



7 September 2021

IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2021-41

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 from the effective date.

Note

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

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

Description of changes

H5.25 Determining an application for a visa or variation of conditions

H5.25.15 List of critical purpose for travelling to New Zealand

H5.30.55 Partner or dependent child of a teacher in New Zealand

Changes have been made to the family reunification requirements for onshore teachers who would like offshore family to join them in New Zealand. The onshore temporary visa holder supporting the visas of their partner and/or dependent children must be registered with the Teaching Council of Aotearoa New Zealand, as well as being employed as a full-time teacher. Open work visa holders are eligible to support family members under these instructions provided they meet all relevant criteria.

Appendix 1: Amendments to Restricted Temporary Entry instructions effective on and after 13 August 2021

H5.25 Determining an application for a visa or variation of conditions

H5.25.1 Determining an application for a Critical Purpose visitor visa

- a. A Critical Purpose visitor visa may be granted if an immigration officer is satisfied that all applicants included in the application:
 - i. meet health and character requirements for temporary entry ([A4](#) and [A5](#)); and
 - ii. are bona fide ([E5](#)) applicants for a temporary entry class visa; and
 - iii. meet funds or sponsorship requirements for visitors ([V2.20](#)); and
 - iv. meet onward travel requirements for visitors ([V2.25](#)); and
 - v. have a critical purpose for travel to New Zealand as described in H5.25.15; and
 - vi. if they are a 'critical health worker' ([H5.30.1](#)) or an 'other critical worker' ([H5.30.5](#)), they have provided sufficient evidence to demonstrate that they meet the requirements of W2.10.1(b) as applicable.
- b. Principal applicants invited to apply on the basis of normally living in New Zealand (see H5.25.15(j)), and whose critical purpose involves meeting the requirements of [H5.30.35\(d\)\(i\)](#), must provide a statutory declaration completed by their employer that states that the principal applicant is currently employed in the same position the principal applicant held immediately before departing New Zealand, and that the employment relationship has been maintained continuously since the principal applicant departed New Zealand.

H5.25.5 Determining an application for another visa (appropriate to the applicant's circumstances)

- a. An immigration officer may grant a visa appropriate to the applicant's circumstances if they are satisfied that the applicant:
 - i. meets all relevant immigration instructions required for the grant of that visa; and
 - ii. has a critical purpose for travel to New Zealand as described in H5.25.15.
- b. Principal applicants invited to apply on the basis of normally living in New Zealand (see H5.25.15(j)), and whose critical purpose involves meeting the requirements of [H5.30.35\(d\)\(i\)](#), must provide a statutory declaration completed by their employer that states that the principal applicant is currently employed in the same position the principal applicant held immediately before departing New Zealand, and that the employment relationship has been maintained continuously since the principal applicant departed New Zealand.

H5.25.10 Determining an application for a variation of conditions (for holders of a valid temporary entry class visa)

- a. A variation of conditions can be granted where an immigration officer is satisfied:
 - i. the applicant has a critical purpose for travelling to and being in New Zealand as described at H5.25.15; and
 - ii. all the other requirements of the visa the person currently holds continue to be met.
- b. Principal applicants invited to apply on the basis of normally living in New Zealand (see H5.25.15(j)), and whose critical purpose involves meeting the requirements of [H5.30.35\(d\)\(i\)](#), must provide a statutory declaration completed by their employer that states that the principal applicant is currently employed in the same position the principal applicant held immediately before departing New Zealand, and that the employment relationship has been maintained continuously since the principal applicant departed New Zealand.

H5.25.15 List of critical purpose for travelling to New Zealand

The following people are defined as having a critical purpose for travelling to New Zealand under these instructions:

