

VISA PAK ISSUE 438 — 19 JUNE 2020

OFFSHORE VISA PROCESSING DURING BORDER CLOSURE

The purpose of this item is to explain why the Immigration Act 2009 (the Act) means that in general Immigration New Zealand cannot currently grant visas to applicants who are offshore.

Section 43(1)(b) of the Act states that “A visa (other than a transit visa) granted outside New Zealand indicates that... at the time the visa is granted, there is no reason to believe that the holder will be refused entry permission if the holder’s travel is consistent with the conditions of the visa relating to travel”.

The Border Entry instructions at Y4.50 mean that the New Zealand border is currently closed to most travellers to help stop the spread of COVID-19. Due to these instructions, almost all applications for entry permission must be refused. Therefore, while the border closure is in effect, an offshore visa application cannot be approved, unless the application is approved under the Restricted Temporary Entry Instructions at H5.

For visa processing offices, this means:

- If an application (other than an application assessed under H5) meets instructions and the applicant is offshore, it may be processed, but cannot be decided until after the border restrictions are lifted, and only if an immigration officer is satisfied that immigration instructions are met at the time of decision.
- If such an application does not meet instructions, it may be declined in accordance with normal practice.
- Immigration officers should take care to manage applicants’ expectations where the applicant is offshore. For instance, when requesting information, an immigration officer should include advice to the client that a visa can only be granted when the border restrictions are lifted or the applicant meets the requirements for an exception.
- Suggested wording to include in any communications with an applicant is below:

The New Zealand border is currently closed to almost all travellers apart from New Zealand citizens and residents. This means we are currently unable to issue a visa to a person offshore unless they have been granted an exception to the border restrictions.

Despite this, we have now been able to recommence processing of your application under the [insert category].

The fact we are resuming the processing of your application does not necessarily mean you will be granted a visa, or that we will be able to finalise your application as soon as the border restrictions are lifted. Please note we may need to request further information from you once the border restrictions have been removed to confirm you still meet the requirements of the visa for which you have applied.

If you think you might qualify for an exception to the current border restrictions you can find further information at <https://www.immigration.govt.nz/about-us/covid-19/border-closures-and-exceptions>.

To avoid doubt:

- Visa applications will continue to be processed in accordance with A16.1 General Instructions as to the order of processing visa applications;
- Offices should only resume processing offshore visa applications with the agreement of their National Manager;
- Applications for a variation of conditions under the Restricted Temporary Entry Instructions at E3.27 will continue to be processed for offshore applicants.