

- You are a refugee and protection claimant appealing against a decision by a refugee and protection officer and would be entitled to a humanitarian appeal if you became liable for deportation.

## 7 Should I have legal advice and representation?

### (i) Correctly completing applications:

- Applying for the right type of visa, under the right policy can be confusing.
- The forms are complicated and you might have problems understanding the terminology.
- The policies change, the lists containing the relevant skills are constantly updated and there are strict rules as to what kind of employment is considered skilled or what constitutes a genuine relationship.
- There are qualifications that are exempt from assessment and occupations that require registration – all this information might be too difficult for you to handle or understand.

### (ii) Eligibility concerns:

- You might struggle to understand under which policy you can file your application or what sort of documents you are required to provide in support of the application.
- We have the legal expertise to provide high quality immigration services and address potential eligibility problems in immigration applications.
- We are also able to resolve character or medical issues in temporary and residence visa applications.

### (iii) Advising employers:

- We can advise employers on matters affecting immigration applications and ensure that the job offers and employment contracts comply with immigration policy requirements.
- If the position is a skilled one we make sure that its job description complies with the Australian and New Zealand Standard of Classification of occupations (ANZSCO).

### (iv) Criminal law issues:

- We can advise migrants who are defending criminal charges that impact on their immigration cases and

also advise on how family law proceedings impact on immigration cases.

- We can work along with your family or criminal lawyer to make sure that your immigration status is not at risk.

### (v) Other immigration law issues:

- We have represented clients in immigration fraud and deportation cases, cancellation of refugee status and facing revocation of their permanent residence.
- We can assist you in making submissions in cases when the Immigration Service alleges there has been a breach on your part or address potentially prejudicial information.
- It is very important that all appeals are filed within the statutory deadlines so if you are in danger of having your visa revoked or being deported from New Zealand we can assist you.

### (vi) Assisting overstayers:

- If you are an overstayer who wishes to depart New Zealand we can negotiate on your behalf with the Immigration Service and make sure that you are not taken into custody, are able to make a voluntary departure and you are not served with a deportation order or banned from re-entering New Zealand in the future.
- We have assisted overstayers and filed application under section 61 or made ministerial applications for special directions.
- Some people are unable to return to their countries because they fear persecution or cruel, inhuman treatment, they might be able to file an application for refugee or protected person status.

### (vii) Citizenship:

We can also assist with your application for New Zealand citizenship by grant or by descent and make submissions when a character waiver is required.

### (viii) What can we do to help you?

We have lawyers who specialise in all areas of Immigration Law. Getting our advice first will avoid significant problems for you later on. Contact us now.

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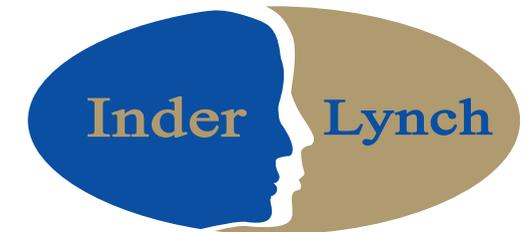


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# Immigration Law



LAWYERS

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# Important facts about the *Immigration Act 2009*

## 1 What is the Immigration Act?

The Immigration Act:

- establishes a system that requires persons who are not New Zealand citizens to travel to New Zealand and be granted permission to stay temporarily or permanently;
- incorporates New Zealand's obligations under the Refugee Convention, The Convention against Torture and the International Covenant on Civil and Political Rights so refugee status claims and protected person claims can be determined;
- sets up an independent body to hear appeals – the Immigration and Protection Tribunal (the Tribunal);
- prescribes the system for the deportation of people who are not New Zealand citizens.

There are additional immigration guidelines that change regularly and the policies also change frequently. It is vital to have the up to date relevant information before you lodge an application.

## 2 What is a temporary entry class visa?

A temporary visa allows persons to enter and stay in New Zealand for a specified period of time and purpose.

