



14 November 2018

**Immigration New Zealand Instructions: Amendment Circular No. 2018/12**

**To: All Manual Holders**

**Amendments to the Immigration New Zealand Operational Manual**

**Introduction**

This circular outlines changes to the immigration instructions. A copy of the amended instructions is attached.

All immigration officers dealing with immigration applications should read the amendments and operate in accordance with the amended instructions on and after 26 November 2018.

**Note**

The amendments described in this circular will be published in the Immigration New Zealand Operational Manual in due course.

Information about these changes is available on our website [www.immigration.govt.nz](http://www.immigration.govt.nz).

## Description of changes

---

### Extension of the pathway student visa pilot

*U14 Pathway student visas pilot*

*U14.5 Requirements to be granted a pathway student visa*

*U14.10 Currency and conditions of pathway student visas*

*U14.15 Changing and complying with pathway student visa conditions*

*U14.20 Provider requirements*

Instructions have been amended to extend the pathway student visa pilot until 30 April 2019.

A number of minor amendments have also been made.

**Appendix 1 - Amendments to Temporary Entry instructions effective on and after 26 November 2018**

---

#### **U14 Pathway student visas pilot**

- a. For the purposes of these instructions, a pathway is defined as a progression of up to three consecutive programmes of study, offered by qualifying education providers, either within their institution or in conjunction with other qualifying education providers.
- b. Pathway study can be undertaken on a single student visa.
- c. Any application for a pathway student visa made after **30 April 2019** must be declined.

## U14.5 Requirements to be granted a pathway student visa

To be granted a pathway student visa, an applicant must:

- a. be offered an eligible study pathway from a qualifying provider(s) (U14.20); and
- b. meet the general requirements to be granted a student visa as set out at U3.1; and
- c. meet the additional evidential requirements for pathway student visas set out at U14.5.1; and
- d. make an application for a student visa before 30 April 2019.

### U14.5.1 Evidence of meeting requirements

- a. In addition to meeting the general requirements to be granted a student visa as set out at U3.1, when applying for a pathway student visa an applicant must provide:
  - i. where there is more than one education provider, a joint letter of support from pathway education providers; and
  - ii. an offer of place (or joint offer) for each programme of study that meets the requirements set out at U3.5; and
  - iii. evidence that tuition fee requirements, as set out at U3.10, for either the first programme of study or first year of study (whichever is shorter) have been met and satisfy an immigration officer that they have the ability to fund any remaining balance of the first programme of study and subsequent programmes of study on the intended pathway; and
  - iv. evidence that the maintenance funds requirements set out in U3.20 for the first year of study on the intended pathway have been met and satisfy an immigration officer that they have the ability to fund any remaining balance of the first programme of study and subsequent programmes of study on the intended pathway.
- b. Despite (a)(ii), second and subsequent offers of place for a pathway can be conditional on meeting pre-requisite programme of study entry criteria.
- c. Pathway student visa applicants from a country with a student visa decline rate of more than 20 per cent who intend a study pathway commencing with an English language programme of study and culminating in a qualification at Levels 5 to 8 on the New Zealand Qualifications Framework must:
  - i. submit an International English Language Testing System test (IELTS) (or equivalent internationally recognised proficiency test) at the time of application; and
  - ii. demonstrate that they only require an improvement of 0.5 of an IELTS overall band score (or equivalent) to meet the English language prerequisite for entry into the intended level 5 to 8 programme of study.

**Note:** The student visa decline rate for a country is based on statistics, generated over a calendar year (12 months), by Immigration New Zealand. The decline rate and the name of the country are published on the INZ website. For the purpose of this instruction, the internationally recognised English language tests and corresponding IELTS equivalent test scores set out on the INZ website are considered acceptable.

