

VISA PAK ISSUE 599 — 30 SEPTEMBER 2024

## **CHANGES ENABLING SOME DEPENDENT CHILDREN TO WORK WHILE WAITING FOR A DECISION ON THEIR FAMILY RESIDENCE APPLICATION**

This Visa Pak provides guidance about changes that enable some dependent children to undertake limited work while they are waiting for a decision on a residence application. It includes information about how visa holders can apply for these work rights and how financial dependency should be assessed for further visa applications.

### **Immigration instructions**

Changes to Immigration Instructions, which take effect on 1 October 2024, will enable dependent children who are awaiting the outcome of a residence application to obtain limited work rights on visitor visas. These are part-time work rights that will enable the visa holder to work up to 40 hours per week between 1 December and 31 January (inclusive) and up to 20 hours per week at other times.

To be eligible, these children must:

- Be between 17 and 24 years old (inclusive, and if they are 17, provide evidence that they have completed high school), and
- Have applied for a Dependent Child Resident Visa or are included as a secondary applicant (dependent child) in one of the following residence categories:
  - Skilled Migrant Category
  - Green List Straight to Residence or Work to Residence
  - Care Workforce or Transport Sector Work to Residence
  - Partnership Resident Visa
- Hold or be applying for a:
  - Dependent Child Visitor Visa (as the child of a work visa holder or New Zealand citizen/resident); or
  - General Visitor Visa (provided at one point they have previously held a dependent child visitor or student visa as the dependent child of a New Zealand citizen or resident; or the principal applicant of their residence application)

Those who meet the above requirements and already hold a visitor visa may apply for a variation of conditions to have their eligibility for work rights assessed.

The requirements will be specified in immigration instructions E3.26.5(d), V3.10.20 and V3.20.5.

### Assessing evidence of high school completion from overseas education providers

If a 17-year-old applicant completed their secondary school education outside of New Zealand and has provided evidence of this, the assessing officer can check the relevant country information page and/or the Document Authentication Toolkit (DAT) to confirm the validity of this evidence.

These country profile pages have been updated with supplementary information to support immigration officers in their assessments. If an applicant has provided evidence that is not listed, or the immigration officer has concerns about the evidence provided, they should reach out to Risk and Verification in the first instance.

### Expansion of the dependent child visitor visa pathway to enable applicants aged between 19 and 24 years old to access it

From 1 October 2024, changes will be made to the definition of a dependent child under temporary entry instructions (E4.1.10.d) to enable dependent children who are over 19 years of age to apply and be granted a visa under the Dependent Child Visitor Visa categories, if they meet the criteria under V3.10.20 or V3.20.5. The dependent child visitor visa is considered the most appropriate visa for these dependent children to hold and access work rights while awaiting the outcome of the residence application.

Applicants should apply online in the first instance ([RealMe - Login](#)) using the *Partner or Child Visa Application* form, and confirming that they are applying as a dependent child. Those who are unable to apply online have the option to apply using the paper application form ([INZ 1017 Visitor Visa Application July 2024 \(immigration.govt.nz\)](#)).

### Delay between implementation and updates to the online form

Between 1 October 2024 and 4 October 2024, if a dependent child is applying on the online form and answers “no” to the below two questions, a warning will display telling them that they cannot apply:

Are you 19 or under, single and financially reliant on\*  Yes  No  
your parent(s)?

Are you aged 17-25 and applying for a tertiary\*  Yes  No  
study conditions as a dependent child of someone  
on an eligible work visa to transition onto the 2021  
Resident visa?

You do not meet the requirements to be granted a visa as a dependent child. Visit our [website](#) for other visa options.

Applicants who are aged between 20-24 years old and believe they are eligible for this visa based on the new instructions can ignore this warning and proceed with their application regardless. ICT

changes will be in place by 4 October 2024 to correct this, from which point applicants will be able to confirm on their visa application that they are aged 17-24 years old (inclusive) and applying for work rights as a dependent included who has made or is included in an acceptable residence application.

