

Reprint
as at 29 October 2019



Immigration and Protection Tribunal Regulations 2010 (SR 2010/355)

Rt Hon Sir Peter Blanchard, Administrator of the Government

Order in Council

At Wellington this 4th day of October 2010

Present:

His Excellency the Administrator of the Government in Council

Pursuant to sections 400 and 403 of the Immigration Act 2009, His Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

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Regulations

1 Title

These regulations are the Immigration and Protection Tribunal Regulations 2010.

2 Commencement

These regulations come into force at 2 am on 29 November 2010.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Immigration Act 2009

approved form means a form approved by the chief executive of the Ministry of Justice after consulting with the chair of the Tribunal

matter means an application made to the Tribunal by—

- (a) a refugee and protection officer under section 144 or 147 of the Act in relation to the cessation or cancellation of the recognition of a person as a refugee or a protected person:

- (b) the Minister under section 212(2) of the Act on whether a person has breached the conditions of suspension of his or her liability for deportation

minor means a person who—

- (a) is under 18 years of age; and
- (b) is not married or in a civil union

party means a party to a proceeding before the Tribunal

practice note means a practice note issued by the chair of the Tribunal under section 220(2)(a) of the Act

Tribunal means the Immigration and Protection Tribunal established by section 217 of the Act.

- (2) Any term that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Regulation 3(1) **approved form**: replaced, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Regulation 3A: inserted, on 29 October 2019, by regulation 4 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

Appeals

4 Form of appeal

- (1) A notice of appeal to the Tribunal must be—
 - (a) in the approved form; and
 - (b) completed in English; and
 - (c) signed by the appellant; and
 - (d) accompanied by the prescribed fee (if any); and
 - (e) lodged with the Tribunal in accordance with the applicable practice note.
- (2) A notice of appeal to the Tribunal should, if possible, be accompanied by a copy of all or any of the following that apply:
 - (a) the decision appealed against;
 - (b) the deportation liability notice;
 - (c) the expired visa;
 - (d) the relevant pages of the appellant's passport.
- (3) This regulation is subject to regulations 5 to 8 of the Immigration and Protection Tribunal (Transitional Provisions) Regulations 2010.

5 Requirements for appeals generally

- (1) A notice of appeal to the Tribunal must relate to 1 person only.
- (2) If an appellant is a minor whose parent is his or her responsible adult under section 375(1) of the Act, the responsible adult must sign the notice of appeal.
- (3) If an appellant is a minor who does not have a responsible adult under section 375(1) of the Act but who has a responsible adult nominated under section 375(2) of the Act to represent his or her interests, the responsible adult so nominated must sign the notice of appeal.
- (4) If an appellant is a minor who does not have a responsible adult under section 375(1) or (2) of the Act, the appellant may sign the notice of appeal.
- (5) If subclause (4) applies, the Tribunal may, on receipt of the notice of appeal, nominate a responsible adult for the appellant in accordance with section 375(3) and (4) of the Act.
- (6) This regulation is subject to regulations 6 and 7 of these regulations and to regulations 5 to 8 of the Immigration and Protection Tribunal (Transitional Provisions) Regulations 2010.

6 Requirements for appeals under section 187 of Act

- (1) Despite regulation 5(1), a notice of appeal for an appeal under section 187 of the Act against a decision concerning a residence class visa may relate to a principal applicant for the residence class visa and any of the following persons included in the application for that visa:
 - (a) the principal applicant's dependent children;
 - (b) the principal applicant's spouse or partner.
- (2) If a notice of appeal referred to in subclause (1) relates to more than 1 person,—
 - (a) the principal appellant must sign the notice of appeal; and
 - (b) the appeal must be treated as an appeal by all of the persons specified in the notice of appeal, unless the principal appellant states otherwise in that notice.
- (3) For the purposes of this regulation, the principal applicant is taken to be the principal appellant.
- (4) In this regulation, **principal applicant**, in relation to an application for a residence class visa, is the person deemed under regulation 20(5)(b) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 to be the principal applicant.

