MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
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27 September 2019

**Immigration New Zealand Instructions: Amendment Circular No. 2019/06**

**To: All Manual Holders**

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

## Introduction

This circular outlines changes to the INZ Operational Manual. 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 their effective dates.

## 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.

# Description of changes

The following changes have been made to the INZ Operational Manual:

**New power delegated to officers with schedule 4 delegations**

Officers with schedule 4 delegations have been delegated the power by the Minister of Immigration to waive, by special direction, one or more of the requirements for requesting or holding an ETA. This will be effective on and after 1 October 2019.

Power 16 for officers with schedule 2 delegations has also been updated to include “by special direction”.

**Visitor visa for positioning crew**

Immigration instructions at *V3.70 Crew members joining vessels or aircraft* have been updated to reflect that crew members who hold a crew ETA and travel to New Zealand as a passenger on an aircraft are eligible for a visitor visa of 7 days (aircraft crew) or 35 days (cruise ship crew) on arrival in New Zealand. This visitor visa allows the crew member to work as crew in or on the craft.

Appendix 1 contains the amended operational instructions effective on and after 1 October 2019.

Appendix 2 contains amended immigration instructions effective on and after 1 October 2019. Additions to the instructions have been highlighted for ease of reference. Deletions have not been highlighted.

## Appendix 1: Amendments to the Delegation of Powers effective on and after 1 October 2019

### A15.5 Delegation of Powers to Ministry of Business, Innovation and Employment – Immigration New Zealand

PURSUANT to section 380 of the Immigration Act 2009 (the Act) and effective from **1 October 2019**, I Iain Lees-Galloway, Minister of Immigration:

1. REVOKE the Instrument of Delegation dated 27th day of June 2019 previously made under that section;
2. DELEGATE, to each immigration officer who is the holder (or is acting as the holder) from time to time of any office or position specified in each of the Schedules to this Instrument, and is suitably trained and qualified, the powers under the Immigration Act 2009 specified in relation to that office or position in the relevant Schedule, but subject to any conditions listed in those Schedules; and
3. DELEGATE to every immigration officer the power to take the practical steps necessary under that Act to implement a decision taken by another immigration officer pursuant to this Instrument of Delegation. Any person who exercises any power pursuant to this Instrument of Delegation shall do so in accordance with the Government policy and Departmental instructions that are current at the time, as set out from time to time in the Immigration New Zealand Operational Manual and circular instructions on Immigration.

Dated at Wellington this 23rd day of September 2019

Iain Francis Lees-Galloway

Minister of Immigration

## Schedule 1

*Office or Position:*

1. Chief Executive, Ministry of Business, Innovation and Employment
2. Deputy Chief Executive – Immigration New Zealand, Ministry of Business, Innovation and Employment

*Powers Delegated:*

1. All those powers set out in Schedules 2, 3 and 4 of this Instrument of Delegation without limitation or subject to any conditions;
2. Specifying an international organisation under s4, by notice in the Gazette, as an organisation whose travel documents will be accepted as certificates of identity.

## Schedule 2

*Office or Position:*

1. 3rd Tier Manager - Immigration New Zealand, Ministry of Business, Innovation and Employment
2. 4th Tier Manager - Immigration New Zealand, Ministry of Business, Innovation and Employment
3. 5th Tier Manager - Immigration New Zealand, Ministry of Business, Innovation and Employment
4. 6th Tier Manager - Immigration New Zealand, Ministry of Business, Innovation and Employment
5. Immigration Manager - Immigration New Zealand, Ministry of Business, Innovation and Employment

*Powers Delegated:*

1. All those powers set out in Schedules 3 and 4 of this Instrument of Delegation;
2. Giving a special direction under s17(1)(a) of the Act authorising a residence class visa to be granted to a person to whom s15 or s16 applies;
3. The power under s79(5) of the Act to grant a temporary visa to a person prohibited from applying for a temporary visa under s79(4);
4. The power under s180(3) of the Act to reduce or waive any debt due by a person under s180(1) (this power is delegated to managers in the Compliance, Risk and Intelligence Services Branch only);
5. Providing by special direction under s395(2) of the Act for an exemption from or refund of any prescribed fee or charge in whole or in part;
6. Providing by special direction under s396(9) of the Act for an exemption from or refund of any bond, in whole or in part;
7. The power under s398(1) and (3) of the Act to provide funds for the costs of deportation or repatriation from New Zealand (this power is delegated to managers in the Compliance, Risk and Intelligence Services Branch only);
8. Giving a special direction under s412(2) of the Act, relating to existing applications for visas and permits, that s412(1) not apply;
9. The power conferred by regulation 26(5) (where applicable pursuant to s399(8) of the Act and pursuant to the transitional provision of Schedule 1AA of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive (by way of special direction) the requirement to pay the migrant levy;

10. The power conferred by regulation 34(1)(a) and (f) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction:
    a. one or more of the requirements for applying for a visa (whether at an immigration control area or otherwise);
    b. any matter relating to an endorsement of New Zealand citizenship in a New Zealand citizen's foreign passport;
11. The power to give a special direction under s51(3) of the Act to vary the conditions of a resident visa, as an exception to instructions;
12. The power under s72(3) of the Act to grant a second or subsequent resident visa as an exception to instructions;
13. The power under s72(3) of the Act to grant a permanent resident visa as an exception to instructions;
14. The power under s399(3A) of the Act to provide by special direction for an exemption from or refund of any immigration levy, in whole or in part;
15. The power under s399A(4) of the Act to provide by special direction for an exemption from or refund of the international visitor conservation and tourism levy, in whole or in part;
16. The power conferred by regulation 26AAC of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to accept cash payment of prescribed fees by special direction.

