



## BRIEFING

### Immigration New Zealand Operational Manual amendments requiring ministerial certification: 2021 Resident Visa Category

<b>Date:</b>	19 October 2021	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2122-1264

Action sought		
	Action sought	Deadline
Hon Kris Faafoi <b>Minister of Immigration</b>	<b>Agree</b> to sign the associated Ministerial Certificates	22 October 2021
Hon Phil Twyford <b>Associate Minister of Immigration</b>	<b>Copy</b> attached for your information	N/A

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Alejandra Mercado	Manager, Operational Policy	04 896 5196	s 9(2)(a)	✓
Susan Jones	Team Leader, Operational Policy	-	s 9(2)(a)	

The following departments/agencies have been consulted
N/A

**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 Withdrawn           |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**



# BRIEFING

## Immigration New Zealand Operational Manual amendments requiring ministerial certification: 2021 Resident Visa Category

<b>Date:</b>	19 October 2021	<b>Priority:</b>	High
<b>Security classification:</b>	Sensitive	<b>Tracking number:</b>	2122-1264

### Purpose

This paper seeks your agreement to certify changes to immigration instructions to implement the 2021 Resident Visa Category, which was agreed to by Cabinet in September 2021.

Immigration instructions are the rules and criteria for the grant of visas and entry permission to New Zealand, and are set out in the Immigration New Zealand Operational Manual. Section 22 of the Immigration Act 2009 authorises the Minister of Immigration to certify immigration instructions.

### Recommended action

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

- a **Note** that on 6 September 2021, Cabinet agreed to introduce a one-off residence pathway [refer CAB-21-MIN-0359], and subsequent policy decisions were agreed to by the Cabinet Business Committee (CBC) [refer CBC-21-MIN-0114] and through policy briefings [refer BR 2122-0982 and BR 2122-1051] and discussions with officials

*Noted*

*Details regarding 'skilled' and 'scarce'*

- b **Agree** that employment for 'skilled' and 'scarce' criteria is required to be full time, which is an average of 30 hours per week, and that the remuneration calculation is comparable with the current Essential Skills and Skilled Migrant Category assessment

*Agree / Disagree*

- c **Agree** that for the 'skilled' and 'scarce' criteria, employment must be for a position that is paid by salary or wages, or a contract for services where there is an established and consistent history of contract work

*Agree / Disagree*

- d **Note** that where an applicant holds an employer-specific work visa and their remuneration and/or employment has not changed, immigration officers may assess if the applicant meets the 'skilled' and 'scarce' criteria based on information previously provided to Immigration New Zealand (INZ) with that previous application

*Noted*

- e **Agree** that evidence for 'skilled' criteria must include an employment agreement or letter from their employer confirming their pay and hours as well as one or some of the following: a full bank statement, Inland Revenue summary of income or payslips

*Agree / Disagree*

- f **Agree** that evidence for 'scarce' criteria must include an employment agreement or letter from their employer confirming the occupation and hours as well as evidence of registration if required

*Agree / Disagree*

- g **Agree** that immigration instructions allow for a facilitative approach which gives immigration officers discretion, when assessing 'skilled' or 'scarce' criteria, to take into account short-term fluctuations in pay rates or hours of work due to COVID-19 lockdown level changes [refer BR 2122-0982]

*Agree / Disagree*

- h **Agree** to the following amendments to the 'scarce' criteria:

- i. the addition of ambulance worker and associate physician to the 'personal carer or other critical health worker' list, and
- ii. the expansion of the primary industries list to detail all relevant occupations separately rather than including groups of occupations

*Agree / Disagree*

- i **Agree** that applicants working in an occupation that is indirectly related to the provision of health services, or corporate functions such as human resources, office administration or property maintenance will not meet 'scarce' criteria based on an occupation listed under the 'personal carer or other critical health worker' list

*Agree / Disagree*

*Requirement to be in New Zealand and meeting 'skilled' & 'scarce' at two points in time*

- j **Agree** that principal applicants must be onshore to apply for the 2021 Resident Visa (except aged-out dependent children), which is consistent with Cabinet's intent that the one-off pathway be available to onshore migrant workers [refer CAB-21-MIN-0359]

*Agree / Disagree*

- k **Note** that as discussed with you on 18 October 2021, applicants who go offshore after their application is made cannot be granted a resident visa and so the processing of their application will be deferred until they return to New Zealand

*Noted*

- l **Note** that, as per your previous advice to Cabinet, applicants must have been in New Zealand on the day before the announcement, except for:

- i. Critical Purpose Visitor Visa holders (see recommendations o, p, and q); and
- ii. temporary migrants who would otherwise have been eligible but were in Australia and unable to return to New Zealand by the announcement date

*Noted*

- m **Agree** that for an applicant to qualify in accordance with recommendation l (ii) above they must have departed for Australia during the two-way travel bubble, which was in effect from 6 April

2021 to 23 July 2021 (noting, that these applicants will be considered to have been unable to return by virtue of remaining in Australia)

*Agree/Disagree*

- n **Note** that the proposed immigration instructions reflect your direction that applicants must meet the eligibility criteria for the 2021 Resident Visa on 29 September 2021 as well as on the day the application is made, meaning that eligibility will be assessed at two points in time

*Noted*

#### *Critical Purpose Visa holders*

- o **Agree** that eligible Critical Purpose Visitor Visa (CPVV) holders will also include those who were granted another type of eligible visa or a variation of conditions of an eligible visa under the relevant Critical Purpose instructions (refer paragraph 36)

*Agree / Disagree*

- p **Agree** that people who held a CPVV on 29 September 2021 or who arrived on or after that date will not need to meet the criteria to be 'settled', 'skilled' or 'scarce'

*Agree / Disagree*

- q **Agree** that people who originally arrived as a CPVV holder but who had transitioned onto an 'eligible visa' before 29 September 2021 must meet the 'holder of an eligible visa' requirements, including one of the settled, skilled or scare criteria

*Agree / Disagree*

#### *Family*

- r **Note** that CBC agreed that dependent children who are included in an on-hand EOI or skilled residence application, and who are now aged over 24 years, but who otherwise continue to meet the dependent child criteria, will be eligible for a 2021 Resident Visa if their parent or guardian is a successful applicant under the same category [refer BR 2122-1051 and CBC-21-MIN-0114]

*Noted*

- s **Agree** that dependent children aged over 24 years are able to apply for the 2021 Resident Visa from offshore, consistent with the ability for offshore secondary applicants to be included in a 2021 Resident Visa application

*Agree / Disagree*

- t **Agree** to create a border exemption for dependent children aged over 24 years so that applicants are able to be granted the 2021 Resident Visa offshore and enter New Zealand, consistent with the ability for offshore secondary applicants to be granted a 2021 Resident Visa and enter New Zealand

*Agree / Disagree*

- u **Note** that partners included in a 2021 Resident Visa application need to meet the standard residence partnership tests [refer CAB-21-MIN-0359]

*Noted*

- v **Note** that where a partner is included in an application and an immigration officer is satisfied that the partnership is genuine and stable but the 12 month living together requirement is not met, the decision on the partner may be deferred until the partnership criteria can be met (as per normal residence settings)

*Noted*

#### *Health & Character*

- w **Note** that Cabinet agreed that applicants would only need to meet the Limited Medical requirements and that only a New Zealand character check would be required [refer CAB-21-MIN-0359]

*Noted*

- x **Note** that, as per normal health settings, if an applicant has previously provided medical and chest x-ray certificates with an application in the last 36 months and was assessed as having an Acceptable Standard of Health, further medical certificates are not required

*Noted*

- y **Agree** that health cases for 2021 Resident Visa applicants are not required to be referred to a Medical Assessor and that medical waivers will be granted, unless the condition is a non-waiverable health condition (this is consistent with the treatment of applicants for other visa types that only require a limited health check)

*Agree / Disagree*

- z **Agree** that a New Zealand Police check will be obtained for all applicants aged 17 years and over, regardless of whether the applicant has lived in New Zealand for at least 12 months

*Agree / Disagree*

#### *Changes to Immigration Instructions*

- aa **Agree** to the proposed amendments to Residence Instructions, Residence and Temporary Entry Instructions, Temporary Entry instructions s 6(a) [redacted] by signing the associated Ministerial Certificate attached in appendices 1, 2, 3 and 4

*Agree / Disagree*

- bb **Note** that if certified the changes to immigration instructions come into effect from 1 December 2021

*Noted*

cc **Note** that you will be provided with further immigration instructions for consideration such as those regarding work rights for dependants aged 18 and over and possible changes resulting from changes to the Immigration Regulations.

*Noted*



Stephen Dunstan  
General Manager, Enablement  
**Immigration New Zealand**

19 / 10 / 2021

Hon Kris Faafoi  
**Minister for Immigration**

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## Background

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### Initial agreed policy settings

1. On 6 September 2021, Cabinet agreed to introduce a one-off residence pathway for temporary migrant workers who meet the criteria on the date of announcement, to provide more certainty around their immigration options and allow businesses to secure their workforce while New Zealand's borders are closed [refer CAB-21-MIN-0359].
2. It was agreed that this pathway be available to onshore temporary migrant workers who have been living in New Zealand for over 3 years "**settled**", and onshore migrant workers who have been onshore for a shorter period but meet criteria for being "**skilled**" or "**scarce**" with the following definitions:
  - i. "skilled" workers are those who earn above the New Zealand median wage, later clarified to be at or above \$27 per hour [refer BR 2122-0982].
  - ii. "scarce" workers are those who:
    - a) work in a role on the Long Term Skill Shortage List; or
    - b) hold occupational registration and work in the health or education sector; or
    - c) work in personal care or other critical health worker roles or specified roles in the primary industries (not seasonal roles).
3. To qualify, workers must also be in New Zealand and hold an eligible visa on the date of announcement, later clarified to be the day before the announcement [2122-0982] and [CBC-21-MIN-0114], with the following exceptions:
  - i. people entering New Zealand as a Critical Health Worker or Other Critical Worker (longer term entry threshold) who arrive and apply before 31 July 2022
  - ii. temporary migrants who would otherwise have been eligible but are in Australia and were unable to return by the announcement date and
  - iii. people with an application for an eligible visa that has been received by INZ before the date of announcement would also qualify if they were later granted the eligible visa.
4. It was also agreed that the category would open in two phases:
  - i. Phase 1 - from 1 December 2021, applications are open for those who have pending residence applications under the Skilled Migrant Category (SMC) or Residence from Work Category, or who had submitted an expression of interest (EOI) for a SMC resident visa which included a dependent child over the age of 17, as at 29 September 2021;
  - ii. Phase 2 - from 1 March 2022, applications are open for all remaining eligible visa holders, including those with a SMC EOI in the pool who do not qualify under Phase 1.