7 Requirements for appeals under section 201 or 206 of Act

- (1) Despite regulation 5(1), a notice of appeal for an appeal under section 201 or 206 of the Act against liability for deportation may relate to—

- (a) a principal appellant; and
 - (b) any of the principal appellant's dependent children whose liability for deportation is linked or connected to that of the principal appellant and arises from the same facts or circumstances as those of the principal appellant.
- (2) If a notice of appeal referred to in subclause (1) relates to more than 1 person,—
- (a) the principal appellant must sign the notice of appeal; and
 - (b) the appeal must be treated as an appeal by all of the persons specified in the notice of appeal, unless the principal appellant states otherwise in that notice.
- (3) For the purposes of this regulation, the appellant who is specified in the notice of appeal to be the principal appellant is taken to be the principal appellant.

Matters

8 Requirements for matters lodged with Tribunal

- (1) A matter to be lodged with the Tribunal must be—
- (a) in the approved form; and
 - (b) signed by the applicant; and
 - (c) lodged with the Tribunal in accordance with the applicable practice note.
- (2) The matter must also be accompanied by a copy of the original decision made by—
- (a) the Tribunal; or
 - (b) the Refugee Status Appeals Authority, if the original decision was made under the Immigration Act 1987.
- (3) Notice of a matter lodged with the Tribunal must be served on the affected person in accordance with the applicable practice note.

Common provisions for appeals and matters

9 Withdrawal of appeal or matter

An appellant or applicant may, at any time, withdraw any appeal or matter lodged with the Tribunal by giving written notice to the Tribunal.

10 Service outside New Zealand

- (1) This regulation applies if a notice or other document is required to be served on a person outside New Zealand in relation to any appeal or matter before the Tribunal.
- (2) The notice or other document must be served on or supplied to the person—
- (a) by personal service; or

- (b) by registered post addressed to the person's last known address for communication outside New Zealand that was provided to the Tribunal by the appellant or, as the case may be, the applicant.
- (3) If the notice or document is served on or supplied to the person in accordance with subclause (2)(b), it is taken to have been served on or received by the person 14 days after the date on which it was posted, unless the person proves that, otherwise than through fault on the person's part, the notice or other document was not so served or received.

11 Submissions or other materials to be in English or translated into English

- (1) Unless the Tribunal otherwise permits, a party who wishes to provide any written submission or other material to the Tribunal must ensure that the submission or material—
 - (a) is in English; or
 - (b) if expressed in a language other than English, is accompanied by an accurate translation prepared by an independent translator at the party's expense.
- (2) In this regulation, **independent translator** means a person who—
 - (a) is competent to translate the submissions or other materials into English; and
 - (b) is impartial.

12 Notice of oral hearing

- (1) The Tribunal must fix the date, time, and place for each oral hearing that the Tribunal will provide under section 233 of the Act.
- (2) The Tribunal must give at least 10 working days' notice of the hearing to all of the parties.
- (3) However, the Tribunal may give less than 10 working days' notice of the hearing if all of the parties agree to the shorter period.
- (4) The Tribunal must include in the notice of hearing to be given to the appellant or affected person—
 - (a) information about the appellant's or affected person's right to—
 - (i) request an independent interpreter for the hearing;
 - (ii) have a representative at the hearing; and
 - (b) the advice that if the appellant or affected person fails to attend the hearing, the Tribunal may determine the appeal or, as the case may be, the matter in the appellant's or affected person's absence.

13 Form of witness summons

[Revoked]

Regulation 13: revoked, on 29 October 2019, by regulation 5 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

14 Attendance of independent interpreter at Tribunal hearing

- (1) The Tribunal must arrange for an independent interpreter to attend at an oral hearing of the Tribunal if the Tribunal considers that an independent interpreter is reasonably required for the purpose of the oral hearing.
- (2) In this regulation, **independent interpreter** means a person who the Tribunal considers—
 - (a) is competent to translate English into a foreign language that the appellant or affected person concerned can understand and speak, and to translate that foreign language into English; and
 - (b) is impartial.