### Schedule 3

*Office or Position:*

1. Immigration officer, technical advisor
2. Immigration officer

*Powers Delegated:*

1. Any of the powers set out below which have been assigned to an individual by the Chief Executive;
2. Giving a special direction under s17(1)(a) of the Act authorising:
    a. a temporary entry class visa and/or entry permission; or
    b. a transit visa

    to be granted to a person to whom s15 or s16 of the Act applies;
3. The power under s50(3) of the Act to do either of the things in subsection (2)(b), that is to vary or cancel conditions on a resident visa, by agreement with the visa holder;
4. The power under s61 of the Act to grant or refuse a visa of any type to a person who is unlawfully in New Zealand and is not a person in respect of whom a deportation order is in force;
5. The power under s69(2)(d) of the Act to suspend, in any individual case, a waiver of the requirement to hold a visa permitting travel to New Zealand;
6. The power conferred by regulation 23(2) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to require, by special direction, that regulations apply to applications for visas not otherwise provided on the approved form;
7. The power conferred by regulation 34(1)(a) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, the requirements in regulation 5(2)(d)(iii), to the extent that it relates to immigration instruction requirements to produce a police or similar certificate;
8. The power conferred by regulation 34(1)(a) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, requirements specified in regulation 5(2) in relation to residence class visa applications lodged:

a. under the Refugee Family Support category;
b. under the victims of domestic violence category;
c. by persons recognised as refugees and protected persons in New Zealand.

This delegation only applies to the extent specified by immigration instructions;

9. The power conferred by regulation 34(1)(a) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, requirements specified in regulation 5(2) in relation to residence class visa applications lodged under the Skilled Migrant Category;

10. The power conferred by regulation 34(1)(a) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, the requirements in regulation 10(2)(e) for particular documents, information and /or evidence to be tendered with the approved application form, in respect of applications made for temporary entry class visas;

11. The power conferred by regulation 34(1)(a) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, requirements specified in regulations 10(2), in relation to temporary entry class visa applications lodged:
    a. under Special work visas for victims of domestic violence category;
    b. by persons recognised as refugees and protected persons in New Zealand.

    This delegation only applies to the extent specified by immigration instructions;

12. The power conferred by regulation 34(1)(b), (c) and (d) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, one or more of the requirements for:
    a. applying for a second or subsequent resident visa;
    b. varying conditions of travel for a resident visa;
    c. notifying an expression of interest in applying for a residence class visa.

## Schedule 4

*Office or Position:*

1. Immigration officer at an immigration control area, as defined under s382, or any other port of entry
2. Immigration officer who holds the position of compliance officer

*Powers Delegated:*

1. Any of the powers set out below which have been assigned to an individual by the Chief Executive;
2. The power to make decisions under s16 of the Act that certain persons are not entitled to the grant of a visa and/or entry permission;
3. Giving a special direction under s17(1)(a) of the Act authorising a residence class visa to be granted to a person who applies for a residence class visa on arrival, and to whom s15 or s16 applies;
4. The power under s69(2)(c) of the Act to waive, in any individual case, the requirement to hold a visa permitting travel to New Zealand;
5. The power to give a special direction under s101(4) of the Act in relation to the responsibilities of carriers and persons in charge of craft en route to or arriving in New Zealand;
6. The power to give a special direction under s103(1) of the Act in relation to persons arriving in New Zealand;
7. The power to give a special direction under s108(4)(b) or (5)(b) of the Act to impose, vary or cancel the conditions of a resident visa granted outside New Zealand;

8. The power to give a special direction under s119(1) of the Act in relation to persons leaving New Zealand.
9. Determining under s156(1)(b) of the Act that a person holds a temporary entry class visa under a false identity;
10. Determining under s157(1) of the Act that there is sufficient reason to deport a temporary entry class visa holder;
11. Determining under s157(3) of the Act that a person is an excluded person for the purpose of section 157(2);
12. The power under s172 of the Act , with due regard to submissions (if applicable), to cancel liability for deportation for a temporary entry class visa holder;
13. The power under s182(1) of the Act to reduce or remove a non-permanent period of prohibition on entry in relation to a person in regards to their application for visa or entry permission;
14. The power conferred by regulation 34(1)(a), (b) and (e) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, one or more of the requirements for applying for:

a. a visa or for entry permission, to the extent specified by immigration instructions;
b. a second or subsequent resident visa at an immigration control area;

15. The power conferred by regulation 34(1)(da) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to waive, by special direction, one or more of the requirements for requesting or holding an ETA.

## Appendix 2: Amendments to temporary entry instructions effective on and after 1 October 2019

## V3.70 Crew members joining vessels or aircraft

a. Crew members who hold a crew ETA before travelling to New Zealand and travel to New Zealand as a passenger on a commercial aircraft for the purpose of leaving New Zealand as aircraft crew or as cruise ship crew, may be granted a visitor visa on arrival in New Zealand for:
   i. 7 days for aircraft crew; and
   ii. 35 days for cruise ship crew.

b. Crew members will need to obtain a visitor visa before travelling to New Zealand if they:
   i. do not hold a crew ETA and they travel to New Zealand as a passenger on a commercial aircraft for the purpose of leaving New Zealand as aircraft crew or as cruise ship crew.
   ii. are not described in (a) or (b)(i) and are from a country that does not have a visa waiver agreement with New Zealand and they are entering New Zealand to join a vessel that will then depart for another country or an aircraft that will then depart for another country.

c. A visitor visa allowing a maximum stay of 28 days will be granted to applicants under (b) above if they provide fully documented evidence of their engagement as a crew member in New Zealand.

d. Visitor visas granted under these instructions will have conditions enabling the holder to work as crew, in or on the craft.