



GUIDE TO IMMIGRATION

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IMMIGRATION ACT 2009

The following guide is designed to provide those wishing to immigrate to New Zealand with an introduction to the requirements of the Immigration Act 2009 and Immigration New Zealand (INZ). We advise you to obtain specific legal advice on your application to INZ so that you have the best possible chance of obtaining the status which you desire.

You may obtain further information on our website www.thelawyers.co.nz or download application forms using the Immigration New Zealand website - www.immigration.govt.nz.

VISAS, RESIDENCE AND CITIZENSHIP

Visas

There are several kinds of Visas including those for work, study, working holiday and holiday. Temporary Visas enable a person to enter and/or stay in New Zealand for a limited period of time and on certain conditions (set out in the particular Visa). For example, the Long Term Business Visa enables a person to stay in New Zealand and run a business for up to three years. Some Work Visas specify the employer and place of work.

You do not require a Visa to holiday in New Zealand for less than three months if you come from a country which has a Visa waiver agreement with New Zealand.

Residence

Residence enables a person to live in New Zealand on a permanent basis. Residence can be applied for under several different categories and can require that a person comply with certain conditions.

Citizenship

If a person is granted residence they retain their original citizenship. However, once a person has been a resident of New Zealand for a certain time (generally five years), they may apply for citizenship (and obtain a New Zealand passport). Citizenship is dealt with by the Department of Internal Affairs, not INZ.

Temporary stay in New Zealand

Temporary Visas may be obtained to stay as a visitor, student or worker. To work in New Zealand you must fall into an eligible category, for example:

- Your employer can show that he or she can not find a New Zealand citizen or resident for the job, having genuinely searched;
- Your job is listed in one of the “skill shortages” lists;
- You are aged between 18-30 and are from a country that has a Working Holiday Scheme with New Zealand;
- You wish to study in New Zealand;
- Your spouse or de facto partner has (or is eligible and applying for) a Work Visa or is a New Zealand citizen or resident.

The applicant or the employer can initiate the Work Visa application and we are able to assist with meeting the requirements.

Refugees

Refugees are a special case and may apply to INZ for Refugee Status.

WHO NEEDS TO APPLY FOR RESIDENCE?

Residence is for a permanent stay in New Zealand. Australian residents/citizens (subject to good character requirements) and New Zealand citizens do not need to apply for Residence in New Zealand as they have the automatic right to reside in New Zealand.

Citizens of all other countries must apply for residence if they wish to immigrate to New Zealand. A person may apply for residence from inside New Zealand if they are in New Zealand lawfully, or from outside New Zealand.

WHO EVALUATES THE APPLICATION?

Under the Immigration Act 2009, the Minister of Immigration sets Government residence policy, set out in the “Operational Manual”. INZ must evaluate immigration applications according to the rules of the policy to grant a Visa and the decision is subject to the discretion of the Minister or the appropriate officer.

If an application is declined, the applicant may ask the independent Immigration and Protection Tribunal to review the decision and that Tribunal has some discretion to waive policy requirements. It is also possible to apply to the Minister of Immigration for an exception to the policy requirements in certain circumstances.

There is a high standard of documentation required to apply for residence and you should set aside time for accumulating the necessary documents (see below for details).

There is also an application fee for a residence application.

THE RESIDENCE CATEGORIES

Some of the categories for residence in New Zealand are listed below.

If a family wishes to obtain residence only the “Principal Applicant” needs to apply. The spouse or de facto partner and any dependant children can be included in the residence application of the Principal Applicant. A family should choose the spouse or de facto partner most likely to succeed under the category to be the Principal Applicant.

Skilled Migrant Category

The Skilled Migrant Category is a points system based on ability to work and settle in skilled employment in New Zealand. Applicants score points for a number of factors such as qualifications, work experience, job offer and age. The points must add to more than 100 to submit an Expression of Interest (EOI) or to more than 140 for automatic selection for invitation to apply for residence. This can be submitted in hard copy or online.

Once an EOI has been submitted, all applications go into a pool. If you are selected from the pool based on points claimed, you will be invited to apply for residence in New Zealand which involves lodging evidence in support of your claim. You may then be granted Residence if you meet the INZ's policy requirements.

Business Categories

Investor/Investor Plus Categories

The Investor/Investor Plus Categories are aimed at people wishing to invest funds in a business and live in New Zealand. The policy is divided into two categories:

- Investor Plus (Investor 1 Category) – for migrants investing \$10 million in New Zealand for at least three years;
- Investor (Investor 2 Category) – for migrants investing \$1.5 million in New Zealand for at least four years and having \$1.5 million in settlement funds of which transfer is not required

The principal applicant must also meet a number of other requirements.