### Further policy settings agreed subsequently

5. On 6 October 2021, you agreed that principal applicants have to meet the eligibility criteria on both 29 September 2021 as well as on the date they lodge their residence application.
6. Additional decisions included defining eligibility under both the 'skilled' and the 'settled' criteria [refer 2122-0982]:
  - i. People may qualify as skilled based on earning at or above the median wage rate of \$27 per hour.
  - ii. People may qualify as settled if they have spent a cumulative 75% (or 821 days) of the previous three years in New Zealand prior to the day before the announcement, and first arrived in New Zealand three years earlier.

- iii. Internationally qualified nurses who have travelled to New Zealand as a critical health worker to complete a Competence Assessment Programme must have gained occupational registration to be eligible for the grant of a resident visa under this category.
7. CBC also agreed that the fee for the 2021 Resident Visa would be NZD\$1330 and the immigration levy NZD\$830, and that Phase 1 applicants would be required to pay the associated fee following the application being assessed [refer CBC-21-MIN-0114].
8. CBC also agreed that 'aged-out' dependent children (over 24 years) who are included in an on-hand skilled residence application or SMC EOI and who are required to make their own application for a 2021 Resident Visa are exempt from paying the application fee and immigration levy.

## **The approach to immigration instructions and processes**

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9. The drafting of the immigration instructions reflects the Cabinet decisions and previous policy decisions made. The principles followed in the drafting of these instructions were to simplify the process for both applicants and immigration staff in order to enable a streamlined approach, while retaining sufficient checks to ensure that the policy intention is met. Where further detail was required (over and above what was in the Cabinet papers and policy briefings) the proposed instructions borrow established rules from current policy where appropriate and in line with the policy objective (for example, genuine employment, minimum hours of work, and remuneration settings are based on the SMC and Essential Skills settings).

## **Evidential requirements for Settled, Skilled or Scarce criteria**

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### **Settled**

10. Applicants are required to have first arrived in New Zealand on or before 29 September 2018 and spent at least 75% of the three year period subsequent to that date in New Zealand [refer BR 2122-0982]. This will be calculated based on whether they had been in New Zealand for 821 days or more between 29 September 2018 and 29 September 2021.
11. It is expected that most eligible work visa holders will meet the 'settled' requirement. INZ will use travel records in the Application Management System (AMS) to determine whether an applicant meets this criterion; no further evidence will be needed from applicants to demonstrate their eligibility.
12. Where a person has declared on the application form that they do not meet the settled criteria, applicants will be asked to upload employment evidence. Any information already held with respect to previous work visa applications the applicant may have submitted will also be considered by INZ.

### **Skilled**

13. Applicants are required to be paid at least \$27 per hour and the applicant's employment must be genuine, and for full time work for an average of 30 hours per week. Remuneration is proposed to be calculated in the same manner as for Skilled Migrant Category (SMC) and Essential Skills, which excludes employment-related allowances (for example tool, or uniform allowances), and bonuses which are dependent on performance.
14. It is proposed that self-employed contractors are acceptable under the 2021 Resident Visa category, where the applicant can demonstrate a consistent history of contract work and has a current contract for services. This is consistent with the allowance made for self-employed contractors under the SMC instructions.
15. Where an applicant holds an employer specific work visa and their remuneration has not changed since the visa was granted, immigration officers will assess if they meet the 'skilled'



criteria based on information previously provided to INZ with that application. If the applicant's remuneration has changed, or if their remuneration has not previously been assessed by INZ, evidence will be required to demonstrate that they meet the 'skilled' criteria. Evidence must include an employment agreement or letter from their employer confirming the pay and hours and either a full bank statement, Inland Revenue summary of income, or payslips.

#### *Flexibility in pay rates or hours of work due to Covid-19 related changes*

16. We previously suggested that a facilitative approach should be taken to short-term fluctuations in pay rates owing to COVID-19 lockdown level changes. You were advised that more work was underway on how exactly this will be done [refer BR 2122-0982].
17. We propose that instructions allow for a temporary reduction to an applicant's pay rate and/or hours in the event of a COVID-19 related disruption to business activity. The disruption must arise directly from a Government order (e.g. level change or otherwise) which impose an obligation on businesses to restrict their activities. The applicant would need to provide evidence that prior to the disruption they were paid at least \$27 per hour and the change in the pay and/or hours was mutually agreed to in writing by the applicant and employer. Additional evidence is required to show that they have returned (or will return) to their normal hours and/or rate once the disruption has concluded.

#### **Scarce**

18. There have been subsequent administrative clarifications to the 'scarce' criterion since the first Cabinet decision, specifically:
  - i. the occupations ambulance worker and associate physician have been added to the 'personal carer or other critical health worker' list to reflect their being incorporated into critical health worker instructions; and
  - ii. the primary industries list has been expanded to list all relevant occupations separately rather than including groups of occupations in order to make the list more useful for applicants. No occupations have been removed.
19. It is also proposed that the 'personal carer or other critical health worker' list excludes occupations that are indirectly related to the provision of health services or corporate functions, such as human resources, office administration, or property maintenance. This is consistent with the definition of a 'critical health worker' for Critical Purpose Visitor Visas.
20. As with the 'skilled' criteria, we recommend that an occupation be considered scarce only if it is in the context of full-time employment.
21. As with the 'skilled' criteria, immigration officers may consider any prior evidence and information the applicant has provided with their most recent visa application to determine if this criterion is met. For applicants whose occupation has not previously been assessed, or where evidence was not provided, they will be required to provide evidence to demonstrate that they meet the 'scarce' criteria. Evidence may include an employment agreement or letter from their employer and evidence of occupational registration in New Zealand where this is required.
22. A similar flexibility clause for Covid-19 related changes to hours of work is included in the proposed instructions with respect to determining whether an applicant has full time employment in a scarce occupation.
23. The list of 'scarce' occupations will be listed at Appendix 11 of the INZ Operational Manual.

## Eligibility requirements

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### *Requirement to be in New Zealand*

24. While most applicants must be in New Zealand when they apply, you indicated that it is not intended that principal applicants should be declined if they depart New Zealand after making their application. Currently, first time residents cannot enter New Zealand under the current entry permission instructions. Officials further discussed this matter with you on 18 October 2021 and you agreed with the recommendation that immigration officers defer processing of applications of those who departed until they return to New Zealand. In order to re-enter New Zealand an applicant would need to meet an existing border exception.

### *Exception for people in Australia on 29 September 2021*

25. Cabinet decided to allow temporary migrants who would otherwise have been eligible but were in Australia on the day before the announcement, and had been unable to return to New Zealand before then, to still be eligible for the 2021 Resident Visa. This is so that a person who travelled to Australia during the travel bubble period would not be unfairly disadvantaged due to the bubble closing. However, they will be required to be in New Zealand at the time they apply for a 2021 Resident Visa.
26. To operationalise this, it is proposed that this group must have departed New Zealand during the dates of the travel bubble was operating – that is between 6 April 2021 and 23 July 2021 (inclusive). No other requirement is proposed as trying to assess inability to return is complex, and unlikely to be able to be verifiable, and would not be in line with the policy intent that the application process be streamlined.

### *Eligible visas*

27. Principal applicants are required to hold an eligible visa at the time they make their application and also have held an eligible visa on 29 September 2021 (unless they meet requirements for Critical Purpose Visitor Visa holders), or had an application in progress for an eligible visa on 29 September 2021 that was subsequently approved. The eligible visa the applicant held on 29 September 2021 may be different to the visa they hold at the time they make their application.
28. The proposed immigration instructions will not require the applicant to continue to hold the eligible visa between the visa application being made and the visa being granted. This approach allows people who, while their 2021 Resident Visa is being processed, need a further temporary visa and move on to an interim visa,<sup>1</sup> to still be approved residence, as they will no longer be holding an eligible visa.

### *Skilled and Scarce criteria*

29. For those applying under the 'skilled' or 'scarce' criteria, the criteria the applicant met on 29 September 2021 does not necessarily need to be what they meet on the date of application. For example, a person could be considered 'skilled' on 29 September 2021, and no longer meet the skilled requirements when they lodge their application on 6 April 2022, but could nevertheless qualify if they meet the 'scarce' criteria.

## Critical Purpose Visitor Visas

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30. Cabinet agreed that people granted a longer-term Critical Purpose Visitor Visa (CPVV) are eligible to apply for the 2021 Resident Visa. Cabinet also agreed that these eligible CPVV holders are not required to be in New Zealand before the date of announcement, but they must arrive and apply before 31 July 2022.

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<sup>1</sup> An interim visa allows the person to maintain their lawful status while a temporary visa application is being processed

31. People who held a CPVV on 29 September 2021 or who arrived on or after that date will not need to meet the criteria to be settled, skilled or scarce, provided they entered as a critical health worker or other critical purpose worker for a longer term role. This reflects Cabinet's agreement that migrants entering New Zealand through this pathway be eligible.
32. It is proposed that people who originally arrived as a CPVV holder but who had transitioned onto an 'eligible visa' before 29 September 2021, must meet the 'holder of an eligible visa' requirements, including one of the settled, skilled or scarce criteria. This means everyone in New Zealand holding an eligible visa on 29 September 2021 will be treated the same way.
33. As previously agreed (BR 2122-0982) internationally qualified nurses who entered New Zealand based on being enrolled in a Competence Assessment Programme must have gained occupational registration to be eligible for the grant of a 2021 Resident Visa as gaining registration was the purpose for their entry to New Zealand as a border exception.
34. If these applicants have since transitioned onto another visa and have not gained occupational registration, we propose that they will not qualify for the 2021 Resident Visa, unless they have transitioned to a different eligible visa on or before 29 September 2021, in which case they may qualify if they meet settled, skilled or scarce criteria.
35. As agreed previously (BR 2122-0982) visa holders who are foreign fishing crew, deep water fishing crew, agricultural and horticultural mobile plant operators, and shearers will be excluded.
36. The proposed immigration instructions relating to CPVV include those who were granted an eligible visa or variation of conditions under the COVID 19 Support Restricted Temporary Entry instructions. The reason for this is because a person may be granted a CPVV or another visa type appropriate to their circumstances or a variation of conditions for a visa they already held.