- a. Critical health workers and their partners and dependent children ([H5.30.1](#)).
- b. Other critical workers, and their partners and dependent children (except where [H5.30.20](#) states that partners and dependent children are not eligible to be included) ([H5.30.5](#)).
- c. People belonging to a class exception agreed to by Cabinet or the Minister of Immigration, consisting of either:
 - i. a class of workers, that meets the requirements set out at [H5.30.20](#); or
 - ii. a class of individuals, that meets the requirements set out at [H5.30.21](#).
- d. Citizens of Samoa and Tonga making essential travel to New Zealand where this travel has been officially requested by the Government of Samoa or Tonga, and this request has been formally approved by the New Zealand Ministry of Foreign Affairs and Trade.
- e. People who have humanitarian reasons for travel to New Zealand ([H5.30.25](#)).
- f. The partner, dependent child or legal guardian of a New Zealand citizen or residence class visa holder (with the exception of the holder of a resident visa granted outside New Zealand who has not entered New Zealand as the holder of the visa), who is either:
 - i. travelling with that New Zealand citizen or residence class visa holder; or
 - ii. ordinarily resident in New Zealand; or
 - iii. has a visa based on their relationship to the New Zealand citizen or residence class visa holder.
- g. People who hold a visitor, work or student visa and:
 - i. are ordinarily resident in New Zealand; and

- ii. are the partner or dependent child (see E4.1) of a work or student visa holder who is in New Zealand.
- h. Replacement cargo ship crew travelling to New Zealand by air ([H5.30.30](#)).
- i. Marine crew arriving by the maritime border ([H5.31](#)).
- j. Essential Skills, Entrepreneur and Work to Residence visa holders who normally live in New Zealand ([H5.30.35](#)).
- k. Replacement cargo ship crew travelling to New Zealand by air servicing the Pacific ([H5.30.31](#)).
- l. People who held a visitor, work or student visa on 19 March 2020 that was granted on the basis of their relationship to a work or student visa holder who is currently in New Zealand and, on the date they express interest either:
 - i. that relationship-based visa is still current; or
 - ii. that relationship-based visa had a "first entry" condition and, had they entered New Zealand on the last date allowed for by the first entry condition, their visa would still be current ([H5.30.40](#)).
- m. The partner or dependent child of a work visa or a Critical Purpose visa holder who is in New Zealand and:
 - i. **the visa holder's visa** indicates they are employed in an occupation in critical health services ([H5.30.45](#)); or
 - ii. **the visa holder has** current employment that meets the specified salary, and is highly-skilled, as defined in [H5.30.50](#); or
 - iii. **the visa holder is registered with the Teaching Council of Aotearoa New Zealand and is** employed as a full-time teacher in either Early Childhood Education or at a primary or secondary school.

H5.25.20 Family relationships

- a. A person will be considered to be the partner of a New Zealand citizen, or permanent resident visa holder, or resident visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, if they meet the requirements for partners specified in [E4.1](#).
- b. A person will be considered to be a dependent child of a New Zealand citizen or permanent resident visa holder, or resident visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, if they meet the requirements for dependent children specified in [E4.1](#).
- c. A person will be considered to be a partner of a visitor, work or student visa holder who is in New Zealand, if they meet the requirements for partners specified in [E4.1](#).
- d. A person will be considered to be a dependent child of a visitor, work or student visa holder who is in New Zealand, if they meet the requirements for dependent children specified in [E4.1](#).
- e. An immigration officer must be satisfied that a person is a partner or dependent child of a New Zealand citizen or visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, before a visa can be granted to a person for a critical purpose based on that relationship.
- f. For the avoidance of doubt and the purposes of (a) (c) and (e) above, a person will only be considered to have met the requirements of partnership if they also have lived together.

Note: Where a person is applying as the partner or dependent child of a New Zealand citizen or visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, evidence of the relationship must be provided if Immigration New Zealand has not established the relationship in a previous visa application.

H5.30.45 Partner or dependent child of a worker in critical health services

- a. A person will be considered to have a critical purpose for travel to New Zealand ([H5.25.15\(m\)\(i\)](#)) if they meet the following requirements:
 - i. the person is currently outside of New Zealand; and
 - ii. the person is the partner or dependent child of a temporary visa holder currently in New Zealand who holds a temporary visa that specifies work in an occupation needed to deliver critical health services in New Zealand (as defined in H5.30.1(b)).
- b. A person who is considered to have a critical purpose for travel to New Zealand under (a) may be invited to apply under these instructions (see [H5.10](#)) for either:
 - i. a visa appropriate to their circumstances, which will be a visa based on their relationship to their partner or parent who is the health worker referred to in (a)(ii); or
 - ii. a variation of conditions for the visa they hold.