Fees

15 Fees

- (1) A fee of \$700 is payable to the Tribunal for—
 - (a) an appeal under section 187 of the Act against a decision concerning a residence class visa;
 - (b) an appeal under section 201 or 206 of the Act against liability for deportation.
- (2) Only 1 fee is payable for an appeal under section 187 of the Act even if the appeal relates to more than 1 person, so long as regulation 6(1) is complied with.
- (3) Only 1 fee is payable for an appeal under either or both of sections 201 and 206 of the Act even if the appeal relates to more than 1 person, so long as regulation 7(1) is complied with.
- (4) Only 1 fee is payable if an appellant lodges appeals under sections 201 and 206 of the Act, so long as the relevant notices of appeal are lodged with the Tribunal at the same time or the appeals are lodged together on the same notice of appeal.
- (5) The fee payable under this regulation—
 - (a) must be paid in New Zealand dollars; and
 - (b) includes goods and services tax.

Regulation 15(1): amended, on 1 July 2013, by regulation 4 of the Immigration and Protection Tribunal (Fees) Amendment Regulations 2013 (SR 2013/215).

16 Refund of fees

The chair of the Tribunal may, at the written request of an appellant, refund any fee payable under regulation 15 if—

- (a) the proceedings before the Tribunal relate to more than 1 appeal; and
- (b) the appellant has paid a fee for any or all of the appeals; and
- (c) not all of the appeals for which fees have been paid are required to be determined by the Tribunal (for example, the Tribunal determines one of the appeals and its decision on that appeal means that the other appeals are no longer needed).

Schedule 1

Transitional, savings, and related provisions

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Schedule 1: inserted, on 29 October 2019, by regulation 7 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

Part 1

Provisions relating to Immigration and Protection Tribunal Amendment Regulations 2019

Schedule 1 Part 1: inserted, on 29 October 2019, by regulation 7 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

1 Interpretation

In this Part, **amendment regulations** means the Immigration and Protection Tribunal Amendment Regulations 2019.

Schedule 1 clause 1: inserted, on 29 October 2019, by regulation 7 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

2 Witness summons issued before commencement

- (1) This clause applies to a witness summons issued under clause 11(1) of Schedule 2 of the Act before the commencement of this clause.
- (2) On and after the commencement of this clause, if the summons complies with regulation 13 and the Schedule (as in force before their revocation by the amendment regulations), the summons must be treated as if it were a summons in the approved form referred to in clause 11(1) of Schedule 2 of the Act.

Schedule 1 clause 2: inserted, on 29 October 2019, by regulation 7 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

3 Witness summons issued after commencement

- (1) This clause applies to a witness summons issued under clause 11(1) of Schedule 2 of the Act on or after the commencement of this clause.

- (2) On and after the commencement of this clause, until the expiry of 6 months beginning on the date on which this clause comes into force, if the summons complies with regulation 13 and the Schedule (as in force before their revocation by the amendment regulations), the summons must be treated as if it were a summons in the approved form referred to in clause 11(1) of Schedule 2 of the Act.

Schedule 1 clause 3: inserted, on 29 October 2019, by regulation 7 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

Schedule

Witness summons

[Revoked]

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Schedule: revoked, on 29 October 2019, by regulation 6 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

Form

Immigration and Protection Tribunal

[Revoked]

Schedule form: revoked, on 29 October 2019, by regulation 6 of the Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228).

Rebecca Kitteridge,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Immigration and Protection Tribunal Regulations 2010 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Immigration and Protection Tribunal Amendment Regulations 2019 (LI 2019/228)

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): section 340(3)

Immigration and Protection Tribunal (Fees) Amendment Regulations 2013 (SR 2013/215)