## **How family will be considered**

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### **Dependent children aged 25 years and over**

37. On 20 September 2021 [refer BR 2122-1051], you agreed that dependent children included in an EOI or skilled residence application before the date of announcement, who are now aged over 24 years, but who otherwise continue to meet the dependent child criteria, will be eligible for a 2021 Resident Visa if their parent or guardian is successful.
38. Immigration (Visa, Entry Permission and Related matters) Regulations 2010 ('Immigration Regulations') limit 'aged out' dependent children from being included in their parent's resident visa application. It has therefore been agreed that 'aged out' dependent children will be eligible to apply for, and be approved, a 2021 Resident Visa in their own right if:
  - i. they meet the dependent child requirements, except for age;
  - ii. they are included in an EOI or skilled residence application submitted on or before 29 September 2021;
  - iii. one of their parents is granted residence under this category; and
  - iv. they meet the standard health and character requirements for this category.
39. A bespoke application form is being developed for 'aged out' dependent children to make an application for the 2021 Resident Visa.
40. To align with earlier decisions that confirmed that offshore partners and dependent children are eligible to be included in a 2021 Resident Visa application [refer CAB-21-MIN-0359], 'aged

out' dependent children will be eligible for residence irrespective of whether they are onshore or offshore.

41. However, due to the border closure, resident visas are unable to be granted to first time resident applicants offshore, unless the applicant qualifies for a border exemption. It is therefore proposed that you confirm that these aged out dependent children qualify for a border exemption in line with dependent children of New Zealand residents. This fits with the requirement that these dependents still remain otherwise 'dependent' on the principal applicant except for their age. Cabinet agreed you could take decisions to give intent to the policy in the paper which covered the treatment of dependents. This amendment will enable a visa to be granted and for the applicant to travel to New Zealand, which is consistent with how other secondary applicants offshore will be treated.
42. CBC also agreed to grant work rights for up to 20 hours per week to dependents aged 18 years and older who are included in a 2021 Resident Visa application [refer CBC-21-MIN-0114]. This will be implemented as a variation of conditions, for which changes to immigration instructions will be presented to you at a later date.
43. A variation of conditions will allow the children to work while the residence application is being processed. Part time work is unlikely to impact their financial independence, and therefore, their eligibility to be considered a dependent child.

## **Partnership**

44. Cabinet<sup>2</sup> were advised that when a partner is included in a 2021 Resident Visa application, the standard residence partnership requirements will apply, such as the principal applicant and partner needing to have lived together in a genuine and stable partnership for 12 months or more when the application is assessed. Current immigration instructions include provisions for when partners may have been separated for genuine reasons, such as those resulting from COVID-19 border restrictions. Immigration officers will consider the relationship history and how the partnership has been maintained.
45. Newly established relationships, where the partners have not previously met or lived together, would not be eligible under this pathway.
46. Where a partner is included in a 2021 Resident Visa application and an immigration officer is satisfied that the partnership is genuine and stable, but where the 12 month living together requirement is not met, the immigration officer may continue to process the application but defer the decision on the partner until the partnership criteria can be met. This is consistent with the standard process for partners included in a skilled resident visa application where the living together requirement has not yet been satisfied.

## **Other**

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### **Phased approach**

47. From 1 December 2021, Phase 1 applicants are eligible to submit their resident application, with Phase 2 applicants eligible from 1 March 2022. If an application is made before 1 March 2022 by a person who does not meet the Phase 1 criteria (i.e. they do not have an on hand skilled residence visa application or an EOI in the pool which includes dependent children 17 years or older), they do not meet the instructions in place at the time of application and their visa application cannot be processed. Applicants will be given the option to withdraw their application and resubmit in Phase 2; if they choose to proceed with their application it will be declined.

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<sup>2</sup> See the Cabinet paper associated with CAB-21-MIN-0359.

48. The application form will clearly advise that only those who meet the Phase 1 criteria are eligible to apply before 1 March 2022, and will require an applicant to enter their SMC, Residence from Work or EOI reference number in order to proceed with the online application. This will make it unlikely that anyone will be able to submit an application in Phase 1 if they are not eligible.

### **Application fees and levies**

49. Phase 1 applicants will be required to pay the application fee once an in principle decision has been made [refer CBC-21-MIN-0114]. The application cannot be completed, and the resident visa granted, until payment is received. Applicants will have the option to withdraw their on hand application and receive a refund, or pay the difference between the two application fees. Changes to the Regulations are required, and are underway, to give effect to the post-assessment payment process.
50. Most Phase 2 applicants will follow the standard process and will be required to pay the application fee and levies at the point of application. However, Phase 2 applicants who have a submitted SMC EOI will be treated the same as Phase 1 applicants and will not be required to pay the fee upfront.

### **Health & character requirements**

#### *Limited Medical Certificates*

51. To balance the need for a streamlined application process whilst ensuring that the integrity of the immigration system is maintained, applicants will only be required to provide a Limited Medical Certificate (LMC) [refer CAB-21-MIN-0359]. To be eligible for the 2021 Resident Visa, applicants need to be onshore to make their application. Most will therefore have had their health assessed by INZ with previous visa applications.
52. Where an applicant has previously provided medical and chest x-ray certificates with an application in the last 36 months and was assessed as having an Acceptable Standard of Health (ASH), further medical certificates are not required. If there has been subsequent changes to the applicant's health, or if the previous assessment of their health was not ASH, then a new LMC will be required.
53. LMCs screen for serious medical conditions which are not eligible for a medical waiver. This may result in some applicants with moderate health conditions being granted residence where they may not normally qualify; however, this health setting is the same that is applied to partners and dependents of New Zealand citizens and residents.
54. As applicants for the 2021 RV are being required to provide LMCs, it is proposed that health cases are not referred to a Medical Assessor, and that medical waivers be granted, unless it is a non-waiverable health condition. This is in line with other residence instructions that only require an LMC.

#### *Police and National Security Checks*

55. Applicants for residence are usually required to obtain police certificates from their country of citizenship and from each country they have lived in for 12 months or more in the last 10 years. Cabinet<sup>3</sup> were advised that 2021 Resident Visa applicants who are aged 17 years and older will not be required to obtain offshore police certificates as these are difficult to obtain, and for applicants who have been in New Zealand for 24 months or longer, these certificates will have been provided with a previous application.

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<sup>3</sup> See the Cabinet paper associated with CAB-21-MIN-0359.

56. Immigration officers retain the ability to request offshore police certificates if there are concerns based on information INZ holds. National Security Checks will also be required for some applicants, in line with standard immigration requirements.
57. Changes to immigration instructions are proposed to require a New Zealand Police check for all applicants aged 17 years and older, irrespective of whether the applicant has been in New Zealand for at least 12 months when the application is made [refer CAB-21-MIN-0359]. This will ensure that any recent convictions, charges or other relevant interactions with the New Zealand Police can be considered as part of the applicant's character assessment to ensure only applicants of good character are eligible and is consistent with the Cabinet decision. Immigration officers will request the NZPC when the application is submitted.
58. Previous advice referred to obtaining New Zealand Police Vets [refer CAB-21-MIN-0359], and we understand that the terms 'vet' and 'check' are used interchangeably. The standard police check obtained by INZ confirms any convictions and charges, and this will be the character check that is obtained for the 2021 Resident Visa. s 6(a)

## Proposed immigration instructions

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59. The proposed immigration instructions are set out in the appendices as follows:
  - i. Appendix 1 contains proposed amendments to Residence instructions
  - ii. Appendix 2 contains proposed amendments to Residence and Temporary Entry instructions
  - iii. Appendix 3 contains proposed amendments to Residence and Temporary Entry instructions (Border Entry)
  - iv. s 6(a)
60. The proposed new immigration instructions contained at S6 '2021 Resident Visa Category' are not highlighted, however proposed amendments to all other immigration instructions are highlighted for ease of reference. Highlighting will not appear in the published versions of the amended Operational Manual.
61. The change to immigration instructions will come into effect on 1 December 2021.

## Communication

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62. Changes will be communicated to all staff, licensed immigration advisers and the general public through the release of an amendment circular as soon as the new immigration instructions are certified.
63. To coincide with the release of the immigration instructions, INZ is working on updated key messages and FAQs to support the extra detail that is outlined in the immigration instructions. These will be shared with your office.
64. INZ is also planning significant engagement activity to communicate the specific details in the immigration instructions, including updates to the website, emails to individuals who are eligible to apply under phase one, LIAs, employers and migrant community leaders.

## **Next steps**

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65. You will be updated on proposed changes to the General Instructions as to the order of processing visa applications.
66. You may be provided with further immigration instructions for consideration such as those resulting from changes to the Immigration Regulations.

