



9 December 2021

IMMIGRATION NEW ZEALAND INSTRUCTIONS: Amendment Circular No. 2021-59

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

Y3.30 People who may be granted entry permission: COVID-19

E7.1 Processing an application

E7.30 Approving an application

R5.1 Applications determined by INZ officers

Changes have been made to immigration instructions to:

- allow eligible resident visa holders who were granted their resident visa offshore to enter New Zealand for the first time on that visa (provided the entry permission instructions which applied on the date they submitted their application allow this), and
- make clear the policy intent of the Immigration Act 2009 (the Act) with respect to decision-making for the grant of a visa or entry permission for temporary and resident visa applications.

Appendix 1: Amendments to Residence and Temporary Entry (Border Entry) instructions effective from 8 December 2021

Y3.30 People who may be granted entry permission: COVID-19

- a. Despite Y4.50(a), the following persons may be granted entry permission:
- i. Those New Zealand residence class visa holders listed in [Y3.10\(a\)](#)
 - ii. The partner, legal guardian or any dependent children of a New Zealand citizen or a New Zealand residence class visa holder listed at [Y3.10\(a\)](#) who:
 - o are travelling with that New Zealand citizen or residence class visa holder; or
 - o are ordinarily resident in New Zealand; or
 - o have a visa based on their relationship to the New Zealand citizen or residence class visa holder.
 - iii. Australian citizens or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia, where New Zealand is their primary place of established residence.
 - iv. Diplomats accredited to New Zealand and currently resident in New Zealand.
 - v. New diplomatic and consular personnel filling established positions at a foreign mission or consular post in New Zealand.
 - vi. Other diplomatic and consular personnel authorised by the Minister of Foreign Affairs or their delegate where there is a compelling national interest.
 - vii. Holders of a resident visa granted under the COVID-19 Support residence instructions ([S5](#)).
 - viii. Persons who previously held their initial resident visa while in New Zealand, and are the holders of a second or subsequent resident visa granted offshore, and who are travelling to New Zealand for the first time as the holder of that visa.
 - ix. Positioning aircraft crew travelling to New Zealand as a passenger (other than a transit passenger) on a commercial aircraft for the purpose of leaving New Zealand as aircraft crew in the course of a scheduled international service.
 - x. A person who:
 - o has travelled to New Zealand directly from Australia, the Cook Islands or Niue; and
 - o travelled to New Zealand on a Quarantine-Free Travel flight (as defined in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020); and
 - o on boarding the flight, has been present in either of the following for the specified 14-day period (as defined in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020)
 - the Cook Islands or New Zealand (if travelling from the Cook Islands); or
 - Niue or New Zealand (if travelling from Niue); or
 - Australia or New Zealand (if travelling from Australia).
 - xi. A person who has travelled to New Zealand directly from Australia; and
 - o is the holder of a resident visa; or
 - o is the holder of a temporary visa who last departed from New Zealand on or after 6 April 2021; or
 - o is an Australian citizen or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia who last departed from New Zealand on or after 6 April 2021; or
 - o the partner, parent or dependent child of:
 - a New Zealand citizen
 - the holder of a resident visa
 - the holder of a temporary visa who last departed from New Zealand on or after 6 April 2021
 - an Australian citizen or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia who last departed from New Zealand on or after 6 April 2021
 - xii. Persons who were in Afghanistan on 15 August 2021 and who on 19 August 2021 held and continue to hold either a valid temporary entry class visa or a residence class visa which was granted when the person was offshore and the person is arriving in New Zealand for the first time.
 - xiii. A person who:
 - o is either:
 - The holder of a resident visa; or
 - An Australian citizen or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia; and
 - o has travelled to New Zealand directly from Samoa, Vanuatu or Tonga; and
 - o travelled to New Zealand on a Quarantine-Free Travel flight (as defined in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020); and on boarding the flight, has been present in either of the following for the specified 14-day period (as defined in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020):
 - Samoa or New Zealand (if travelling from Samoa); or
 - Vanuatu or New Zealand (if travelling from Vanuatu); or

- Tonga or New Zealand (if travelling from Tonga); or
- Tokelau, Samoa or New Zealand (if travelling from Tokelau).

xiv. The holder of a resident visa granted while outside of New Zealand who:

- o is arriving in New Zealand for the first time as the holder of that visa; and
- o the entry permission instructions in effect on the date of the resident visa application allowed holders of that visa to travel to and enter New Zealand.

