



## Appeal Guide

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## Who may appeal

Any person who is in New Zealand unlawfully (that is, they need a permit to be in New Zealand and do not have one) has a legal obligation to leave New Zealand. They may, however, appeal to the Removal Review Authority against that obligation.

### Categories of people who may appeal

- A If you are unlawfully in New Zealand you may appeal to the Removal Review Authority within 42 days after the date on which you became unlawfully in New Zealand.
  
- B If while in New Zealand lawfully you have applied to the New Zealand Immigration Service (NZIS) for reconsideration of a declined temporary permit application, you may appeal to the Removal Review Authority within 42 days after the date you received formal notification from the NZIS that it has confirmed the decline decision.

### Time limits and requirements for acceptance

It is important that your appeal and the fee are received by the Removal Review Authority within the statutory time period specified for your situation, as set out in A and B above. To be accepted for consideration an approved appeal form for each adult appellant must be completed and signed, and the form together with the correct fee must be received by the Authority within the statutory time period. **The Removal Review Authority has no jurisdiction to consider appeals not made in the prescribed manner, (that is, not on the approved form, not signed or accompanied by the appeal fee) or appeals that are received outside of the statutory time period.**

## Who may not appeal to the Removal Review Authority

You cannot appeal to the Removal Review Authority if you are unlawfully in New Zealand due to the fact that:

- you have returned to New Zealand while a removal order is in force against you; or
- your limited purpose permit has expired; or
- you have had your residence permit revoked and that revocation has been confirmed by the Deportation Review Tribunal; or
- your temporary permit granted to you for the purposes of the Mutual Assistance in Criminal Matters Act 1992 has expired; or
- you are a person in respect of whom a Security Risk Certificate has been confirmed by the Minister of Immigration.

## Removal Review Authority contact details

**The Removal Review Authority may be contacted in writing at PO Box 1674, Wellington or by telephone at (04) 915 4274 or facsimile at (04) 915 6390. The street address is 70 The Terrace, Wellington.**

## Where to obtain appeal forms

All appeals must be lodged on the appeal form (approved under section 132(1) of the Immigration Act 1987) which is available free of charge from:

- the Removal Review Authority (by writing, faxing or telephoning)
- New Zealand Immigration Service offices
- the New Zealand Immigration Service website, at:  
<http://www.immigration.govt.nz>

## Calculating the 42 day period for the lodgment of your appeal

The 42 day period is a continuous period, including Saturdays and Sundays, calculated as follows:

- from the day after your last temporary permit to be in New Zealand expired or any exemption from the requirement to hold a permit ceased to apply
- if your temporary permit has been revoked, from the day after the revocation became effective
- if while in New Zealand lawfully you have applied to the NZIS for reconsideration of a declined temporary permit application, from the date on which you received notification of confirmation of that decline decision.

The 42 day period **does not** include public or Departmental holidays which fall on a week day. These may be as follows:

- New Year's Day
- Day after New Year's Day
- Wellington Anniversary Day
- Anniversary Day for the part of New Zealand where you live
- Waitangi Day
- Good Friday
- Easter Monday
- Anzac Day
- Sovereign's Birthday
- Labour Day
- Christmas Day
- Boxing Day
- Departmental holidays (usually 3 days, observed by the Department of Labour between Christmas and New Year)

## Who completes the appeal form

Each adult appellant aged 17 years or over and any married person must lodge their own appeal on the approved appeal form. This applies even if appellants are from the same family e.g. husband and wife, parent and adult child.

You may use a representative or agent (e.g. solicitor, immigration consultant, friend, family member) to help you to lodge your appeal. These people must give their details as required on the appeal form. **You must sign your appeal form.**

## Dependent children

A dependent child is a child aged under 17 years who is unmarried and dependent on you. A dependent child may be included in the appeal of his/her parent if that child is also unlawfully in New Zealand and otherwise entitled to appeal against removal.

A dependent child may lodge an appeal in his/her own right. The interests of the child are to be represented by a responsible adult. Where the child has a parent in New Zealand then that parent will be the responsible adult. If the child does not have a parent to represent his/her interests a responsible adult must be nominated.

The responsible adult has an obligation to attempt to find out the views of the dependent child, to the extent possible given the child's level of maturity and understanding of the matter, and to make the child's views known to the Removal Review Authority.