**Appendix 1 – Proposed amendments to Residence instructions effective on and after 1 December 2021**

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#### A4.10 Acceptable standard of health (applicants for residence)

- a. Applicants for residence class visas must have an acceptable standard of health unless they have been granted a medical waiver or (f), below, applies. An application for a residence class visa must be declined if any person included in that application is assessed as not having an acceptable standard of health and a medical waiver is not granted (see [A4.60](#)).
- b. Applicants for residence class visas are considered to have an acceptable standard of health if they are:
  - i. unlikely to be a danger to public health; and
  - ii. unlikely to impose significant costs or demands on New Zealand's health services or special education services; and
  - iii. able to undertake the work on the basis of which they are applying for a visa, or which is a requirement for the grant of the visa.
- c. The conditions listed in A4.10.1 are considered to impose significant costs and/or demands on New Zealand's health and/or special education services. Where an immigration officer is satisfied (as a result of advice from an Immigration New Zealand medical assessor) that an applicant has one of the listed conditions, that applicant will be assessed as not having an acceptable standard of health.
- d. If an immigration officer is not satisfied that an applicant for a residence class visa has an acceptable standard of health, they must refer the matter for assessment to an Immigration New Zealand medical assessor (or the Ministry of Education as appropriate).
- e. Despite (d) above, referral to an Immigration New Zealand medical assessor (or the Ministry of Education) is not required where the applicant is the partner or dependent child of a New Zealand citizen or residence class visa holder, **or where the applicant is applying for a 2021 Resident Visa**, unless the provisions of [A4.60\(a\)](#) or [A4.60\(b\)](#) apply.
- f. Mandated refugees (see [S3.5\(a\)\(ii\)](#)) and Refugee Quota Family Reunification Category applicants (see [S4.20](#)) are exempt from the requirement to have an acceptable standard of health, except where they have any of the conditions set out at [A4.74](#).
- g. The exemption at (f) above does not apply to those invited to apply under the Community Organisation Refugee Sponsorship category (see [S4.25](#)).

**Note:** These instructions do not apply to residents and former residents applying for a permanent resident visa or a second or a subsequent resident visa.

##### A4.10.1 Medical conditions deemed to impose significant costs and/or demands on New Zealand's health and/or education services

- o Hepatitis B-surface antigen positive and meeting criteria for anti-viral treatment in New Zealand
- o Hepatitis C-RNA positive and meeting criteria for anti-viral treatment in New Zealand
- o Malignancies of organs, skin (such as melanoma) and haematopoietic tissue, including past history of, or currently under treatment. Exceptions are:
  - treated minor skin malignancies
  - malignancies where the interval since treatment is such that the probability of recurrence is <10 percent
- o Requirement for organ transplants (with the exclusion of corneal grafts), or following organ transplant when immune suppression is required (with the exclusion of corneal grafts)
- o Severe, chronic or progressive renal or hepatic disorders
- o Musculoskeletal diseases or disorders such as osteoarthritis with a high probability of surgery in the next five years
- o Severe, chronic or progressive neurological disorders, including but not exclusive to:
  - any dementia including Alzheimer's disease
  - poorly controlled epilepsy
  - complex seizure disorder
  - cerebrovascular disease
  - cerebral palsy
  - paraplegia, quadriplegia
  - poliomyelitis
  - Parkinson's disease
  - motor neurone disease, Huntington's disease, muscular dystrophy
  - prion disease
  - relapsing and/or progressive multiple sclerosis
- o Cardiac diseases, including but not exclusive to:
  - severe ischaemic heart disease
  - cardiomyopathy

- valve disease with a high probability of surgical and/or other procedural intervention in the next five years
- aortic aneurysm with a high probability of surgical and/or other procedural intervention in the next five years
- Chronic respiratory disease, including but not exclusive to:
  - severe and/or progressive restrictive (including interstitial) lung disease
  - severe and/or progressive obstructive lung disease
  - cystic fibrosis
- Significant or disabling hereditary disorders, including but not exclusive to:
  - hereditary anaemias and coagulation disorders
  - primary immuno-deficiencies
  - Gaucher's disease
- Severe autoimmune disease which may require treatment in New Zealand with immune-suppressant medications other than Prednisone, Methotrexate, Azathioprine or Salazopyrin
- Severe (71-90 decibels) hearing loss or profound bilateral sensori-neural hearing loss after best possible correction at country of origin, where significant support is required, including cochlear implants
- Severe vision impairment with visual acuity of 6/36 or beyond after best possible correction at country of origin, or a loss restricting the field of vision to 15-20 degrees where significant support is required
- Severe developmental disorders or severe cognitive impairments where significant support is required, including but not exclusive to:
  - physical disability
  - intellectual disability
  - autistic spectrum disorders
  - brain injury
- Major psychiatric illness and/or addiction including any psychiatric condition that has required hospitalisation and/or where significant support is required
- Those with a history, diagnostic findings or treatment for MDR-TB or XDR-TB, unless they have been cleared by a New Zealand Respiratory or Infectious Diseases specialist upon review of their file or review of the applicant according to the New Zealand Guidelines for Tuberculosis Treatment

**Note:** The list above at A4.10.1 is not an exhaustive list of conditions which may indicate that an applicant does not have an acceptable standard of health.

#### A4.10.2 Assessment of whether an applicant for a residence class visa is unlikely to impose significant costs on New Zealand's health services

- a. The requirement that an applicant for a residence class visa must be unlikely to impose significant costs on New Zealand's health services is not met if, in the opinion of an Immigration New Zealand medical assessor, there is a relatively high probability that the applicant's medical condition or group of conditions will require health services costing in excess of NZ\$41,000.

**Note:** Assessment will be in terms of current costs with no inflation adjustment.

- b. In the case of acute medical conditions, the medical assessor will provide an opinion on whether there is a relatively high probability that the condition or group of conditions will require health services costing in excess of NZ\$41,000 within a period of five years from the date the assessment against health requirements is made.
- c. In the case of chronic recurring medical conditions, the medical assessor will provide an opinion on whether, over the predicted course of the condition or group of conditions, there is a relatively high probability that the condition or group of conditions will require health services costing in excess of NZ\$41,000.
- d. The following factors have no bearing on whether an applicant is unlikely to impose significant costs on health services:
- i. The ability of a person or organisation to pay for health services, pharmaceuticals, or residential care which may be required.
  - ii. The ability of an applicant to gain access to the private health system.
  - iii. The applicant's possession of health insurance.
  - iv. The capacity of family, friends, or a charitable organisation to provide care for an applicant.

#### A4.10.5 Assessment of whether an applicant for a residence class visa is unlikely to impose significant costs on New Zealand's special education services

- a. The requirement that an applicant for a residence class visa must be unlikely to impose significant costs on New Zealand's special education services is not met if the Ministry of Education (MoE) has determined that there is a relatively high probability that the applicant's physical, intellectual, or sensory condition or their use of language and social communication would entitle them to Ongoing Resourcing Scheme (ORS) funding.
- b. Where it has been determined that there is a relatively high probability that an applicant would be entitled to ORS funding, the following factors have no bearing on whether an applicant is unlikely to impose significant costs on New Zealand's special education services:
  - i. The ability of a person or organisation to pay for education services.
  - ii. The ability of a person to provide in-home education services.

#### A4.10.10 Assessment of whether an applicant for a residence class visa is unlikely to impose significant demands on New Zealand's health services

- a. The requirement that an applicant must be unlikely to impose significant demands on New Zealand's health services is not met if, in the opinion of an Immigration New Zealand medical assessor, there is a relatively high probability that the applicant's medical condition or group of conditions will require health services for which the current demand in New Zealand is not being met.
- b. Where it has been determined that there is a relatively high probability that an applicant may require health services for which the demand in New Zealand is not being met, the following factors have no bearing on whether the applicant is unlikely to impose significant demands on New Zealand's health services:
  - i. The ability of a person to gain access to the private health system.
  - ii. The capacity of family, friends, or a charitable organisation to provide care for an applicant.

**Note:** These instructions do not apply to people applying for a further residence class visa under [RV2](#) or [RV4](#).

## A4.20 Medical and Chest X-ray Certificates: residence class visa applications

- a. Applications for residence class visas must include, at the time the application is lodged, evidence that a Medical Certificate and Chest X-ray Certificate (INZ 1096) have been completed (see A4.20(f)) for every person included in the application.

**Note:** Pregnant women and children under 11 years of age are not required to have an X-ray examination.

- b. The Medical Certificate that may be required with a residence class visa application, includes the:
- i. *General Medical Certificate (INZ 1007)* which must be provided by all applicants other than those listed in (ii) below, or
  - ii. *Limited Medical Certificate (INZ 1201)* which must be provided by:
    - o applicants who are the partner of a New Zealand citizen or residence class visa holder and who meet the requirements of the Partnership Category (see [F2.5\(a\)](#)), and any dependent child(ren) included in their application made under the Partnership Category, unless [R5.96](#) applies; or
    - o applicants who are the dependent child of a New Zealand citizen or residence class visa holder and who meet the requirements of the Dependent Child Category (see [F5.1\(a\)](#)) unless [R5.96](#) applies; or
    - o applicants who have been recognised as having refugee or protection status in New Zealand and are thereby eligible to apply for a permanent resident visa (see [S3](#)) and their partner and dependent child(ren), (if any); or
    - o applicants who are applying under the Refugee Quota Family Reunification (RQFR) Category ([S4.20](#)); or
    - o mandated refugees who have been selected as candidates for New Zealand's Refugee Quota Programme [S3.5\(a\)\(i\)](#); or
    - o applicants who are applying under the Christchurch Response (2019) Category ([S4.30](#)); or
    - o applicants for the 2021 Resident Visa Category (S6).

**Note:** For the avoidance of doubt, applicants under the Community Organisation Refugee Sponsorship category ([S4.25](#)) must provide a *General Medical Certificate (INZ 1007)*.

- c. All Medical and Chest X-ray Certificates must have been issued less than three months before the date the application for a residence class visa is made, unless (d) below applies.

### Notes:

- The issue date of a Medical Certificate is the date of the declaration by the examining physician concerning the overall findings of the medical examination, or the date that the Medical Certificate was submitted to Immigration New Zealand if submitted by the physician electronically.
- The issue date of a Chest X-ray Certificate is the date of the declaration by the radiologist, or the date that the Chest X-ray Certificate was submitted to Immigration New Zealand if submitted by the physician electronically.