#### U14.10 Currency and conditions of pathway student visas

- a. For the purposes of the pathway student visa pilot, a visa can be granted up to a maximum of five years.
- b. A visa may be granted to expire no more than three months beyond completion of the final pathway programme of study within the maximum currency of five years.
- c. Work conditions for the duration of the pathway student visa will only be granted where the first programme of study meets the requirements as set out at [U13.1](#), [U13.10](#) or [U13.15](#).
- d. If the second or subsequent programme of study meets the requirements set out at [U13.1](#), [U13.10](#) or [U13.15](#), a variation of conditions is required in order to be granted work conditions.
- e. Where (d) applies, a Variation of Conditions or Variation of Travel Conditions (INZ 1020) application form must be completed and submitted with the required fee.
- f. The holder must make satisfactory progress on the pathway by:
  - i. meeting the conditional pre-requisites for enrolment into a second or subsequent programme of study ([E3.20\(d\)](#)); and
  - ii. commencing the second or subsequent programme of study on a pathway within a 16 week period of completing their earlier programme of study.
- g. Where a first time student has submitted an English language test result as set out at [U14.5.1 \(c\)](#) and been granted a pathway student visa to undertake an English language programme of study culminating in a qualification at Levels 5 to 8 on the New Zealand Qualifications Framework, the English Language programme of study must be completed within a 20 week period.

## U14.15 Changing and complying with pathway student visa conditions

See also *Immigration Act 2009 ss 49, 52, 56*

- a. If a pathway student visa holder wishes to move to a different education provider or lower level programme of study than those specified in their visa conditions, they must apply for a new student visa and meet the requirements set out at [U3.40](#).
- b. A variation of conditions, for the purpose of changing a programme of study at the same education provider will only be granted if an immigration officer is satisfied that:
  - i. the applicant meets the student requirements set out at [U3.1](#); and
  - ii. the applicant has not breached their visa conditions as set out at [E3.20](#); and
  - iii. the original student visa would have been granted for the proposed programme of study; and
  - iv. the proposed programme of study is at the same or higher level on the New Zealand Qualification Framework as the original programme of study; and
  - v. the applicant remains a bona fide applicant (see [E5.1](#)).
- c. Factors that an immigration officer may take into consideration when determining (b)(iii) and (b)(iv) above include, but are not limited to:
  - i. the time elapsed since the original visa was granted; and
  - ii. whether the level and/or subject area of the proposed programme of study are significantly different from the original programme of study; and
  - iii. any relevant information held about the previous application(s) including advice from the original issuing branch (see [E7.1.1](#)).
- d. Students who have received New Zealand Aid Programme funding within the two years prior to their application to change programme of study must also provide evidence that the Ministry of Foreign Affairs and Trade supports the change of programme of study and that any scholarship continues.

### U14.15.5 Breaching visa conditions

- a. A pathway student visa holder will be considered to be in breach of visa conditions where:
  - i. they fail to meet conditional pre-requisites for enrolment into a second or subsequent programme of study ([E3.20\(d\)](#)); or
  - ii. the time between the completion of one programme of study and the start of a second or subsequent programme of study on a pathway exceeds 16 weeks; or
  - iii. they have submitted an English language test result as set out at [U14.5.1\(c\)](#) and their intended pathway is an English language programme of study culminating in a qualification at Levels 5 to 8 on the New Zealand Qualifications Framework and the English Language programme of study is not completed within a 20 week period.
- b. A breach of visa conditions is "sufficient reason" to make a temporary entry class visa holder liable for deportation, and may result in the issue of a Deportation Liability Notice ([E3.60](#)).

## U14.20 Provider requirements

### U14.20.1 Pathway pilot entry criteria

To qualify for entry to the Pathway student visa pilot, an education provider must:

- a. be invited by Immigration New Zealand to be a pilot participant; and
- b. have signed the Pathway Student Visas - Pilot Participation Declaration agreeing to the requirements as set out at U14.20.10; and
- c. be either a school, a university or hold a Category One or Two rating under New Zealand Qualifications Authority's (NZQA) External Evaluation and Review framework; and
- d. have a minimum 90% student visa application approval rate over the 2014/15 financial year or 2016 calendar year (12 month period); and
- e. comply with the legislative requirements as set out under the Education Act 1989 to offer programmes of study to foreign students ([U5.5 to U5.20](#)); and
- f. be a signatory to the Education (Pastoral Care of International Students) Code of Practice 2016.

