents.
- c. Translations must:
  - i. not be prepared by an applicant, any member of their family or an immigration adviser assisting with the application; and
  - ii. be accompanied by the original documents or certified copies; and
  - iii. be certified as a correct translation made by a person familiar with both languages and competent in translation work; and
  - iv. bear the stamp or signature of the translator or translation business; and
  - v. if applicable, be on the official letterhead of the translation business.
- d. Officers may:
  - i. request a translation of the complete document where the translation is of a selected part(s) of the document; and
  - ii. request a translation by a different (specified) translation service where they are not satisfied by the initial translation.

**Note:** If a translation by a different (specified) translation service is requested the reason(s) behind the request must be clearly documented and conveyed to the applicant by INZ.

#### R4.25 Evidence of sponsorship

- a. Sponsors must provide the completed sponsorship form required by the category of residence instructions the application is being made under.
- b. Sponsors must provide evidence that they are an acceptable sponsor and have the financial means to meet all sponsorship undertakings.
- c. An Immigration Officer may request additional evidence that a sponsor is an acceptable sponsor and is able to meet their sponsorship undertakings.
- d. If a sponsor is an organisation, they must provide evidence that they are registered in New Zealand as a company, incorporated society or charitable trust.

##### R4.25.1 Evidence for sponsors who are natural persons

- a. Evidence that sponsors are New Zealand citizens may include, but is not limited to:
  - a New Zealand passport; or
  - a New Zealand birth certificate issued prior to 1 January 2006; or
  - a New Zealand birth certificate issued on or after 1 January 2006 that positively indicates New Zealand citizenship; or
  - a certificate of New Zealand citizenship; or
  - a confirmation of New Zealand citizenship by descent certificate issued under the Citizenship Act 1977; or
  - an evidentiary certificate issued under the Citizenship Act 1977 confirming New Zealand citizenship; or
  - an endorsement in a foreign passport indicating the fact of New Zealand citizenship.
- b. Evidence that sponsors are residence class visa holders may include but is not limited to:
  - a current New Zealand residence class visa in their passport or a certificate of identity; or
  - evidence the sponsor is deemed to hold a residence class visa.
- c. Evidence of a sponsors time spent in New Zealand as a New Zealand citizen or residence class visa holder may include:
  - INZ records of sponsors' entry to and exit from New Zealand; or
  - the sponsor's current or previous passports; or
  - any other evidence of time spent in New Zealand provided by a sponsor or sought by INZ.

**Note:** Periods during which a residence class visa holder has been in New Zealand are calculated inclusive of both arrival and departure dates.

## F2.20 Evidence

- a. Evidence supporting an application under Partnership Category for a residence class visa should include as much information and as many documents as are necessary to show that:
  - i. the principal applicant's partner:
    - o is a New Zealand citizen or resident (see [F2.10.5](#)); and
    - o supports their application for a residence class visa under the Partnership Category; and
    - o is eligible to support an application under partnership instructions ( see [F2.10.10](#)); and
  - ii. the principal applicant and their New Zealand citizen or resident partner are living together in a partnership that is genuine and stable.
- b. Factors that have a bearing on whether two people are living together in a partnership that is genuine and stable include but are not limited to:
  - i. the duration of the parties relationship;
  - ii. the existence, nature, and extent of the parties' common residence;
  - iii. the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
  - iv. the common ownership, use, and acquisition of property by the parties;
  - v. the degree of commitment of the parties to a shared life;
  - vi. children of the partnership, including the common care and support of such children by the parties;
  - vii. the performance of common household duties by the partners; and
  - viii. the reputation and public aspects of the relationship.
- c. The items listed in F2.20.1 to F2.20.15 below are examples of relevant evidence; other documents may also be relevant.

### F2.20.1 Evidence that partner is New Zealand citizen or resident

- a. Evidence that a partner is a New Zealand citizen may include but is not limited to:
  - i. a New Zealand passport; or
  - ii. a New Zealand birth certificate issued prior to 1 January 2006; or
  - iii. a New Zealand birth certificate issued on or after 1 January 2006 that positively indicates New Zealand citizenship; or
  - iv. a certificate of New Zealand citizenship; or
  - v. a confirmation of New Zealand citizenship by descent certificate issued under the Citizenship Act 1977; or
  - vi. an evidentiary certificate issued under the Citizenship Act 1977 confirming New Zealand citizenship.
- b. Evidence that a partner is a New Zealand resident may include but is not limited to:
  - i. a current resident visa or permanent resident visa; or
  - ii. evidence that the partner is deemed to hold a resident visa or permanent resident visa; or
  - iii. a valid Australian passport.