### **Eligibility of general visitor visa holders for part-time work rights**

Dependent children who have been granted (or apply in the future for) a general visitor visa and become eligible to access these work rights can do so by applying for a variation of conditions on their existing visa. They should use the paper application form to do so ([Application for a Variation of Conditions or a Variation of Travel Conditions \(INZ 1020\) \(immigration.govt.nz\)](#)).

To be eligible, they must have previously held a dependent child student or visitor visa as the dependent of a New Zealand citizen or resident, or the principal applicant of the residence application they are included as a secondary applicant on. They are not required to have held this visa directly before making their application.

### **Assessing financial dependence at residence stage or where a further temporary visa is required**

Immigration instructions will be updated to confirm that any work undertaken in line with these visa conditions should not be taken into consideration when undertaking an assessment of the child's financial dependence. This has been extended in certain cases to dependent student visa holders with part-time work rights and skilled migrant category interim visa holders with student visa work rights.

The below table shows when immigration officers should **not** assess whether any part-time work that the visa holder undertook impacted financial dependence:

<b>If an applicant holds a</b>	<b>And is applying for</b>
Visitor visa with part-time work rights granted under V3.10.20, V3.20.5 or E3.26.5.d	Any temporary entry class dependent child visa.
Student Visa with part-time work rights granted under U13	
Visitor visa with part-time work rights granted under V3.10.20, V3.20.5 or E3.26.5.d	Any resident visa
Student Visa with part-time work rights granted under U13	
Skilled Migrant Category Interim Visa with student work rights granted under I3.15.5(a)	

This does not mean that the requirement for dependent children to be totally or substantially reliant on an adult for financial support (for children aged 21 to 24 years old applying for residence or 18 years old or over for temporary entry) does not apply. Outside of any work undertaken in accordance with their temporary visa conditions, they still need to be financially reliant on:

- an adult, regardless of whether they are their parent or not, if they are applying under the Dependent Child Resident Visa Category; or

- their parent(s) or parent’s partner from the family resident visa application (refer to R2.1.b.ii and R2.1.30), if they’re included as a secondary applicant on a residence application.

Financial dependence will still be determined in accordance with relevant immigration instructions (see R2.1.30(e) and F2.5(e)), and applicants who are between 21 and 24 years old must still be totally or substantially financially reliant on an adult. While their ability to work part-time won’t be considered as part of this assessment, if an applicant is able to support themselves through other means they are not likely to be considered financially dependent.

### **Assessing breaches of part-time work visa conditions**

If any concerns are identified that the applicant may have breached the conditions of their current visa (for example by working longer hours than allowed), the immigration officer may request evidence that any work undertaken was in line with their visa conditions to enable proper assessment of the application on hand. This may include (but is not limited to):

- IRD summary of earnings,
- Bank statements showing pay received, and/or
- Payslips showing incoming weekly pay and hours.

If they have worked more than the part-time work visa conditions allow for, officers should consider (as appropriate to the application they are assessing) whether the applicant meets bona fides. Furthermore, this may impact any assessment of whether the applicant is financially reliant as required on a parent or adult.

The immigration officer should also reach out to Immigration Compliance to consider whether section 157 of the Immigration Act 2009 applies. If the applicant is made liable for deportation, the processing of an application of a different class or type (for example, the residence application) must be suspended (section 169 of the Act).

### **Further information available on the Immigration New Zealand (INZ) website**

From 1 October 2024, the INZ website will be updated to provide applicants with further information about these changes. This information will be available on the [Child of a Worker Visitor Visa](#) and the [Child of a New Zealander Visitor Visa](#) records pages. The [Variation of Conditions](#) web page will also be updated regarding this process and a new page will be published which will outline the rules and requirements for dependent children awaiting an outcome on a residence visa who want to work part-time.