- Visitor visa –tourist, visit family or friends, working holiday, business visitor (temporary retirement category);
- Student visa – Attend a primary or secondary school, a university or polytechnic;
- Work visa -skilled work, working holiday, work after study (graduate job search, graduate job experience), start or buy a business (long term business category) and join a partner in New Zealand.

## 3 What is a residence visa?

The holder of a permanent resident visa is entitled to:

- travel to New Zealand at any time; and
- be granted entry permission; and

- to stay in New Zealand indefinitely; and
- to work in New Zealand or in the exclusive economic zone of New Zealand; and
- to study in New Zealand.

People who wish to apply for permanent residence are required to meet health, character and (in some cases) English language requirements. People who do not meet the health or character requirements must apply for waivers.

## 4 What are the categories for residence visas?

People can apply for residence under several policies:

- Skilled migrant - based on their employment in New Zealand, their qualifications and work experience,
- Investors/Investors Plus—people wishing to invest funds in a business
- Entrepreneur/Entrepreneur Plus – people who wish to purchase or establish a business in New Zealand can apply for a work visa under the Long Term Business Visa and the apply for residence
- Employees of a relocating business— people who are key employees in a business that is relocating to New Zealand
- Family category - join a partner or a family member.
- Refugee Family Support Category
- Samoan Quota
- Pacific Access Category (citizens of Kiribati, Tuvalu and Tonga)

Applications for permanent residence are in most cases a two-step process that involves filing an Expression of Interest or being a holder of a Long Term Business Visa. The Expressions of Interest are regularly selected from the pool if they meet the points requirements and invitations to apply for residence are sent to applicants. However, an invitation to apply for residence is no guarantee of a grant of permanent residence.

## 5 Who is liable for deportation?

- People who are not New Zealand citizens can have their visas revoked if they fail to comply with immigration requirements, commit criminal offences or are considered to pose a threat or risk to security;
- People who are unlawful in New Zealand (do not have a valid visa, overstayers);
- People who obtain a visa through fraud or forgery;
- A person whose circumstances no longer meet the rules or criteria under which the visa was granted;
- A residence class holder who is convicted of certain criminal offences;
- A person who is not a New Zealand citizen and whose refugee or protected person is cancelled.

There are limited appeal rights and strict timeframes for filing appeals against deportation. People who are removed from New Zealand may face a ban on re-entry.

## 6 Appeals to the Immigration and Protection Tribunal

The Tribunal is independent of the Immigration Service and hears and determines appeals against:

- decisions in relation to residence class visas;
- decisions in relation to the recognition of a person as a refugee or a protected person;
- decisions to cease to recognise a person as a refugee or a protected person (cancellation of refugee status);
- decisions to cancel the recognition of a New Zealand citizen as a refugee or a protected person;
- liability for deportation.

### A. What is a Residence Class Visa Appeal?

It is a process if you want to appeal to the Tribunal against Immigration New Zealand or the Minister of Immigration decision to:

- Decline your residence class visa application, or

- Cancel your resident visa, or
- Refuse to grant you (a resident visa holder) entry permission into New Zealand.

### B. What is a Refugee and Protection Status Appeal?

It is a process if you want to appeal to the Immigration and Protection Tribunal against a refugee and protection officer's decision to:

- Decline your claim for refugee or protected person status.
- Decline to accept for consideration your claim for recognition as a refugee or protected person.
- Cancel or cease your recognition as a refugee or protected person.
- Refuse to consider your subsequent claim for refugee or protected person status.

### C. What is a Deportation Appeal by a Resident/ Permanent Resident?

It is a process if you are a resident or permanent resident and would like to appeal to the Tribunal against your liability for deportation.

### D. What is a Deportation Appeal (Cancelled Refugee and/or Protection Status)?

It is a process if you have been served a Deportation Liability Notice after your refugee and/or protection status was cancelled and you would like to appeal to the Tribunal against your liability for deportation.

### E. What is a Humanitarian Appeal against Deportation?

It is a process if:

- You are unlawfully in New Zealand
- Your temporary or interim visa was granted in error, or
- You held your temporary or interim visa under a false identity, or
- You held a temporary or interim visa and it was determined that there was sufficient reason to deport you; or