### F2.20.5 Evidence that New Zealand is the primary place of established residence

- a. Evidence that New Zealand is the New Zealand partner's primary place of established residence may include but is not limited to:
  - correspondence addressed to the sponsor
  - employment records
  - records of benefit payments from the Ministry of Social Development
  - banking records
  - rates demands
  - Inland Revenue records
  - mortgage documents
  - tenancy and utility supply agreements
  - documents showing that the New Zealand partner's household effects have been moved to New Zealand.
- b. The presence or absence of any of the documents listed above is not determinative. Each case will be decided on the basis of all the evidence provided.

### F2.20.10 Evidence of support by New Zealand citizen or resident partner

A principal applicant must provide a *Partnership Support Form for Residence (INZ 1178)* which:

- a. confirms that the New Zealand partner is a New Zealand citizen or resident; and
- b. confirms support for the application; and
  - includes a declaration that the New Zealand partner:
  - is eligible to support a partnership application (see [F2.10.10](#)); and
  - is in a partnership with the principal applicant that meets the minimum requirements for recognition of partnerships (see [F2.15](#)).

#### **F2.20.15 Evidence of living together in partnership that is genuine and stable**

- a. Evidence that the principal applicant and partner are living together may include but is not limited to documents showing shared accommodation such as:
  - i. joint ownership of residential property
  - ii. joint tenancy agreement or rent book or rental receipts
  - iii. correspondence (including postmarked envelopes) addressed to both principal applicant and partner at the same address.
- b. If a couple has been living separately for any period during their partnership, they should provide evidence of the length of the periods of separation, the reasons for them, and how their relationship was maintained during the periods of separation, such as letters, itemised telephone accounts or e-mail messages.
- c. Evidence about whether the partnership is genuine and stable may include but is not limited to documents and any other information such as:
  - i. a marriage certificate for the parties;
  - ii. a civil union certificate for the parties;
  - iii. birth certificates of any children of the parties;
  - iv. evidence of communication between the parties;
  - v. photographs of the parties together;
  - vi. documents indicating public recognition of the partnership;
  - vii. evidence of the parties being committed to each other both emotionally and exclusively such as evidence of:
    - joint decision making and plans together
    - sharing of parental obligations
    - sharing of household activities
    - sharing of companionship/spare time
    - sharing of leisure and social activities
    - presentation by the parties to outsiders as a couple.
  - viii. evidence of being financially interdependent such as evidence of
    - shared income
    - joint bank accounts operated reasonably frequently over a reasonable time
    - joint assets
    - joint liabilities such as loans or credit to purchase real estate, cars, major home appliances
    - joint utilities accounts (electricity, gas, water, telephone)
    - mutually agreed financial arrangements.
  - ix. The presence or absence of any of the documents, information or evidence listed above is not determinative. Each case will be decided on the basis of all the evidence provided. Evidence about these matters may also be obtained at interview and can be considered up until the date of final decision.

## **F5.10 Evidence**

The items listed in F5.10.1 to F5.10.35 below are examples of relevant evidence: other documents may also be relevant.

### **F5.10.1 Evidence of dependent child's relationship to parent(s)**

- a. Evidence of the dependent child's relationship to the parent(s) is
  - i. birth certificates establishing the relationship of the dependent child to the parent(s); or
  - ii. household registration documents, if these establish the relationship of the dependent child to the parent(s); or
  - iii. evidence of adoption (see R3), which establishes the relationship of the dependent child to the parent(s).
- b. Other evidence establishing the relationship of the children to the parent(s) may also be provided.

### **F5.10.5 Evidence of declaration by parent(s)**

Evidence of declaration as a dependent child is the declaration of children on the parent(s) residence application form.