Long Term Business Visa

This is not a category for permanent residence. However a Long Term Business Visa entitles you to live in New Zealand and own and operate a business in New Zealand for up to three years (though the first Visa is granted for only nine months). This may lead to a permanent residence application under the Entrepreneur Category (see below).

- To apply for a Long Term Business Visa you must submit a business plan to INZ detailing a proposal for setting up a business in New Zealand and its viability. The business may be an existing business or a newly proposed business.
- Applicants must have a sound business plan and sufficient funds to support themselves and their business.
- This category is an option for persons who are unable to apply under other categories but who wish to set up business in New Zealand.

Family Category

The Family Category covers certain family members of New Zealand citizens or permanent residents. These each have specific requirements. This category includes:

- Partners (married, in a civil union or de facto);
- Parents;
- Brothers, sisters and adult children;
- Dependant children.

Residence from Work

This category is for people who have been granted a Work to Residence Visa under the:

- Talent (Accredited Employers) Work Category;
- Talent (Arts, Culture and Sports) Work Category; or
- Long Term Skill Shortage List Work Category.

Entrepreneur Category

The Entrepreneur Category has been set up for people who have run a business in New Zealand successfully for more than two years, either self-employed or part-owner/substantial investor in the business.

Other

There are several other categories for applying for residence including the Samoan Quota, the Pacific Access Category or the Refugee Family Support Category, for example.

NECESSARY DOCUMENTS

Applications for New Zealand residence typically need to contain the documents listed below. The documents required to be submitted may depend on which category you are applying under.

Identity

Passport photos (x2), passports, full birth certificates.

Health

Medical and chest x-ray certificates not less than three months old at the date application is submitted.

Character

Recent Police certificates for persons over 17 from your country of citizenship. You may also be required to provide a Police Certificate from other countries in which you have spent 12 or more months in.

English Language

Evidence of English language ability is required under some categories. If a secondary applicant's English language is poor they may be permitted to pre-purchase English language tuition to satisfy the English language requirements.

Relationship

Marriage Certificate, photos, joint ownership documents and/or sufficient information to satisfy a Visa or immigration officer that you are or have been living in a genuine and stable relationship (for 12 months or more if applying as a partner of a New Zealand citizen or resident).

Application

The completed INZ application form.

Other

Other documents depending on your type of application such as business plan, offer of study or employment, work references, etc.

FEES

The INZ fees for temporary Visa applications lodged at your nearest branch in New Zealand range from approximately \$140.00 to \$310.00 although the Long Term Business Visa fee is \$2,800.00. The fees for residence applications generally range from approximately \$500.00 to \$3,500.00. There are also Migrant Levies of approximately \$155.00 to \$310.00. All fees are subject to change and may vary depending on country of citizenship and type. Please contact us if you would like any further information on INZ fees. *(This is a general guide to fees for applications made from inside New Zealand as at the time of publication of this booklet).*

APPEALS

If you are not granted residence then you may appeal to the Immigration and Protection Tribunal within 42 days. There are two grounds:

- The decision not to grant you residence was not correct in terms of the applicable residence instructions; and/or
- Your special circumstances are such that an exception to those residence instructions should be recommended.

REMOVAL FROM NEW ZEALAND

If you are in New Zealand unlawfully you have 42 days from the date on which you became unlawful to obtain an extension or lodge an appeal with the Immigration and Protection Tribunal.

Once the 42 days expires you may be served with a Removal Order and could be immediately taken into custody by the Police and detained until you are physically removed from New Zealand and prevented from returning for five years.

Therefore, if your Visa to be in New Zealand has expired or you believe for some reason you are in New Zealand unlawfully then you should immediately obtain legal advice.

COURT

If you would like to challenge any decision of the Immigration and Protection Tribunal then you may appeal to the High Court within 28 days.

SUMMARY

This booklet has been designed to be a user friendly summary of the requirements for immigration to New Zealand. Policy requirements are subject to change at any time. There are a number of special immigration policy provisions which are not dealt with in this booklet. We recommend that you contact a solicitor before applying for a Visa or for residence in New Zealand. We can assist you in preparing your application, obtaining the necessary documentation, as well as liaising with INZ and any other relevant organisations.

HOW WE CAN HELP YOU

Govett Quilliam is Taranaki's largest law firm. We have the people, the experience and the resources to assist you, whatever your case may be.

We have prepared this guide as a guideline to immigration. If you require further information, or have any questions about this guide please contact us.

Our specialists with experience in immigration are:



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Please call our office if you would like further information on any guides prepared by our firm. Copies are also available on our website.

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