- d. Applicants for a residence class visa may provide a Medical Certificate and Chest X-ray Certificate, which was issued more than three months before the date that their application is made, if:
- i. they have provided a Medical Certificate and Chest X-ray Certificate with an earlier visa application; and
  - ii. they were assessed as having an acceptable standard of health based on those certificates; and
  - iii. those certificates were issued less than 36 months prior to the current application.
- e. Despite (d) above:
- i. Applicants who have spent six consecutive months in any one or more countries not listed in [A4.25.10](#), since their previous Chest X-ray Certificate was issued, must provide a Chest X-ray Certificate which is less than three months old with their application.
  - ii. Applicants who provided a Limited Medical Certificate (INZ 1201) with a previous visa application but no longer fall within the criteria listed at A4.20(b)(ii), must provide a General Medical Certificate (INZ 1007), which is less than three months old with their application.
  - iii. Applicants must provide a Chest X-ray Certificate and specified tests, if:
    - o they did not provide a Chest X-ray Certificate or specified tests with a Medical Certificate provided in the past 36 months because of their age, or because they were pregnant; and
    - o their age would now require them to undertake the specified tests or provide a Chest X-ray Certificate, or they are no longer pregnant.
  - iv. An immigration officer may require a Medical Certificate and Chest X-ray Certificate which is less than three months old, if they consider this is necessary to establish whether the applicant has an acceptable standard of health.

- f. Evidence of completion of a Medical Certificate and Chest X-ray Certificate includes:
- i. a completed Medical Certificate and Chest X-ray Certificate; or
  - ii. an eMedical reference code (NZER); or
  - iii. confirmation in the applicant's visa application form that a physician is directly submitting the applicant's Medical Certificate and Chest X-ray Certificate to Immigration New Zealand.
- g. Despite (a), applicants for a permanent resident visa under the Afghan Emergency Resettlement Category do not need to provide a medical certificate but must provide a chest X-ray Certificate.

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**Note:** These instructions do not apply to people applying for a further residence class visa under [RV2](#) or [RV4](#).

#### A4.60 Medical waivers (applicants for residence class visas)

- a. Applicants for residence class visas in New Zealand who are assessed as not having an acceptable standard of health and whose applications meet all other requirements for approval under the relevant Government residence instructions may be considered for the grant of a medical waiver unless they:
- i. require dialysis treatment, or an Immigration New Zealand medical assessor has indicated that they will require such treatment within a period of five years from the date of the medical assessment; or
  - ii. have severe haemophilia; or
  - iii. have a physical, intellectual, cognitive and/or sensory incapacity that requires full time care, including care in the community; or
  - iv. currently have tuberculosis (TB) (any form including pulmonary and non-pulmonary TB, Multidrug-Resistant (MDR)-TB and Extensively Drug-Resistant (XDR)-TB) and have not completed full treatment for TB as outlined in the New Zealand Guidelines for TB Treatment; or
  - v. have had a history, diagnostic findings or treatment for MDR-TB or XDR-TB, unless they have been cleared by a New Zealand Respiratory or Infectious Diseases specialist upon review of their file or review of the applicant as outlined in the New Zealand Guidelines for TB.
- b. Medical waivers will also not be granted to people who:
- i. are applying for residence under one of the Family Categories; and
  - ii. were eligible to be included in an earlier application for a residence class visa (or a residence visa or residence permit issued or granted under the Immigration Act 1987) as the partner of a principal applicant or the dependent child of a principal applicant or their partner; and
  - iii. were not declared in that earlier application; or
  - iv. were not included in that earlier application; or
  - v. were withdrawn from that earlier application.
- c. Applicants (and dependants included in their application) who have been recognised as having refugee or protection status (except those invited to apply under the Community Organisation Refugee Sponsorship category (see [S4.25](#))) will be granted medical waivers, unless (a) above applies.
- d. An applicant who is the partner or dependent child of a New Zealand citizen or residence class visa holder, who would otherwise meet the criteria for residence under Partnership (see [F2.5\(a\)](#)) or Dependent Child (see [F5.1\(a\)](#)) instructions, will be granted a medical waiver unless (a) or (b) above apply.
- e. Applicants for residence class visas under the Christchurch Response (2019) Category ([S4.30](#)) who otherwise meet the criteria for residence under those instructions will be granted a medical waiver unless (a) above applies.
- f. Despite A4.60 (a) above, applicants for residence class visas under the Christchurch Response (2019) Category who otherwise meet the criteria for residence will be granted a medical waiver if they have a condition described in A4.60(a) above which was caused by injuries or trauma suffered in the attacks on the Masjid Al Noor or Linwood mosques in Christchurch on 15 March 2019.
- g. Applicants for residence class visas under the Afghan Emergency Resettlement Category (S4.35) who otherwise meet the criteria for residence will be granted a medical waiver unless (a)(iv) or (v) above applies.
- h. Applicants for residence class visas under the 2021 Resident Visa Category (S6) who otherwise meet the criteria for residence under those instructions will be granted a medical waiver unless (a) above applies.

**Note:** These instructions do not apply to people applying for a permanent resident visa who currently hold resident visas.



## S6.1 Objective

The objectives of the 2021 Resident Visa Category are to:

- a. provide certainty for employers that their existing migrant workforce will be able to remain in New Zealand permanently, and are available to continue filling skilled or scarce roles in businesses, especially while border restrictions make it difficult to bring new migrant workers to New Zealand; and
- b. enable migrants who are in New Zealand for the purpose of work to remain permanently, provided they are well settled in New Zealand or are working in skilled or scarce roles; and
- c. attract health workers and other highly-skilled critical workers who are granted appropriate border exceptions by providing them a pathway to stay in New Zealand permanently.



## S6.5 Applying for a 2021 Resident Visa

### S6.5.1 Opening and Closing Dates

- a. The 2021 Resident Visa Category will open on 1 December 2021 for phase 1 applicants.
- b. The 2021 Resident Visa Category will open on 1 March 2022 for phase 2 applicants.
- c. The 2021 Resident Visa Category will close on 31 July 2022 for all applicants and any applications received after this date will be declined.
- d. Applications must be made using the approved online form provided on the Immigration New Zealand website, apart from applications from Dependent Children Aged 25 Years or Older (S6.10.10), which must be made using the approved paper form.

### S6.5.5 Phase 1 and Phase 2 Applicants

- a. Phase 1 applicants are those who, on 29 September 2021:
  - i. had made an application for residence under the Skilled Migrant Category or a Residence from Work category; or
  - ii. had a Skilled Migrant Category Expression of Interest in the Pool which included a dependent child aged 17 years or older as at 29 September 2021.
- b. Phase 2 applicants are all other applicants.
- c. Applications made between 1 December 2021 and 28 February 2022 (inclusive) must include the number of the application or Expression of Interest referenced in (a) above.
- d. Applications made by a phase 2 applicant before 1 March 2022 must be declined.

Note: All applicants included in a Skilled Migrant Category or Residence from Work application, or Expression of Interest may qualify as a phase 1 applicant.

### S6.5.10 Provision of evidence

- a. Applicants must provide sufficient evidence to demonstrate that:
  - i. the principal and any secondary applicants meet health and character requirements; and
  - ii. the principal applicant meets the 2021 Resident Visa requirements set out in S6.10.
- b. An application must be declined if an immigration officer is not satisfied that sufficient evidence has been provided.

## S6.10 2021 Resident Visa Requirements

- a. An application under the 2021 Resident Visa Category will be approved if an immigration officer is satisfied that:
  - i. the principal applicant and family members included in the application meet requirements for health (A4) and character (A5); and
  - ii. the principal applicant did not make an application in phase 1 when they are a phase 2 applicant (S6.5.5(d)); and
  - iii. the principal applicant was in New Zealand at the time that the application was made and they meet the requirements outlined in:
    - o Holders of an Eligible Visa (S6.10.1) including requirements to be Settled, Skilled or Scarce (S6.15) at time of application and on 29 September 2021; or
    - o People granted a Critical Purpose Visitor Visa (S6.10.5); or
  - iv. the principal applicant meets the requirements outlined in Dependent Children Aged 25 Years or Older (S6.10.10).
- b. An application made by a principal applicant who is not in New Zealand at the time the application was made will be declined, unless the principal applicant meets the requirements outlined in Dependent Children Aged 25 Years or Older (S6.10.10).

### S6.10.1 Holders of an Eligible Visa

- a. An applicant meets requirements for Holders of an Eligible Visa if, when the application is made, they meet Settled, Skilled or Scarce criteria and they hold:
  - i. a visa granted under the following immigration instructions:
    - o WK Essential Skills work instructions
    - o WR Work to Residence instructions
    - o WD Post-study work instructions
    - o WI20 Migrant Exploitation Protection work visa
    - o WR5 Skilled Migrant Category Job Search instructions
    - o WM Religious Worker instructions
    - o WI16 Special work visa for victims of people trafficking
    - o WI7 Special work visas for victims of family violence
    - o WL3 Silver Fern Practical Experience
  - ii. a work visa granted under section 61 of the Immigration Act, provided that they held a visa listed in (i) above immediately prior to, and in the 6 months before being granted, the work visa under section 61.
- b. An applicant must also, on 29 September 2021, have met Settled, Skilled or Scarce criteria and:
  - i. held an eligible visa in (a) above; or
  - ii. had made an application or request for reconsideration for an eligible visa in (a)(i) that was subsequently granted.
- c. An applicant must have been in New Zealand on 29 September 2021.
- d. Despite (c) above, an applicant who was in Australia on 29 September 2021 and departed New Zealand for Australia between 6 April 2021 and 23 July 2021 (inclusive) is eligible to be considered for a 2021 Resident Visa.
- e. An applicant who held a Critical Purpose Visitor visa, or eligible visa (S6.10.1(a)), or was granted a variation of conditions on an eligible visa under H5: COVID-19 Support Restricted Temporary Entry Instructions on or after 29 September 2021 must be assessed under S6.10.5 People granted a Critical Purpose Visitor Visa, including people who have since been granted a different eligible visa.

Note: An applicant who held an Interim visa on 29 September 2021 is included in (b)(ii) if their application in progress as at 29 September 2021 is for a visa listed at S6.10.1(a)(i) and that visa is subsequently granted.