### **F5.10.10 Evidence that principal applicant is single, with no children, and 24 or younger**

- a. Evidence that the principal applicant is single, with no children, and aged 18 to 24, is:
  - i. a declaration in the residence application form that the principal applicant is not married, is not in a civil union, and is not living in a de facto relationship; and
  - ii. a declaration in the residence application form that the principal applicant has no children; and
  - iii. a birth certificate or other evidence that the principal applicant is aged 18 to 24.
- b. Evidence that the principal applicant is single, and 17 or younger, is:
  - i. a declaration in the residence application form that the principal applicant is not married, is not in a civil union, and is not living in a de facto relationship; and
  - ii. a birth certificate or other evidence that the principal applicant is 17 or younger.

### **F5.10.15 Evidence of financial dependence (see [F5.1](#))**

- a. Up to and including 17 years of age, if a child is single, they are presumed to be dependent.
- b. From 18 years of age up to and including 20 years of age, if a child is single and has no children of their own, they are presumed to be dependent.
- c. From 21 years of age up to and including 24 years of age, evidence of actual dependence may be required.

### **F5.10.20 Evidence of adoption under New Zealand Adoption Act 1955 (see [F5.1\(b\)\(iii\)](#))**

Evidence is the Notice of Adoption Order.

**Note:** Notices of interim orders are not evidence of adoption.

### **F5.10.25 Evidence that overseas adoption has the same effect as a New Zealand adoption (see [F5.1\(b\)\(iii\)](#))**

Evidence that an overseas adoption has the same effect as a New Zealand adoption under section 17 of the Adoption Act 1955, includes:

- a. a ruling from a New Zealand court; or
- b. the assessment of the immigration officer, if there are clear precedents for adoptions from the country concerned.

### **F5.10.30 Evidence of parent's New Zealand citizenship or residence class visa**

- a. Evidence that a parent is a New Zealand citizen may include but is not limited to:
  - **a** New Zealand passport; or
  - a New Zealand birth certificate issued prior to 1 January 2006; or
  - a New Zealand birth certificate issued on or after 1 January 2006 that positively indicates New Zealand citizenship; or
  - a certificate of New Zealand citizenship; or
  - a confirmation of New Zealand citizenship by descent certificate issued under the Citizenship Act 1977; or
  - an evidentiary certificate issued under the Citizenship Act 1977 confirming New Zealand citizenship.
- b. Evidence that a parent is a New Zealand resident is:

- i. a current New Zealand residence class visa in their passport or certificate of identity; or
- ii. evidence of an electronic record of a current New Zealand residence class visa; or
- iii. evidence the parent is deemed to hold a New Zealand residence class visa.

**F5.10.35 Evidence of being 'lawfully and permanently' in New Zealand**

Evidence must be provided of actual residence in New Zealand. Evidence may include but is not limited to:

- correspondence addressed to the applicant
- employment references
- rates demands
- income tax returns
- mortgage documents
- documents showing that household effects have been moved to New Zealand.

## **F5.20 Dependent children under 16 whose parents are separated or divorced**

- a. If the parents of a child under the age of 16 are separated or divorced, the New Zealand citizen or resident parent must have the right to remove the child from the country in which rights of custody or visitation have been granted, or, if no such rights of visitation have been granted, from the country of residence.
- b. Such children will not be granted a resident visa unless the New Zealand citizen or resident parent produces satisfactory evidence of their right to remove the child from the country in which the rights of custody or visitation have been granted or, if no such rights of visitation have been granted, from the country of residence.
- c. Except where (d) applies, evidence of the right to remove the child from the country in which rights of custody or visitation have been granted must include:
  - i. legal documents showing that the New Zealand citizen or resident parent has the sole right to determine the residence of the child, without rights of visitation by the other parent; or
  - ii. a court order permitting the New Zealand citizen or resident parent to remove the child from its country of residence; or
  - iii. legal documents showing that the New Zealand citizen or resident parent has custody of the child and a signed statement from the other parent, witnessed in accordance with local practice or law, agreeing to allow the child to live in New Zealand if the application is approved.
- d. Where an immigration officer is satisfied that:
  - i. by virtue of local law, the New Zealand citizen or resident parent has the statutory right to custody of the child; and
  - ii. it is not possible or required under that local law to obtain individualised legal documents to verify that custodial right, the New Zealand citizen or resident parent will be considered by INZ to have the right to remove the child from its country of residence

