

VISA PAK ISSUE 544 — 14 APRIL 2023

CHILDREN ENTERING NEW ZEALAND FOR ADOPTION (V3.25) AND INTERCOUNTRY ADOPTIONS

Intercountry adoptions are governed by two pieces of legislation - the Adoption Act 1955 and the Adoption (Intercountry) Act 1997 which covers Hague Convention adoptions. Immigration instructions only refer to the Adoption Act 1955.

Immigration instruction V3.25 provides that children entering New Zealand for adoption by New Zealand citizens or residence class visa holders under the Adoption Act 1955 may be granted a temporary visa authorising an initial stay, for a maximum period of 6 months.

However, V3.25 does not expressly deal with intercountry adoptions that are governed by the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague process).

Applications for adoption under the Hague process are not issued an interim adoption order under the Adoption Act 1955 since the adoptions are governed by the Hague Convention. Consequently, applicant(s) undergoing intercountry adoptions under the Hague process are unable to provide the additional evidence required by instruction V3.25.1 to be issued further temporary visas.

In addition, applications for intercountry adoption under the Hague process often take significantly longer than through the Adoption Act 1955, which can result in applicants having to seek multiple further visas given instruction V3.25.1 limits each further visa to be for a maximum period of twelve months.

When considering applications for temporary visas for children undergoing an intercountry adoption through the Hague process, immigration officers may consider granting a temporary entry class visitor visa as an exception to instructions, specifically to the requirement that children granted visas under this instruction must be entering New Zealand to be adopted under the Adoption Act 1955 under instruction V3.25(a).

If considering an exception to instructions, immigration officers may also consider, upon recommendation from Oranga Tamariki (provided in the form of a support letter), issuing a longer duration of visa as an exception to instructions to allow a reasonable amount of time for the adoption process to progress. Longer visa durations may be appropriate for both children entering New Zealand to be adopted under the Adoption Act 1955 and those undergoing intercountry adoptions under the Hague process.

In the case of intercountry adoptions under the Hague process, the parents will be unable to provide an interim order issued under the Adoption Act 1955. However, Immigration New Zealand recognises that the Hague process is robust and provides safeguards for both the adoptive parents and children. Adoptions under the Hague Convention are legitimate, as recognised by the Adoption (Intercountry) Act 1997 and in most cases, evidence showing support of the adoption from Oranga Tamariki will be sufficient.

Therefore, if immigration officers are satisfied that all other requirements are met, they may consider an exception to instructions, specifically the requirement listed under V3.25.1(a) as described above.