



NEW ZEALAND  
IMMIGRATION

# Immigration Factsheets

## Deportations

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August 2018

- People who stay in New Zealand longer than their visa allows are unlawfully in the country and are automatically liable for deportation. A compliance officer may attempt to engage with the client to find out their circumstances and they may be allowed a period of time to depart voluntarily or get a new visa. INZ may serve them with a Deportation Order once their appeal rights expire. Appeal rights begin on the day that the person becomes unlawful.
- In other cases where individuals are not unlawfully in New Zealand but there are grounds to make them liable for deportation (e.g. they have breached the conditions of their visa or have character issues), they will be served with a Deportation Liability Notice (DLN). This is the first stage in the deportation process and activates their appeal rights.
- In most cases, people have 42 days from the date they became liable for deportation to appeal against deportation on humanitarian grounds to the Immigration and Protection Tribunal (IPT) after first becoming unlawful. During this appeal period they cannot be deported from the country, unless they agree to waive their appeal rights. A DLN will provide information about any applicable appeal rights and periods.
- Holders of resident or permanent resident visas may also become liable for deportation under certain circumstances, for example because of criminal offending or the detection of false or misleading information in a previous application.
- A person who is a New Zealand resident who is convicted of a criminal offence could become liable for deportation under section 161 of the Immigration Act 2009. Liability depends on when the person first held a residence class visa, the date of the offending and the sentence received or potential sentence the Court could give. There are three main tiers under section 161:
  - The first is when a New Zealand resident commits an offence and that offending occurred while they were unlawfully in New Zealand, held a temporary visa or within two years of being granted residence. The offence must be one which the Court has the power to impose imprisonment for a term of three months or more. They don't have to be sentenced to three months but the Court must have the power to impose three months or more.
  - The second is when a New Zealand resident commits an offence and that offending occurred within the first five years of holding residence and the Court has the power to impose imprisonment for a term of two years or more. They don't have to be sentenced to two years but the Court must have the power to impose two years or more.
  - The third is when a New Zealand resident commits an offence and that offending occurred within 10 years of being granted residence. The Court must impose imprisonment for a term of five years or more for a person to be liable under this tier.



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- People who are liable for deportation are case managed according to their circumstances. Those engaged in criminality are the highest priority for deportation. INZ works with the Police and other agencies to ensure this process is as efficient as possible.
- The majority of those unlawfully in New Zealand are not criminals. They choose to remain here for a number of reasons such as employment and family. In these cases, INZ focuses more attention on engaging with the individual and actively case managing them towards what is termed a 'voluntary departure'.
- The emphasis on case management gives the individual the opportunity to cooperate with Immigration New Zealand (INZ), settle their affairs here and pay for their own costs in returning to their home country.
- A voluntary departure does not preclude people returning to New Zealand if they are able to obtain the necessary visa, but this will depend on the individual circumstances.
- The table below details the number of deportations and voluntary departures in the past five financial years (1 July – 30 June).

	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
<b>Deportation</b>	660	529	540	738	642
<b>Voluntary Departure</b>	1222	1242	1358	1435	2304

- If people unlawfully in New Zealand choose not to cooperate and disengage from us, then they risk being deported in much the same way as higher priority deportations and face a prohibition of up to five years on returning to New Zealand as well as having to repay any costs associated with their deportation.
- In other cases where people are not unlawfully in New Zealand but are deported, they may face a prohibition of up to five years and in some cases a permanent prohibition on returning to New Zealand, as well as having to repay any costs associated with their deportation.
- INZ does not interact with New Zealand citizens being deported back to New Zealand as they have the legal right to enter the country, regardless of what they have done overseas.