### S6.10.5 People granted a Critical Purpose Visitor Visa

- a. An applicant meets requirements for Holders of a Critical Purpose Visitor Visa (CPVV) if:
  - i. when they make their application, they hold a Critical Purpose Visitor visa, or another eligible visa (S6.10.1(a)), or a variation of conditions on an eligible visa, granted under H5: COVID-19 Support Restricted Temporary Entry Instructions on the basis of being:
    - o a critical health worker that meets the definition of H5.30.1, with a role for 6 months or longer; or
    - o an other critical worker that meets the definition of H5.30.5(c) or H5.30.20, with a role for more than 6 months and who met the criteria to be granted a visa for more than 6 months; and
  - ii. they were not granted a visa or variation of conditions on the basis of being one of the following approved class of workers:
    - o Deepwater/Deep-sea fishing crew
    - o Agricultural and horticultural mobile plant operators
    - o Shearers

- o Recognised Seasonal Employer
- b. An immigration officer may be satisfied a person meets the criteria in (a)(i) above if:
  - i. the applicant was granted a CPVV as a critical health worker for six months or longer; or
  - ii. the applicant was granted a CPVV as an other critical worker for more than six months; or
  - iii. INZ's records indicate that the person met those requirements but were either granted a CPVV of a shorter duration (for example, due to an expiring passport) or were granted a different visa or a variation of conditions to an eligible visa under H5 instructions.
- c. An applicant who was granted a CPVV or an eligible visa or variation of conditions on an eligible visa under H5: COVID-19 Support Restricted Temporary Entry Instructions for the purpose of completing a Competence Assessment Programme (CAP) and obtaining occupational registration as a nurse in New Zealand must demonstrate that they have successfully passed their CAP and secured occupational registration to be eligible for a 2021 Resident Visa.
- d. A previous holder of a CPVV or an eligible visa or variation of conditions on an eligible visa granted under H5: COVID-19 Support Restricted Temporary Entry Instructions is eligible to be granted a 2021 Resident Visa if:
  - i. the visa or variation of conditions they were previously granted meets (a) above; and
  - ii. they held this visa or the visa with varied conditions on or after 29 September 2021, or it was granted after that date; and
  - iii. they hold an eligible visa on the date the application is made.

Note: A previous holder of CPVV (including any variation of conditions) who was granted a different eligible visa on or before 29 September 2021 must be assessed under S6.10.1 Holders of an Eligible Visa.

#### S6.10.10 Dependent Children Aged 25 Years or Older

- a. Dependent children who are 25 years or older are eligible for a 2021 Resident Visa if, on 29 September 2021;
  - i. they were included in an Expression of Interest (EOI) for a residence application in the Skilled Migrant Category (SMC); or
  - ii. they were included in an application for residence under:
    - o SMC; or
    - o Residence instructions for holders of work visas granted under the Talent (Accredited Employers) work instructions (RW2); or
    - o Residence instructions for holders of work visas granted under the Talent (Arts, Culture and Sports) work instructions (RW3); or
    - o Residence instructions for holders of work visas granted under the long term skill shortage list work instructions (RW4); or
    - o Residence instructions for holders of work visas granted under religious worker instructions (RW7); or
    - o Residence instructions for holders of work visas granted under South Island Contribution work instructions (RW8); and
  - iii. they met the definition of a dependent child (R2.1.30) at the time their most recent EOI was submitted or residence application was made; and
  - iv. they meet the definition of a dependent child at R2.1.30(a), apart from the age requirement; and
  - v. one of their parents has been approved residence under the 2021 Resident Visa Category; and
  - vi. they are the biological or adopted (see R3) child of the parent who has been granted the 2021 Resident Visa.

## S6.15 Requirement to be Settled, Skilled or Scarce

Note: an applicant that meets the criteria for Settled, Skilled or Scarce must also meet the criteria for Holders of an Eligible Visa outlined at S6.10.1 in order to be eligible for a 2021 Resident Visa.

### S6.15.1 Settled criteria

- a. An applicant meets Settled criteria if they:
  - i. first arrived in New Zealand before or on 29 September 2018; and
  - ii. have been in New Zealand for at least 821 days between 29 September 2018 and 29 September 2021 (inclusive).
- b. An immigration officer will use information held in Immigration New Zealand travel records to determine whether an applicant meets Settled criteria.

### S6.15.5 Skilled criteria

- a. An applicant meets Skilled criteria if they are in employment with remuneration of \$27.00 or more per hour.
- b. An applicant met Skilled criteria on 29 September 2021 and if they:
  - i. were, on that date, in employment with remuneration of \$27.00 or more per hour and working in accordance with the conditions of their visa, or
  - ii. had made an application, variation of conditions, or request for reconsideration for an eligible visa that was subsequently granted (or in the case of conditions, were varied) and had an offer of employment with remuneration at or above \$27.00 per hour as at 29 September 2021.
- c. Employment must be:
  - i. full time (employment is full-time if the employment agreement demonstrates that the employment amounts to, on average, 30 hours per week over an agreed pay period); and
  - ii. genuine; and
  - iii. for a position that is paid by salary or wages or in terms of a contract for services (see (d) below).
- d. A contract for services will be considered employment if the applicant:
  - i. has a consistent history of contract work; and
  - ii. has a current contract for services.
- e. Remuneration is calculated as per S6.15.20.
- f. An applicant who had a temporary reduction to their pay rate and/or hours of work due to a COVID-19 related disruption to business activity can be assessed as having met Skilled criteria on 29 September 2021 or time of application provided that:
  - i. the disruption arises directly from a Government order (e.g. level change or otherwise) which imposes an obligation on businesses to restrict their activities; and
  - ii. the applicant can demonstrate they were paid at least \$27.00 per hour prior to the disruption; and
  - iii. any temporary change to pay rate and/or hours of work was agreed to in writing by the applicant and the employer; and
  - iv. the applicant has returned, or will be returning, to their normal pay rate and hours of work once the disruption has ended.

Note: An immigration officer has the discretion to allow for more than one temporary reduction in pay rate and/or hours if there have been multiple disruptions (as defined above) since August 2021.

#### S6.15.5.1 Evidence for Skilled criteria

- a. For an applicant who holds a current work visa that specifies they may only work for a specific employer, immigration officers may consider information provided on the 2021 Resident Visa Application form and information provided with the previous work visa application to determine whether they meet the Skilled criteria, unless their remuneration has increased since the grant of their visa, in which case the applicant will need to provide evidence that this increase occurred before or on 29 September 2021.
- b. An applicant whose remuneration has not previously been assessed or evidence was not previously provided will be required to provide sufficient evidence to demonstrate that they meet Skilled criteria.
- c. Evidence provided for remuneration must include an employment agreement or letter from the employer stating the pay and hours and one or more of the following:
  - i. full bank statements showing salary payment; or
  - ii. summary of income details from Inland Revenue; or
  - iii. payslips.
- d. In addition to (c) above, an immigration officer may request any additional evidence as necessary to determine if the applicant meets (and/or met) the Skilled criteria.
- e. Evidence may be required to demonstrate an applicant's current remuneration as well as their remuneration as at 29 September 2021.

#### S6.15.10 Scarce criteria

- a. An applicant meets Scarce criteria if they are employed in one of the occupations listed at Appendix 11.
- b. An applicant met Scarce criteria on 29 September 2021 and if they;
  - i. were employed in one of the occupations listed at Appendix 11; or
  - ii. had made an application, variation of conditions, or request for reconsideration for an eligible visa that was subsequently granted (or in the case of conditions, were varied) and had an offer of employment in one of the occupations listed at Appendix 11 as at 29 September 2021.
- c. Employment must be:
  - i. full time (employment is full-time if the employment agreement demonstrates that the employment amounts to, on average, 30 hours per week over an agreed pay period); and
  - ii. genuine; and
  - iii. for a position that is paid by salary or wages or in terms of a contract for services (see (d) below).
- d. A contract for services will be considered employment if the applicant:
  - i. has a consistent history of contract work; and
  - ii. has a current contract for services.
- e. An applicant must hold provisional or full registration in New Zealand if the employment is in an occupation that requires New Zealand registration by law to be undertaken (see SM10.5), or the occupation is on the list of occupations in the health and education sector (appendix 11).
- f. An applicant working in an occupation that is indirectly related to the provision of health services, or corporate functions such as (but not limited to) human resources, office administration or property maintenance will not meet Scarce criteria based on an occupation listed under Personal Carers and other critical health workers in Appendix 11.
- g. An applicant who had a temporary reduction to their hours of work due to a COVID-19 related disruption to business activity can be assessed as having met Scarce criteria on 29 September 2021 or time of application provided that:
  - i. the disruption arises directly from a Government order (e.g. level change or otherwise) which imposes an obligation on businesses to restrict their activities; and
  - ii. the applicant can demonstrate they were employed full time prior to the disruption; and
  - iii. any temporary change to the hours of work was agreed to in writing by the applicant and the employer; and
  - iv. the applicant has returned, or will be returning, to their normal hours of work once the disruption has ended.

Note: An immigration officer has the discretion to allow for more than one temporary reduction in hours if there have been multiple disruptions (as defined above) since August 2021.

#### S6.15.10.1 Evidence for Scarce criteria

- a. For an applicant who holds a current work visa that specifies they may only work for a specific employer, immigration officers will consider information provided on the 2021 Resident Visa Application form and information provided with the previous work visa application to determine whether they meet Scarce criteria, unless their occupation has changed since the grant of their visa, in which case the applicant will need to provide evidence that this change occurred before or on 29 September 2021.
- b. An applicant whose occupation has not previously been assessed or evidence was not previously provided will be required to provide sufficient evidence to demonstrate that they meet Scarce criteria including, but not limited to:
  - i. an employment agreement or letter from employer stating the occupation and hours; and
  - ii. evidence of provisional or full registration in an occupation in New Zealand where this is required.
- c. In addition to (b) above, an immigration officer may request any additional evidence as necessary to determine if the applicant meets (and/or met) the Scarce criteria.
- d. Evidence may be required to demonstrate an applicant's current occupation as well as the occupation they held as at 29 September 2021.