### U14.20.5 Eligible pathways

- a. All pathways must demonstrate academic progression to the second or subsequent programme of study building on the previous study.
- b. All consecutive programmes of study that demonstrate progression are eligible to be included in the pilot with the exception of the following pathways:
  - i. any English language programme of study **culminating in** any tertiary sector Level 1–4 Certificate on the New Zealand Qualifications Framework (NZQF); and
  - ii. all pathways within and between tertiary sector NZQF Levels 1–4 Certificates; and
  - iii. secondary school **culminating in** any tertiary sector NZQF Levels 1–4 Certificates.
- c. Breaks between consecutive programmes of study must not exceed 16 weeks
- d. Only education providers who meet the requirements set out under U14.20.1 can offer a joint pathway in conjunction with one another.

### U14.20.10 Formal agreement between qualifying education providers

- a. To ensure a student's pastoral care needs are met, qualifying education providers who intend offering an education pathway in conjunction with one another must enter into a formal agreement.
- b. The formal agreement must include and set out the following processes and arrangements:
  - i. the application process; **and**
  - ii. pastoral care obligations; **and**
  - iii. handover arrangements in transition periods between programmes of study/education providers; **and**
  - iv. the process if a significant gap exists between completion of a programme of study and the start of a second or subsequent programme of study or in the event some papers are failed and cannot be repeated within a 16 week period; **and**
  - v. the process if conditional entry requirements for second or subsequent programmes of study are not met; **and**
  - vi. the process if the student fails to attend and/or make satisfactory progress ([E3.20\(d\)](#)); **and**
  - vii. the process if the student wishes to leave intended pathway; **and**
  - viii. the obligation to notify INZ where a pathway student:
    - o requires additional time to complete a programme of study and time required is likely to exceed 16 weeks; or
    - o fails to meet the conditional entry requirements for a second or subsequent programme of study; or
    - o fails to enrol for a subsequent programme of study; or
    - o fails to attend and/or make satisfactory progress; **or**
    - o has their enrolment in a programme of study terminated.
- c. where an education pathway is offered by a single qualifying education provider, the formal agreement processes set out at (b) must be met.
- d. the signed formal agreement does not have to be submitted with a pathway student visa application, however it must be made available to INZ if requested.

### U14.20.15 Non-compliance with formal agreement requirements or when under active investigation by Immigration New Zealand

Where non-compliance, other than of a minor nature, with any of the matters agreed to in the Pathway Student Visas - Pilot Participation Declaration, or where the pathway education provider is under active investigation by INZ for offences committed under part 10 of the Immigration Act 2009 the following process may occur:

- a. INZ will suspend the processing of any student visa applications related to an existing pathway agreement immediately.



- b. The non-compliant pathway education provider(s) will be advised in writing of the suspension and will be sent a report detailing the non-compliance, and will be given 30 days to remedy the non-compliance.
- c. Resolution (or satisfactory progress towards resolution) of the non-compliance to the satisfaction of INZ within the 30 day period will see the suspension lifted and processing of related pathway student visa applications will resume.
- d. Where a resolution is reached, the Ministry of Business, Innovation and Employment or the New Zealand Qualifications Authority may conduct an investigation three to six months later to assess the effectiveness of the remediation undertaken. If the remediation is deemed inadequate or ineffective, the suspension can be re-imposed or the provider may be removed from the pathways pilot and current pathway student visa holders may become liable for deportation.
- e. If INZ is not satisfied that the non-compliance has been addressed or satisfactory progress has been made towards resolution within the 30 day period, the suspension of related student visa processing will continue (until resolution occurs).
- f. Failure to address or make satisfactory progress towards resolving the non-compliance may result in removal from the pathways pilot, and current student visa holders becoming liable for deportation.

**Note:** INZ may rely on the advice of the Ministry of Education and/or the New Zealand Qualifications Authority in determining whether resolution has been reached or satisfactory progress has been made towards resolution.