H5.30.50 Partner or dependent child of a highly-skilled worker in New Zealand

- a. A person will be considered to have a critical purpose for travel to New Zealand ([H5.25.15\(m\)\(ii\)](#)) if they meet the requirements in (b) and (c) below.
- b. The person is currently outside of New Zealand.
- c. The person is the partner or dependent child of a temporary visa holder who:
 - i. is currently living in New Zealand; and
 - ii. is in current employment that meets H5.30.50.1 below; and
 - iii. holds a visa valid for at least a further 12 months on the date that the person makes a request to travel to New Zealand under [H5.25.15\(m\)\(ii\)](#).
- d. A person who is considered to have a critical purpose for travel to New Zealand under (a) above may be invited to apply under these instructions (see H5.10) for either a:
 - i. a visa appropriate to their circumstances, which will be a visa based on their relationship to their partner or parent who is the highly-skilled worker referred to in (c); or
 - ii. a variation of conditions for the visa they hold.

H5.30.50.1 Requirements for the temporary visa holder's employment

- a. The current employment of the temporary visa holder described in H5.30.50(c) must be paid at least twice the median salary (NZD \$106,080 per year).
- b. Their current employment must also meet one (or more) of:
 - i. they have unique experience and technical or specialist skills not readily obtainable in New Zealand; or
 - ii. they have a role essential for the completion or continuation of a science programme under a government funded or partially government funded contract, including research and development exchanges and partnerships, and have the support of the Science, Innovation and International Branch at MBIE; or
 - iii. their role is essential for the delivery or execution of one of the following:
 - o an approved major infrastructure project, or a government approved event or a major government approved programme, or
 - o an approved government-to-government agreement, or
 - o work with significant wider benefit to the national or regional economy.

Notes:

- For the absence of doubt, 'current employment' in H5.30.50.1 above does not include an offer of employment.
- When considering H5.30.50.1(b), an immigration officer, or an immigration officer who is also a National Manager in the Border and Visa Operations Branch, may determine if the current employment of the temporary visa holder meets the requirements of H5.30.50.1(b) for the person in H5.30.50 to be eligible to be invited to apply for a visa.

H5.30.50.5 Calculating remuneration

- a. Remuneration will be calculated according to the salary stated in the current employment agreement of the temporary visa holder referred to in H5.30.50.1(a).
- b. Where an employee is to work more than 40 hours per week, the minimum base salary must be calculated on the basis of a 40 hour week.
- c. Remuneration includes:
 - i. the agreed value of any reasonable deduction from the applicant's salary or wages for goods or services; and
 - ii. in the case of accommodation provided in connection to the employment:
 - o the agreed value of any reasonable deduction from the applicant's salary or wages for that accommodation; or
 - o if accommodation is provided by the employer, and there is no deduction from the applicant's salary or wages for that accommodation, the market rental value of the accommodation provided; or

- o if an accommodation allowance is provided, the amount of that allowance.

Notes:

- In relation to H5.30.50.5(c)(ii) above, the meaning of accommodation, and the value of accommodation that is included in the definition of 'remuneration', reflects the definition of accommodation and the value of accommodation that forms part of a person's income under section CE 1 of the Income Tax Act 2007.
- For the purposes of H5.30.50.5, remuneration excludes other employment-related allowances (for example tool, or uniform allowances), and bonuses which are dependent on performance.

H5.30.55 Partner or dependent child of a teacher in New Zealand

- a. A person will be considered to have a critical purpose for travel to New Zealand if they meet the following requirements:
 - i. the person is currently outside of New Zealand; and
 - ii. the person is the partner or dependent child of a temporary visa holder currently in New Zealand who is registered with the Teaching Council of Aotearoa New Zealand and is employed as a teacher in Early Childhood Education, or primary, or secondary schooling.
- b. A person who is considered to have a critical purpose for travel to New Zealand under (a) above may be invited to apply under these instructions (see [H5.10](#)) for either:
 - i. a visa appropriate to their circumstances, which will be a visa based on their relationship to their partner or parent who is the teacher referred to in [H5.25.15\(m\)\(iii\)](#); or
 - ii. a variation of conditions for the visa they hold.