## How much does it cost to lodge an appeal?

The fee for an appeal to the Removal Review Authority is \$700.00.

A separate fee is payable for each appellant, but there are the following exceptions:

- only one fee is payable in the case of a married couple, or a couple in a heterosexual or same sex partnership **if both appeals for such persons are received by the Removal Review Authority together;**
- no fee is payable in respect of the dependent child/ren (see page 3) included in the appeal of an adult.

## How to pay

Payment may be made by those credit cards specified on the appeal form or by personal, bank or business cheque made out to the Removal Review Authority.

## On what grounds may an appeal be lodged?

An appeal may be lodged with the Removal Review Authority only on the grounds that there are exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the person to be removed from New Zealand, and that it would not in all the circumstances be contrary to the public interest to allow the person to remain in New Zealand.

In your appeal you must state all the reasons why you think those grounds apply to you.

## Supporting information

When completing the appeal form it is important to give the Removal Review Authority **all** the information and supporting evidence you want taken into account in the consideration of your appeal. This information must be provided to the Removal Review Authority at the time you lodge your appeal.

If you submit documents in support of your appeal (e.g. marriage/divorce/birth/adoption/death certificates, passports/citizenship papers) please provide certified copies of the original/s. (Certified copies are copies that have been endorsed as true and correct by, for example, a lawyer or a Justice of the Peace.)

If your appeal relates to medical grounds then **original** medical reports must be provided.

You may provide references/letters of support from other people, if you wish to do so.

Please note that under section 50(2)(b) of the Immigration Act 1987 the Removal Review Authority is not obliged to consider any information supplied after the statutory time period for lodging an appeal.

## Where to send your appeal

Your completed appeal form with the correct fee payment/ credit card authorisation and your supporting information and evidence should be sent by post to:

**The Removal Review Authority**  
**PO Box 1674**  
**Wellington**

or;

**filed at the Removal Review Authority's street address (70 The Terrace, Wellington), during office hours (Monday to Friday 8.30 am to 5.00 pm).**

You may submit your appeal to the Removal Review Authority by facsimile (fax) with credit card payment details. However, your attention is drawn to the fact that if your appeal is sent by facsimile (fax) the Removal Review Authority accepts no responsibility for it being received by the 42<sup>nd</sup> day. If you choose to send your appeal by facsimile (fax), you must also send your original appeal form and accompanying information to the Removal Review Authority at its postal address, or delivered to its physical address, as given above.

## Change of circumstances

If your circumstances change at any time during the consideration of your appeal you may advise the Removal Review Authority in writing. Please note, however, that under section 50(4)(b) of the Immigration Act 1987 the Removal Review Authority may not consider any information which relates to matters arising after the date the appeal was lodged unless it is satisfied that there are exceptional circumstances that justify the consideration of such matters.

If you decide to leave New Zealand while your appeal is under consideration, you must advise the Removal Review Authority in writing stating your intended departure date, your overseas mailing address and whether you want your appeal to continue to be determined or withdrawn.

## Change of address

If your residential address changes you must inform the Removal Review Authority in writing.

## Withdrawing an appeal

If you decide to withdraw your appeal you must advise the Removal Review Authority in writing that you want to withdraw your appeal. The withdrawal notice must be signed by you, even if you have a representative.

## The Removal Review Authority's decision

The Removal Review Authority makes its decision on your appeal on the information you provide and on information provided by the New Zealand Immigration Service. You may be asked by the Removal Review Authority to provide further information.

The Removal Review Authority's decision will be sent to you at your residential address. If you have a representative the decision will also be sent to that person.

## After the Removal Review Authority's decision

Once the Authority has made its decision it cannot reconsider your appeal.

If you believe the Removal Review Authority's decision on your appeal is wrong in law, you may appeal the decision, on a question of law to the High Court under section 115A of the Immigration Act 1987. Such appeals must be lodged within 28 days after the date on which the Removal Review Authority's decision was notified to you. If you wish to appeal under section 115A you should seek legal advice.

## Further Information

If you have questions about the appeal process or your appeal please contact the Removal Review Authority.

If you have questions about any immigration matters (including your immigration status after the Removal Review Authority has made its decision) you should contact the nearest office of the New Zealand Immigration Service.

### ***Important note***

If there is a difference between the information in this booklet and the provisions of the Immigration Act 1987, the provisions of the Immigration Act 1987 take precedence.