



Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19—Applications) Regulations (No 3) 2021

Cindy Kiro, Governor-General

Order in Council

At Wellington this 22nd day of November 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 400 of the Immigration Act 2009—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Immigration required under section 403A(1) of that Act and made in accordance with section 401A(6) of that Act.

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Regulations

1 Title

These regulations are the Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19—Applications) Regulations (No 3) 2021.

2 Commencement

These regulations come into force as follows:

- (a) regulation 6 comes into force on 5 February 2022;
- (b) the rest of these regulations come into force on 1 December 2021.

3 Principal regulations

These regulations amend the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010.

4 Regulation 4C amended (Certain applicants exempt from paying immigration levy)

After regulation 4C(h), insert:

- (i) applying for a 2021 Resident Visa and, prior to submitting the application, had made or was included in,—
 - (i) a residence class visa application—Skilled Migrant Category that has not been determined; or
 - (ii) a residence class visa application—Residence from Work Category that has not been determined.

5 Regulation 5 amended (Application requirements)

After regulation 5(2), insert:

- (2AA) However, an application for a 2021 Resident Visa made by the following persons is not required to satisfy subclause (2)(e) until payment is requested by the immigration officer processing the application:
 - (a) an applicant who has also made a residence class visa application—Skilled Migrant Category that has not been determined:

- (b) an applicant who has also made a residence class visa application—Residence from Work Category that has not been determined:
- (c) an applicant who has notified an expression of interest in applying for a residence class visa—Skilled Migrant Category that has not been determined.

6 Regulation 9A amended (Suspension of ability to apply for certain visas)

In regulation 9A(3) and (4), replace “6 February 2022” with “5 August 2022”.

7 Regulation 23AA amended (Chief executive may require certain visa applications to be made online)

After regulation 23AA(5), insert:

(5A) However, an application for a 2021 Resident Visa made by the following persons is not required to satisfy subclause (5)(i) until payment is requested by the immigration officer processing the application:

- (a) an applicant who has also made a residence class visa application—Skilled Migrant Category that has not been determined:
- (b) an applicant who has also made a residence class visa application—Residence from Work Category that has not been determined:
- (c) an applicant who has notified an expression of interest in applying for a residence class visa—Skilled Migrant Category that has not been determined.

(5B) An application must also comply with regulation 20(2A), if applicable.

8 Regulation 23A amended (Applications that may be made online)

After regulation 23A(4), insert:

(4A) However, an application for a 2021 Resident Visa made by the following persons is not required to satisfy subclause (4)(i) until payment is requested by the immigration officer processing the application:

- (a) an applicant who has also made a residence class visa application—Skilled Migrant Category that has not been determined:
- (b) an applicant who has also made a residence class visa application—Residence from Work Category that has not been determined:
- (c) an applicant who has notified an expression of interest in applying for a residence class visa—Skilled Migrant Category that has not been determined.

(4B) An application must also comply with regulation 20(2A), if applicable.

9 New regulation 36 inserted (Refund of prescribed fee for certain 2021 Resident Visa applicants)

After regulation 35, insert:

36 Refund of prescribed fee for certain 2021 Resident Visa applicants

- (1) This regulation applies to a person who—
 - (a) has applied for a 2021 Resident Visa (**application A**); and
 - (b) is the principal applicant in an application or expression of interest referred to in regulation 5(2AA)(a) to (c) (**application B**); and
 - (c) has been notified that the prescribed fee for application A is payable.
- (2) Provided that the person withdraws application B, any prescribed fee paid in relation to application B must, in accordance with the person's preference, be either—
 - (a) refunded; or
 - (b) applied towards application A.
- (3) If subclause (2)(b) applies, and the prescribed fee for application A is less than the prescribed fee for application B, then the person must be refunded the difference between the prescribed fees.
- (4) For the purposes of subclause (1)(b), the **principal applicant** is,—
 - (a) if regulation 20 applies to the application or notification, the applicant who is declared to be the principal applicant on the approved form; and
 - (b) in all other cases, the applicant.

10 Schedule 4 amended

In Schedule 4, after the item relating to residence class visa application—Refugee Family Support Category, insert:

Residence class visa application— 2021 Resident Visa	1,330	1,330	1,330
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11 Schedule 5 amended

In Schedule 5, after clause 11, insert:

- 12 A person who is applying for a 2021 Resident Visa and—
 - (a) who was included as a dependent child of the applicant in any 1 of the following:
 - (i) a residence class visa application—Skilled Migrant Category made on or before 29 September 2021, but not determined on or before that date;
 - (ii) a residence class visa application—Residence from Work Category made on or before 29 September 2021, but not determined on or before that date;
 - (iii) an expression of interest in applying for a residence class visa—Skilled Migrant Category made on or before 29 September 2021, but not determined on or before that date; and

- (b) who, at the time of their application for the 2021 Resident Visa, is of or over the age of 25 years.

12 Schedule 6 amended

In Schedule 6, after the item relating to applicant for resident visa—Pitcairn Islanders, insert:

Applicant for resident visa—2021 Resident Visa

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Rachel Hayward,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (the **principal regulations**). Most of the amendments clarify the application requirements, fees, and exemptions in relation to the residence class visa application—2021 Resident Visa (**2021 Resident Visa application**).

The regulations come into force on 1 December 2021, except for regulation 6, which comes into force on 5 February 2022.

Regulation 4 amends regulation 4C of the principal regulations to exempt certain applicants from the requirement to pay the immigration levy in relation to the 2021 Resident Visa application.

Regulation 5 amends regulation 5 of the principal regulations to create distinct application requirements for the 2021 Resident Visa application.

Regulation 6 amends regulation 9A of the principal regulations to extend the operation of that regulation to 5 August 2022.

Regulations 7 and 8 amend regulations 23AA and 23A of the principal regulations, respectively. In particular, the amendments ensure that online application requirements for the 2021 Resident Visa are consistent with those in *new regulation 5(2AA)*.

Regulation 9 inserts *new regulation 36* into the principal regulations. *New regulation 36* allows a person who has applied for the 2021 Resident Visa (**application A**) to be refunded the prescribed fee already paid for an earlier application or expression of interest to which the regulation applies (**application B**), provided that the applicant withdraws application B. As an alternative to a refund, the applicant may choose to apply the already paid prescribed fee for application B towards the prescribed fee for application A.

Regulation 10 amends Schedule 4 of the principal regulations to specify the prescribed fee for a 2021 Resident Visa application.

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Explanatory note

2021/377

Regulation 11 amends Schedule 5 of the principal regulations to exempt certain applicants from the requirement to pay the prescribed fee and the immigration levy for a 2021 Resident Visa application.

Regulation 12 amends Schedule 6 of the principal regulations to specify the immigration levy for a 2021 Resident Visa application.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 25 November 2021.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

Wellington, New Zealand:

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