

VISA PAK ISSUE 467 — 23 APRIL 2021

REFUND REQUESTS FOR UNALLOCATED SKILLED RESIDENCE CLASS VISA APPLICATIONS

Under section 26(4) of the Immigration Act 2009 and acting under delegated authority from the Chief Executive of the Ministry of the Business, Innovation, and Employment, the Deputy Chief Executive (DCE) gives general instructions as to the order and manner of processing of visa applications under Government instructions at A16.1 General Instructions as to the order of processing visa applications (A16.1).

Between 1 July 2018 and 23 February 2020 (inclusive), Immigration New Zealand (INZ) allocated skilled residence class visa applications (under the Skilled Migrant Category (SMC), and the Residence from Work (RfW) Category) in accordance with an informal priority criteria that was not within the appropriate exercise of discretion and limits of authority.

The criteria used by INZ for prioritising skilled residence applications was formalised on 24 February 2020 and has been used appropriately since. The order for processing visa applications is set out at A16.1 General Instructions as to the order of processing visa applications. Information on this priority criteria is also available on INZ's website: <https://www.immigration.govt.nz/new-zealand-visas/waiting-for-a-visa/how-long-it-takes-to-process-your-visa-application/smc-and-rfw-timeframe-information>

INZ will be updating the website shortly to make the information set out below readily available to applicants.

Consideration of refund requests

As a result of the informal priority criteria applied during this period, some applicants may wish to withdraw their application for residence and request a refund, as this may have resulted in the client being unfairly disadvantaged.

Internal Administration Circular (IAC) [16-04 Fee Payments and Refunds](#) sets out the specific circumstances where a fee refund may be initiated. The IAC sets out under 'Fee refund guidelines' specific situations where fee refunds apply and includes: *'Errors on the part of INZ in the delivery of service have resulted in the client being unfairly disadvantaged and a fee refund is an appropriate way to mitigate that disadvantage'*. The application of informal priority criteria during the specific period is considered an *'error on the part of INZ in the delivery of service'*, and may have *'resulted in the client being unfairly disadvantaged'*.

If an applicant wishes to withdraw their application and request a refund an appropriately delegated officer (as set out at A15.5 *Delegation of powers (A15.5)*) can consider a special direction for a fee refund where:

- the SMC/RfW application was lodged between 1 July 2018 and 23 February 2020 (inclusive); and either:
- that application has not been allocated to an Immigration Officer (IO) at the time the request to withdraw the application with a refund is made; or
- that application has been allocated to an IO at the time the request to withdraw the application with a refund is made, but no assessment has been undertaken.

How to apply for a refund

Information on how an applicant can withdraw an application and request a refund is available on INZ's website at the following link:

<https://www.immigration.govt.nz/new-zealand-visas/already-have-a-visa/my-situation-has-changed/visit/can-i-get-a-refund-for-my-application-fee>.



SMC and RfW application withdrawal and refund requests should be sent to:
INZ, National Documentation Office, PO Box 76895, Manukau City, Auckland 2241, New Zealand.

Refund requests will be processed as soon as possible.

Please note that INZ is not able to receive a refund request by email due to banking regulations regarding the electronic transmission of banking information.

Action for appropriately delegated staff members

If you hold the delegations required (as set out at A15.5) it is appropriate to consider a request to withdraw an application with a refund in instances where:

- the SMC/RfW application was lodged between 1 July 2018 and 23 February 2020 (inclusive); and either:
- that application has not been allocated to an IO at the time the request to withdraw the application with a refund is made; or
- that application has been allocated to an IO at the time the request to withdraw the application with a refund is made, but no assessment has been undertaken.

If a person has previously made a request to withdraw an application with a refund, and that application has been withdrawn without a refund, and they would have met the criteria noted in this article, consideration should also be given to a special direction for a refund on request.

Requests for a refund outside of this criteria should continue to be considered in accordance with the guidelines set out under IAC 16-04, by appropriately delegated officers.