Note: For the purpose Y3.30(a)(xi), dependent child has the meaning given by section 4 of the Immigration Act 2009, and parent, in relation to a dependent child, means a person on whom the child is dependent.

- b. A person may be granted entry permission if they are the holder of a temporary entry class visa which either:
- i. was granted or varied under the COVID-19 Support Restricted Temporary Entry Instructions; or
 - ii. has a condition that the holder carries out a critical purpose while they are in New Zealand.

Note: A person who was granted a second or subsequent resident visa by special direction on 11 September 2020 (i.e a person who held a resident visa with travel conditions which expired between 2 February 2020 and 11 September 2020 and had previously been in New Zealand as a resident but were outside New Zealand on 11 September 2020), is considered to hold a second or subsequent resident visa for the purposes of Y3.30(a)(viii). Quarantine-Free Travel is provided for by orders under the Covid-19 Public Health Response Act 2020. The COVID-19 Public Health Response (Air Border) Order (No 2) 2020 defines Quarantine-Free Travel (QFT) places, ports, carriers and persons. QFT is currently only possible for people arriving by the air border as part of a scheduled international service in accordance with the Air Border Order. Anyone arriving by private aircraft or by the maritime border are still subject to the border restrictions.

In the Air Border Order, the specified 14-day period means the period that:

- (a) starts at the beginning of the 14th day before the day on which the person boards the aircraft undertaking the QFT flight concerned, and
- (b) ends when the person boards the aircraft.

Appendix 2: Amendments to Temporary Entry instructions effective from 8 December 2021

E7.1 Processing an application

See also Immigration Act 2009 s 43

See also Immigration (Visa, Entry Permission, and Related Matter) Regulations 2010 regs 10, 11, 12, 13

- a. Immigration officers must be satisfied that applicants for temporary entry and entry permission have met the health and character requirements for temporary entry (see A4 and A5); and the requirements for the particular category of visa; and that they are bona fide applicants (see E5).
- b. Applicants may be required to present further documents, a medical examination or attend an interview.
- c. An immigration officer determining a temporary application from a person who is offshore must have no reason to believe that person would be refused entry permission, if the visa is granted.
- d. In making the determination set out at (c) above, the immigration officer should take into account:
 - i. for applications subject to temporary entry instructions, the most recent version of the relevant Border Entry instructions.
 - ii. for applications subject to restricted temporary entry instructions, the relevant Border Entry instructions in effect at the time the application was made.
- e. An immigration officer making the determination set out at (c) above is not required to consider whether the applicant is likely to be granted entry permission as an exception to instructions.

E7.1.1 Checking for information from previous applications

Immigration officers should check previous applications for relevant information, and if necessary contact the branches or offices that processed the previous applications, especially if applicants are applying outside their home country.

E7.1.5 Referral to appropriate receiving office

When assessing applications lodged at an office other than the designated receiving office for the applicant's country of nationality, immigration officers should refer to [25](#) and where necessary refer the application to the appropriate receiving office before making a decision on the application.

E7.30 Approving an application

See also Immigration Act 2009 s 43

- a. Applications for temporary entry class visas or entry permission may be approved if the immigration officer is satisfied that:
 - i. the applicant has provided the evidence required by immigration instructions, and any additional evidence requested by the immigration officer; and
 - ii. the applicant meets the requirements of the relevant temporary entry immigration instructions as well as applicable generic temporary entry instructions; and
 - iii. if the applicant is offshore, there is no reason to believe that the applicant would be refused entry permission, if the visa is granted (see E7.1(c)-(e)).

Appendix 3: Amendments to Residence instructions effective from 8 December 2021

R5.1 Applications determined by INZ officers

See also *Immigration Act 2009* s 43, 72

- a. Immigration officers must determine applications for residence class visas in accordance with:
 - i. the requirements of the Immigration Act 2009; and
 - ii. residence instructions applying at the time the application is made.
- b. Any discretion officers exercise must be in terms of the applicable residence instructions.
- c. An immigration officer determining an application for a residence class visa from a person who is offshore must be satisfied that there is no reason to believe that the person would be refused entry permission, if the visa is granted.
- d. When determining a residence class visa application under (c), an immigration officer should take into account the relevant Border Entry instructions in force at the time the application was made, but is not required to consider whether the person is likely to be granted entry permission as an exception to instructions.