#### **F5.25 Dependent children under 16 with only one parent holding New Zealand citizenship or a New Zealand residence class visa**

- a. If one of the parents of a child under the age of 16 is not a New Zealand citizen or resident, the New Zealand citizen or resident parent must have the right to remove the child from the child's country of residence.
- b. Such children will not be granted a residence class visa unless the New Zealand citizen or resident parent produces satisfactory evidence of their right to remove the child from the child's country of residence.
- c. Except where (e) applies evidence of the right to remove the dependent child from the child's country of residence in situations where one parent is not a New Zealand citizen or resident, but the parents are not separated or divorced, must include:
  - i. a written statement confirmed by both parents at an interview with an immigration officer, either in person or by phone; or
  - ii. a court order permitting the applicant to remove the child from the child's country of residence.
- d. If because of the death of one of the parents of a child under the age of 16, only one parent holds New Zealand citizenship or residence class visa, the death certificate of the other parent must be provided.
- e. Where an immigration officer is satisfied that:
  - i. by virtue of local law, the New Zealand citizen or resident parent has the statutory right to custody of the child; and
  - ii. it is not possible or required under that local law to obtain individualised legal documents to verify that custodial right, the New Zealand citizen or resident parent will be considered by INZ to have the right to remove the child from the child's country of residence.

**Appendix 2 - Amendments to Temporary Entry instructions effective on and after 7 May 2018**

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## E7.10 Considering an application

*See also Immigration Act 2009 ss 26(4), 76(1)*

- b. Immigration officers must first determine applications for temporary entry in accordance with:
  - i. the requirements of the Immigration Act 2009; and
  - ii. the temporary entry instructions in force at the time the application is made or any general instructions given by the chief executive; and
  - iii. any relevant special directions.
- c. If an application fails to meet the requirements of temporary entry instructions, officers must then consider all the circumstances of the application to see if an exception to temporary entry instructions is justified, taking into account the objectives of temporary entry instructions and the situation and purpose of the applicant. See also section E7.32 which refers to the grant of a limited visa or the imposition of bonds.
- d. Officers must be satisfied that applicants for temporary entry are bona fide applicants (see [E5.1](#) and [E5.10](#)).
- e. If applicants do not respond within the specified time to a request from an immigration officer for further information, evidence or documents, or an interview, the application will be assessed on the relevant information available to INZ at the time.

### E7.10.1 Requesting a passport for applications made online

*See also Immigration Act 2009 s 28 and the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, Reg 23A.*

- a. Where an application is made on an electronic form in accordance with Regulation 23A of the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010, the applicant must supply their original passport or travel document to an immigration officer if the applicant is:
  - i. outside of New Zealand at the time they make the application; and
  - ii. not subject to a visa waiver to travel to New Zealand (E2.1); and
  - iii. not a person intending to travel on a People's Republic of China passport.
- b. An automated system may request an original passport or travel document from a person to whom E7.10.1(a) above applies.
- c. Regardless of E7.10.1(a), an immigration officer determining the application may request any applicant to supply their passport or travel document.

### **I1.11 Automated and manual processing of interim visas**

- a. An automated system may grant an interim visa to a person who meets the criteria set out at I1.1a, unless I1.11(b) applies.
- b. An interim visa will not be granted by an automated system if a person:
  - i. has particular alerts or warnings related to character;
  - ii. has an active appeal;
  - iii. is liable for deportation;
  - iv. has an open case with the Deputy Chief Executive or the Minister;
  - v. is a student funded through the Ministry of Foreign Affairs and Trade or the New Zealand Aid Programme; or
  - vi. has compliance action underway;
  - vii. holds a visa that has been granted because the Immigration and Protection Tribunal has ordered the grant of the visa under either section 210 or 216 of the Immigration Act 2009.
- c. In cases where (b) applies, a manual assessment may be carried out by an immigration officer to determine whether an interim visa will be granted.
- d. An automated system may grant an interim visa under section 61 of the Immigration Act 2009 using the criteria outlined in (a), (b) and (c) above, in cases where:
  - i. the associated temporary visa application is received at an Immigration New Zealand branch while the person holds a current temporary visa; and
  - ii. the current temporary visa subsequently expires; and
  - iii. the application is then accepted for processing.