



BREIFING

Clarifying eligibility requirements or the 2021 Resident Visa

Date:	5 October 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	N/A

Information for Minister(s)

Hon Kris Faafoi
Minister of Immigration

Hon Phil Twyford
Associate Minister of Immigration

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Andrew Craig	Manager, Immigration (Skills and Residence) Policy	04 897 5275 s 9(2)(a)	✓
Kathy Tait	Senior Policy Advisor	s 9(2)(a)	

The following departments/agencies have been consulted

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Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



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Purpose

This note clarifies the intention that people must meet the criteria for the 2021 Resident Visa on both the 29th of September 2021 and the day they lodge an application (and be in NZ on the day visa is granted); this second test means more processing time for a proportion of applicants, but MBIE considers this is manageable.

Eligibility criteria for the 2021 Resident Visa to be confirmed

1. The current eligibility criteria on the website, press release and eligibility web calculator, state you must meet either the Skilled, Settled or Scarce criteria the day **before** the announcement – 29 September (this was agreed by Cabinet).
2. Questions have been raised about whether a person should have to also meet the criteria on the date they lodge their residence application. For example, if just the day before announcement:
 - they could change from an eligible visa type (e.g. Essential Skills) to an ineligible type (e.g. Student visa) before application;
 - they could change from a role that qualifies them on the basis of being scarce (e.g. Aged Carer) to a role that doesn't qualify on the basis of being scarce (e.g. Retail Manager) before application;
 - their pay or hours could drop such that they no longer meet the skilled criteria.

Proposed approach – be eligible the day before announcement and on application

3. You discussed and agreed that the policy intent is that people also need to be eligible at the point of application. This is:
 - consistent with assessment on application for other residence visas like SMC;
 - consistent with the goal of retaining skilled and other workers in New Zealand.
4. This means the applicants must meet:
 - All of the required criteria (in New Zealand, on an eligible work visa, and lawful) on 29 September **and** the day of application (and the day the visa is granted for onshore)
 - **One of the 3 'skilled, scarce or settled' criteria** on 29 September and when they apply, but not necessarily the same one
 - For example, somebody who was in a skilled occupation on 29 September could change to a scarce occupation before lodging their application and remain eligible.

5. However, the settled criteria can only be claimed if the person had been in New Zealand for 3 years on 29 September. Those reaching 3 years after this point cannot claim it for the residence application.
6. Although people would have to meet criteria on 29 September and on date of application, they would not be required to continuously meet the criteria for all the time in between. This means for example, someone could hold an Essential Skills work visa on 29 September, do a six month short course on a student visa and switch back to an Essential Skills work visa in time to apply before July 2022 (provided they still met the criteria).
7. People eligible from entering New Zealand through a critical health worker or other critical worker border exception (for longer than 6 months) do not have to have been eligible the day before announcement, but will have to be when they apply.
8. A table setting out the eligibility requirements at the day before the date of announcement and at the date of application is set out in Annex One.

Operational impacts

9. We have tested the operational impacts of this approach. The key factors in considering the operational impacts are:
 - 70,000 of the 110,000 eligible principal applicants are eligible on the basis of being settled – since the settled criteria has to already be met on 29 September, this group will not be impacted except by the requirement to continue to hold an eligible visa type (and they would have had to stay lawfully in New Zealand anyway)
 - Of the 40,000 people who meet one of the job based criteria (skilled or scarce), the requirement to keep meeting one of these criteria will only be an issue for those who change jobs between 29 September and when they apply - this will be a minority of people, but it is not possible to tell how many this is likely to be.
10. INZ's forecasting of processing timeframes was based only on eligibility on the day before date of announcement. This approach would add an average of five minutes to the processing time of each application (for most it would add no time, but for those where there had been a job change it would be a significant increase in time, averaging out at 5 minutes). This is based on 10% of people who qualified on one of the job based criteria changing roles.
11. As well as additional processing associated with people changing roles, this approach does add some complexity to the policy, which is likely to manifest as some extra work in different parts of the system:
 - More queries about eligibility to INZ's contact centre and Relationship Managers

s 9(2)(g)(i)

 - People who have applied to change from an eligible visa to an ineligible one may decide to withdraw that application and stay on an eligible visa – some extra administrative work in managing withdrawals and re-applications
 - Some additional pressure on processing applications for eligible visas quickly as deadline to make 2021 Resident Visas approaches
 - Additional verification may be required for processing normal temporary visas (as incentives to stay eligible will be high therefore increased risk of applicants providing false information)
12. Overall, INZ considers that this additional work can be managed within the general timeframes given the inherent margins of error in such a large project.

Next steps and communications

13. Once you have confirmed you support the requirement to meet the eligibility requirements at the day before announcement and the day of application officials will update the website and communications material to clarify that eligibility must be met on 29 September, and people need to still be eligible at the point they apply.

- Clarification will also be added that people need to be in NZ to apply for and be granted the visa.

14. s 9(2)(g)(i)

[Redacted text block]

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

a. Either (*MBIE PREFERRED OPTION*)

agree that applicants must meet eligibility criteria for 2021 residence visa on 29 September 2021 *and* the day the application is lodged

Agree / disagree

OR

agree that applicants must meet eligibility criteria for 2021 residence visa on 29 September 2021 *only*

Agree / disagree

b. **agree** that principal applicants (except those qualifying as dependent children over 25) for the visa must be in New Zealand on 29 September, (unless entering through an eligible border exception), and the day the application is made and the day the visa is granted

Agree / disagree



Andrew Craig
Manager
Immigration (Skills and Residence) Policy
Labour, Science and Enterprise

Hon Kris Faafoi
Minister of Immigration

Annex One: More detailed version of eligibility requirements

Criteria	Required on 29 September?	Required on date of application?
Lawful	Yes for all in New Zealand	Yes – unlawful people can't apply for any type of visa (Immigration Act restriction)
On eligible visa type	Yes for all in New Zealand and Australia (i.e. not required for people qualifying on the basis of future critical worker border exception)	Yes for all
In New Zealand	Yes, unless: <ul style="list-style-type: none"> - person in Australia or - on eligible on the basis of future border exception - over 25 year old dependent child 	Yes (unless over 25 year old dependent child) And must be in New Zealand on the day the visa is granted.
Settled (3 years in NZ on 29 September 2021)	Must meet one of: settled, scarce or skilled. (Not required if entering through a critical worker border exception)	Yes for those who already met on 29 Sept (because it has already been met) – can't be met by others after 29 Sept
Job based criteria: <ul style="list-style-type: none"> - skilled (\$27 per hour+) OR - scarce (listed occupation) 		Yes for people who met one of the job based criteria on 29 Sept, although they do not have to meet the same criteria or have stayed in the same job.