#### S6.15.15 Genuine employment and pay rate

- a. Employment and employment offers must be genuine.
- b. Employment will not be considered genuine if it is offered as a result of payment made by the applicant (or their agent or a third party) to the employer (or their agent or a third party) in exchange for securing that offer of employment. Such practices are contrary to the principles of the Wages Protection Act 1983, as well as to immigration instructions. This includes but is not limited to:
  - i. payment(s) to secure or maintain an offer of employment; or
  - ii. partial or full repayment of wages to the employer, their agent or third party whether through payment or unpaid labour; or
  - iii. unlawful deduction(s).

#### S6.15.20 Calculating remuneration

- a. Remuneration will be calculated on the basis of payment per hour.
- b. For the purpose of determining whether remuneration meets the requirements of S6.15.5(b) evidence must be provided of hours of work in the employment agreement.
- c. If the employment agreement specifies payment by salary, the payment per hour will be calculated by dividing the annual salary by 52 weeks, followed by the number of hours that will be worked each week.
- d. If the employment agreement specifies payment other than by hour (including payment by salary) and the hours of work are variable, an immigration officer may request evidence of the range of hours to be worked to determine whether the variance in the hours worked would result in the per hour rate of pay being below the applicable remuneration threshold.
- e. Hours of work per week will be considered variable if the employment agreement contains a provision allowing the employer to request or require the employee to work additional hours from time to time.
- f. Where evidence of the range of hours is provided in terms of (d) above, or where the employment agreement specifies a range of hours, the maximum hours will be used to calculate whether the relevant remuneration threshold is met.
- g. Each hour of work must be paid at or above the applicable per hour remuneration threshold, except for overnight hours described at S6.15.25 below.
- h. For the purposes of S6.15.5 'remuneration' includes:
  - i. the agreed value of any reasonable deduction from the applicant's salary or wages for goods or services; and
  - ii. in the case of accommodation provided in connection with the employment:
  - iii. the agreed value of any reasonable deduction from the applicant's salary or wages for that accommodation; or
  - iv. if accommodation is provided by the employer, and there is no deduction from the applicant's salary or wages for that accommodation, the market rental value of the accommodation provided; or
  - v. if an accommodation allowance is provided, the amount of that allowance.
- i. 'Remuneration' excludes any other employment-related allowances (for example tool or uniform allowances) and bonuses which are dependent on performance.

#### Note:

The meaning of accommodation, and the value of accommodation that is included in the definition of 'remuneration', reflects the definition of accommodation and the value of accommodation that forms part of a person's income under section CE 1 of the Income Tax Act 2007.

#### S6.15.25 Overnight hours

- a. Where an applicant is required to work overnight, but allowed to sleep during this time, any hours spent sleeping, may be excluded from S6.15.20(g) provided that:
  - i. for any hours an applicant is sleeping, they are paid at or above the minimum wage; and
  - ii. for any hours an applicant is required to perform their duties, they are paid at least their normal rate; and
  - iii. the applicant works a minimum of 30 hours per week at their normal rate which must \$27.00 per hour or above; and
  - iv. the applicant works in the Aged, Residential Care or Disability Care industry.

## Appendix 11 - List of Scarce Occupations

The list of Scarce occupations is made up of four lists.

- Jobs on the Long Term Skill Shortage list
- Jobs requiring occupational registration in the health or education sector
- Personal Carers and other critical health workers
- Primary Sector roles

### Jobs on the Long Term Skill Shortage List

Analyst programmer
Automotive electrician
Chef (chef de partie or higher)
Chemical engineer
Civil engineer
Civil engineering technician
Clinical psychologist
Computer network and systems engineer
Construction project manager
Database administrator
Developer programmer
Diagnostic and interventional radiologist
Diesel motor mechanic (including heavy vehicle inspector)
Electric line mechanic
Electrical engineer
Electrical engineering technician
Electrician (general)
Electronic engineering technician
Electronics engineer
Engineering professional
Environmental engineer
Environmental research scientist
Food technologist
General practitioner
Geotechnical engineer
ICT business analyst

ICT customer support officer
ICT project manager
ICT quality assurance engineer
ICT security specialist
ICT support and test engineer
ICT support engineer
ICT systems test engineer
Industrial engineer
Materials engineer
Mechanical engineer
Medical laboratory scientist
Medical radiation therapist
Multimedia specialist (film animator)
Multimedia specialist
Network administrator
Obstetrician and gynaecologist
Organisation and methods analyst
Other spatial scientist
Physicist (medical)
Physiotherapist
Procurement manager
Production or plant engineer
Project builder (including building project manager and site foreman)
Psychiatrist
Quantity surveyor
Registered nurse (aged care)
Software engineer
Software tester
Software and applications programmer
Sonographer
Specialist physician in palliative medicine



Structural engineer
Surgeon (general)
Surveyor
Systems administrator
Systems analyst
Telecommunications engineer
Telecommunications network engineer
Veterinarian
Web developer

Jobs requiring occupational registration in the health or education sector

Chiropractor
Clinical dental technician
Clinical dental therapist
Dental hygienist
Dental technician
Dental therapist
Dentist
Dietitian
Dispensing optician
Medical laboratory scientist/technologist
Medical laboratory technician
Medical practitioner
Medical radiation technologist
Midwives
Nurse
Occupational therapist
Optometrist
Osteopath
Paramedic
Pharmacist
Physiotherapist

Podiatrist
Psychologist
Teacher (including Principals and registered Early Childhood Education teachers)

Personal Carers and other critical health workers

Aged and disabled carers
Nursing support and personal care workers
Paramedics and ambulance workers (including air and road)
Physician Associates
Special care workers
Technical and support staff working in various services including theatre, laboratories, radiology, pharmacy services, oncology, haematology, pathology, hyperbaric medicine and mortuaries
Workers who install, operate or maintain medical equipment
Workers delivering mental health and addictions services, aged care, respite, home care and support, child health, palliative and hospice care, forensic health, and disability support

Primary Sector roles

Agricultural and horticultural mobile plant operator
Agricultural consultant
Agricultural engineer
Agricultural scientist
Agricultural technician
Anaesthetic technician
Animal attendants and trainers nec
Apiarist
Aquaculture farmer
Aquaculture worker
Arborist
Baker
Baking factory worker
Beef cattle farm worker
Beef cattle farmer

Boat builder and repairer
Brewery worker
Butcher or smallgoods maker
Cabinetmakers
Cardiac technician
Chef
Chemist
Confectionery maker
Conservation Officer
Cook
Cotton Grower
Crop farm workers nec
Crop Farmers nec
Dairy cattle farm worker
Dairy cattle farmer
Dairy products maker
Deck hand
Deer farmer
Dog handler or trainer
Environmental consultant
Environmental engineer
Environmental manager
Environmental research scientist
Environmental scientists nec
Fabric and textile factory worker
Farm, forestry and garden workers
Farrier
Fencer
Fisheries officer
Fishing hand
Florist
Food and drink factory workers nec

Food technologist
Food trades assistants nec
Footwear production machine operator
Forester (AUS) / Forest scientist (NZ)
Forestry worker
Fruit and vegetable factory worker
Fruit and vegetable packer
Fruit or nut farm worker
Fruit or nut grower
Fruit or nut picker
Furniture finisher
Gardener (general)
Goat farmer
Grain mill worker
Grain, oilseed or pasture farm worker (AUS) / Field crop farm worker (NZ)
Grain, Oilseed or Pasture Grower / Field Crop Grower
Grape Grower
Greenskeeper
Hide and skin processing machines operators
Hide and skin processing worker
Horse breeder
Horse groomer
Horticultural nursery assistant
Hunter-trapper
Kennel hand
Knitting machine operator
Landscape gardener
Livestock farm workers nec
Livestock farmers
Logging assistant
Logging plant operator

Marine biologist
Marine transport professionals nec
Master fisher
Meat boner and slicer
Meat inspector
Meat packer
Meat process worker
Medical laboratory technician
Medical technician nec
Mixed crop and livestock farm worker
Mixed crop and livestock farmer
Mixed Crop Farmer
Mixed livestock farm worker
Mixed livestock farmer
Mushroom picker
Nurserypersons
Operating theatre technician
Other wood processing machine operator nec
Paper and pulp mill operator
Paper products machine operator
Park ranger
Pastrycook
Pastrycook's assistant
Pathology collector / phlebotomist
Pest controller
Pet groomer
Pharmacy technician
Picture framer
Pig farmer
Poultry farm worker
Poultry farmer
Poultry process worker

Primary products inspectors nec
Production manager (forestry)
Quarantine officer
Saw maker and repairer
Sawmill or timber yard worker
Sawmilling operator
Seafood packer
Seafood process worker
Shearer
Sheep farm worker
Sheep farmer
Ship's engineer
Ship's master
Ship's officer
Ship's surveyor
Shipwright
Slaughterer
Stablehand
Sugar Cane Grower
Sugar mill worker
Tanker driver
Textile and footwear production machine operators nec
Textile dyeing and finishing machine operator
Tree faller
Turf Grower
Vegetable farm worker (AUS) / Market garden worker (NZ)
Vegetable Grower (Aus) / Market Gardener (NZ)
Vegetable picker
Veterinarian
Veterinary nurse
Vineyard worker
Weaving machine operator

Wine maker
Winery cellar hand
Wood and wood products factory worker
Wood machinist
Wood machinist and other wood trades workers nec
Wood turner
Wool buyer
Wool classer
Wool handler
Yard carding and spinning machine operator
Zookeeper

**RESIDENCE INSTRUCTIONS**

**MINISTERIAL CERTIFICATE**

I certify, in accordance with section 22 of the Immigration Act 2009, that the amendments contained in Appendix 1 of the submission dated 19 October 2021 are part of Residence instructions on and after 1 December 2021.

Hon Kris Faafoi  
Minister of Immigration

\_\_\_\_\_  
(day)

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(month)

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(year)



**Appendix 2 – Proposed amendments to Residence and Temporary Entry Instructions effective on and after 1 December 2021**

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## A5.5 Character checks

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 Regs 5(2)(d)(iii), 6(2)(d)(iv), 10(2)(e)(iii)*

- a. Character checks must be carried out for the following categories of applicant:
- those aged 17 and over applying for residence class visas; and
  - those aged 17 and over applying for temporary entry class visas who intend to stay in New Zealand for 24 months or longer; and
  - other applicants for temporary entry class visas who warrant a character check if the immigration officer decides it is necessary.

**Note:** the 24-month period in A5.5(a)(ii) above includes time already spent in New Zealand prior to the application being made.

- b. It is a mandatory requirement (see R2.40) for first time applicants for a residence class visa aged 17 and over to obtain a police or similar certificate from:
- the applicant's country of citizenship; and
  - each country in which the applicant has lived for 12 months or more (whether on one visit or intermittently) in the last 10 years (but see [A5.10.1](#)).

Applicants for a further residence class visa under RV2 or RV4 will not usually need to submit a police or similar certificate, unless specifically asked to by an immigration officer. Applicants for a further residence class visa applying under any other category are required to submit a police or similar certificate as if they were applying for residence for the first time.

**Note:** the requirement in A5.5(b) above does not apply to Australian citizens, holders of a current Australian permanent residence visa and holders of a current Australian resident return visa, applying for a resident visa at an immigration control area.

- c. If required, applicants aged 17 and over applying for a temporary entry class visa must obtain a police or similar certificate from:
- their country of citizenship; and
  - from any country in which they have lived for five or more years (whether on one visit or intermittently) since attaining the age of 17 years.
- d. Despite (c) above, student visa applicants do not have to provide a police or similar certificate until they are aged 20 or over if they:
- held a student visa when they turned 17; and
  - have held consecutive student visas (or interim visas with study conditions) since the date they turned 17; and
  - are applying for a further student visa.
- e. Despite (c) above, applicants for the following temporary entry class visas do not need to provide a police or similar certificate:
- applicants for a Supplementary Seasonal Employment (SSE) visa for the 2020/21 season (ie for SSE visas granted with an expiry date on or before 30 June 2021) do not have to provide a police or similar certificate;
  - applicants (and their partner and dependent child(ren), if any) for a Migrant Exploitation Protection work visa (see [WI20](#)); and
  - applicants (and their partner and dependent child(ren), if any) for an Essential Skills work visa who provided a certificate with a previous visa application
  - applicants for an RSE Limited Visa in New Zealand, if the holder has remained in New Zealand beyond the normal maximum period allowed for under RSE instructions due to the COVID-19 pandemic (see [WH1.15.20 \(d\)\(i\) and \(ii\)](#)).
- f. Despite (b) above, applicants for an Afghan Emergency Resettlement Category permanent resident visa (see S4.35) do not need to provide a police or similar certificate if they are unable to obtain the required document.
- g. Despite (b) above, applicants aged 17 and over applying for residence under the 2021 Resident Visa Category (S6) are not required to provide a police certificate or similar from their country of citizenship or any country they have lived in 12 months or more (whether on one visit or intermittently) in the last 10 years, except for a New Zealand Police Check. This will be required regardless of the duration they have lived in New Zealand. INZ will request this from the New Zealand Police on the applicant's behalf.
- h. Despite (d), (e), (f) and (g) above, a police or similar certificate is required if an immigration officer decides it is necessary.

#### A5.5.1 Impact of the Criminal Records (Clean Slate) Act 2004

- a. When assessing whether a person meets an applicable character requirement, an immigration officer must be aware that New Zealand convictions may be covered by the Criminal Records (Clean Slate) Act 2004 (Clean Slate Scheme) and that if so, an eligible individual is not required to declare New Zealand convictions.
- b. If Immigration New Zealand (INZ) holds any information that a person has these New Zealand convictions, and that person is an eligible individual under the Clean Slate Scheme, this information cannot be used when assessing whether the person meets the applicable character requirements.
- c. The information referred to in (b), above, includes any prior police certificates, any information INZ holds in its records (including its Application Management System), and any other information which may have been gathered from a public source.
- d. If a person is an eligible individual under the Clean Slate Scheme, immigration officers cannot, under any circumstances, request or require that an individual disregard the effect of the Clean Slate Scheme when answering questions about his or her New Zealand criminal record, or disregard the effect of the Clean Slate Scheme and disclose, or give consent to the disclosure of, his or her criminal record. Doing so is an offence under the Criminal Records (Clean Slate) Act 2004. However, if the persons voluntarily declares criminal convictions that are subject to the Clean Slate Scheme, this information can be used to assess whether the person meets the applicable character requirements.

## RESIDENCE AND TEMPORARY ENTRY INSTRUCTIONS

### MINISTERIAL CERTIFICATE

I certify, in accordance with section 22 of the Immigration Act 2009, that the amendments contained in Appendix 2 of the submission dated 19 October 2021 are part of Residence and Temporary Entry instructions on and after 1 December 2021.

Hon Kris Faafoi  
Minister of Immigration

\_\_\_\_\_  
(day)

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(month)

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(year)

**Appendix 3 – Proposed amendments to Residence and Temporary Entry (Border Entry) instructions effective on and after 1 December 2021**

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### Y3.30 People who may be granted entry permission: COVID-19

- a. Despite Y4.50(a), the following persons may be granted entry permission:
- i. Those New Zealand residence class visa holders listed in [Y3.10\(a\)](#)
  - ii. The partner, legal guardian or any dependent children of a New Zealand citizen or a New Zealand residence class visa holder listed at [Y3.10\(a\)](#) who:
    - o are travelling with that New Zealand citizen or residence class visa holder; or
    - o are ordinarily resident in New Zealand; or
    - o have a visa based on their relationship to the New Zealand citizen or residence class visa holder.
  - iii. Australian citizens or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia, where New Zealand is their primary place of established residence.
  - iv. Diplomats accredited to New Zealand and currently resident in New Zealand.
  - v. New diplomatic and consular personnel filling established positions at a foreign mission or consular post in New Zealand.
  - vi. Other diplomatic and consular personnel authorised by the Minister of Foreign Affairs or their delegate where there is a compelling national interest.
  - vii. Holders of a resident visa granted under the COVID-19 Support residence instructions ([S5](#)).
  - viii. Persons who previously held their initial resident visa while in New Zealand, and are the holders of a second or subsequent resident visa granted offshore, and who are travelling to New Zealand for the first time as the holder of that visa.
  - ix. Positioning aircraft crew travelling to New Zealand as a passenger (other than a transit passenger) on a commercial aircraft for the purpose of leaving New Zealand as aircraft crew in the course of a scheduled international service.
  - x. A person who:
    - o has travelled to New Zealand directly from Australia, the Cook Islands or Niue; and
    - o travelled to New Zealand on a Quarantine-Free Travel flight (as defined in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020); and
    - o on boarding the flight, has been present in either of the following for the specified 14-day period (as defined in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020)
      - the Cook Islands or New Zealand (if travelling from the Cook Islands); or
      - Niue or New Zealand (if travelling from Niue); or
      - Australia or New Zealand (if travelling from Australia).
  - xi. A person who has travelled to New Zealand directly from Australia; and
    - o is the holder of a resident visa; or
    - o is the holder of a temporary visa who last departed from New Zealand on or after 6 April 2021; or
    - o is an Australian citizen or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia who last departed from New Zealand on or after 6 April 2021; or
    - o the partner, parent or dependent child of:
      - o a New Zealand citizen
      - o the holder of a resident visa
      - o the holder of a temporary visa who last departed from New Zealand on or after 6 April 2021
      - o an Australian citizen or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia who last departed from New Zealand on or after 6 April 2021
  - xii. Persons who were in Afghanistan on 15 August 2021 and who on 19 August 2021 held and continue to hold either a valid temporary entry class visa or a residence class visa which was granted when the person was offshore and the person is arriving in New Zealand for the first time.
  - xiii. Holders of a resident visa granted under the 2021 Resident Visa instructions (S6) as a Dependent Child 25 Years or Older.

**Note:** For the purpose Y3.30(a)(xi), dependent child has the meaning given by section 4 of the Immigration Act 2009, and parent, in relation to a dependent child, means a person on whom the child is dependent.

- b. A person may be granted entry permission if they are the holder of a temporary entry class visa which either:
- i. was granted or varied under the COVID-19 Support Restricted Temporary Entry Instructions; or
  - ii. has a condition that the holder carries out a critical purpose while they are in New Zealand.

**Note:** A person who was granted a second or subsequent resident visa by special direction on 11 September 2020 (i.e. a person who held a resident visa with travel conditions which expired between 2 February 2020 and 11 September 2020 and had previously been in New Zealand as a resident but were outside New Zealand on 11 September 2020), is considered to hold a second or subsequent resident visa for the purposes of Y3.30(a)(viii). Quarantine-Free Travel is provided for by orders under the Covid-19 Public Health Response Act 2020. The COVID-19

Public Health Response (Air Border) Order (No 2) 2020 defines Quarantine-Free Travel (QFT) places, ports, carriers and persons. QFT is currently only possible for people arriving by the air border as part of a scheduled international service in accordance with the Air Border Order. Anyone arriving by private aircraft or by the maritime border are still subject to the border restrictions.

In the Air Border Order, the specified 14-day period means the period that:

- (a) starts at the beginning of the 14th day before the day on which the person boards the aircraft undertaking the QFT flight concerned, and
- (b) ends when the person boards the aircraft.

## RESIDENCE AND TEMPORARY ENTRY INSTRUCTIONS

### MINISTERIAL CERTIFICATE

I certify, in accordance with section 22 of the Immigration Act 2009, that the amendments contained in Appendix 3 of the submission dated 19 October 2021 are part of Residence and Temporary Entry instructions (Border Entry) on and after 1 December 2021.

Hon Kris Faafoi  
Minister of Immigration

\_\_\_\_\_  
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s 6(a)

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[Redacted]

- a. [Redacted]

- b. [Redacted]

- c. [Redacted]

- d. [Redacted]

- e. [Redacted]

s 6(a)