



Section 78 and Regulation 2.08 processing in the 461 visa programme

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s. 42(1)	

The purpose of [Section 78 of the Migration Act 1958](#) and [Regulation 2.08 of the Migration Regulations 1994](#) is to provide means to regularise the status of non-citizen children born in Australia.

(i.e. children not born to Australia citizens, permanent residents or eligible NZ citizen parents)

There is NIL Visa Application Charge (VAC) when section 78 and Regulation 2.08 apply.

BEFORE starting to [process a s.78 child](#) or [process Reg 2.08 child](#), you need to CHECK whether the child is s.78, Regulation 2.08, both or neither using the [Flow Chart](#) at the end of this document.

Once you confirm that s.78 applies, commence the permission request as evidence we have received information of the child's birth, even if you need to obtain further information from the parents before completing the process. *A permission request is required to be raised to "Activate" the deemed held visa. Do not add the child to the parent's finalised 461 permission request.*

[Section 78 \(s.78\) applies](#) when a child is born in Australia to parents who are visa (or bridging visa). The child is deemed [from date of birth](#) to hold the same visa (or bridging visa) as their parents. The child's visa will have the same conditions and validity period as that of their parent(s).

****Where one parent holds a substantive visa and the other parent holds a bridging visa, the child will hold the substantive visa. *The Australian birth certificate must be provided as evidence.***

Regulation 2.08 applies when a child is born (*onshore or offshore*) AFTER the parent has lodged a substantive visa application and BEFORE a decision is made on that application even if the department is not notified of the child's birth until after a decision is made. (In this case the child still has a pending decision)

Because the child is deemed to have made the same visa application as their parent, they only need to satisfy the time of decision requirements.

When both Section 78 and Regulation 2.08 can apply at the same time:

If a child born in Australia to a parent holding a substantive visa and who also lodged an application for another substantive visa yet to be finalised, prior to the child's birth, the child holds a deemed visa under s.78 from birth and also is deemed to have made (been included in) the same application as the parent.

When Section 78 applies but the parent's visa has ceased.

A s.78 visa that has ceased prior to notifying the Department of the child's birth should still be granted to ensure any bridging visa issues for subsequent applications are able to be determined. To grant a ceased s.78 visa, a manual visa grant request needs to be sent to TRIPS.

s. 42(1)

Note: A visitor (TV651) visa will cease a section 78 deemed held UP461 visa – standard VAC applies and check still holding a substantive visa otherwise will be Sch3 affected.

Documents Required

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For Section 78

- **Minimum requirement:** Child's Australia birth certificate and an indication of the child's citizenship.
- Ideal but not necessary: Child's passport, Form 147 and both parent's ID

For Regulation 2.08

- **Minimum requirement:** Documentary evidence of the child's birth and parentage eg - Hospital document.
- Ideal but not necessary: Child's birth certificate and passport which can be provided prior to the visa decision.

How to determine whether s.78 applies:

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- You must sight an Australia birth certificate for the child
- Check if one or both parents were onshore and what visa and visa conditions they held on child's date of birth. *The child must have a 461 visa holder parent for our area to continue the processing.*
- If one parent is a NZ citizen and NOT an eligible NZ citizen, check their birth place – If they were onshore, holding a TY444 and born in NZ – the child is likely to be a NZ citizen by descent and therefore will acquire TY444 under s. 78. Send Information sheet by email to parents about how to obtain TY444 for the UNLESS they have requested the 461 visa be granted. (There is no requirement for the child to acquire NZ citizenship if eligible but they must have a citizenship indicated for the s.78 visa to be granted.

How to determine whether Reg 2.08 applies:

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- You must sight documentary evidence of the child's birth
- You must sight evidence that the visa applicant is the parent of the child born
- Check the date that the parent's visa application was lodged is prior to the date of the child's birth and that either,
 - no decision has been made on the application OR
 - a visa decision was made after the date of birth of the child but prior to notifying the Department of the child's birth – *the child is still deemed to have made the application and has a pending visa decision so must be added to the parent's finalised visa application*

Decision Support Unit (DSU) Processing a Section 78 [Back to Table of contents](#)

1: Search for child using name and date of birth (conduct search in ICSE and TRIPS)

s. 47E(d)



- if the child does not exist in the system – create new – and enter the child's details and save.

s. 47F(1)



- If the child has an existing record – use the record (ensure they are showing as onshore)
- If the child has multiple CID (Ensure you check the identities ARE the one person) – select the one where the child is listed as onshore and request merge of the multiple records(keeping the onshore record)

2: Placing the child onshore

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If the child is showing as offshore you need to change their location to onshore.

In the child's ISCE record open Client → Change Location → Onshore Birth Location Update

s. 47E(d)



Click YES to accept location change

s. 47F(1)



The Child's ISCE record should now show them as onshore

s. 47F(1)



3: Create Permission Request as for 461 application (Form number is 147)

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Open Client → New → Request
s. 47E(d)



Select form No 147 → NZ Citizen (Family Relationship) Temporary Visa (UP461)

- *the Commenced date **MUST** be the date of the child's birth

s. 47E(d)



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4: Add the NZ citizen parent to the permission request

– the visa cannot be granted without a NZ citizen added to the Permission Request

s. 47F(1)




- Search for NZ citizen parent by name and date of birth

s. 47E(d)




- When the correct client ID is selected – assign client role and association

s. 22(1)(a)(ii), s. 47E(d)



If there is no NZ citizen parent for the child → add the NZ citizen who was MoFU for the 461 visa holding parent visa grant. Select the Association as **Ex-Spouse/De facto Partner** and **make a case note** explaining that the child has no NZ citizen parent.

s. 22(1)(a)(ii)



5: Add 461 visa holding parent as *Removed from Request*

- Search for the 461 visa parent by name and date of birth
(this is to link both parents to the child for future applications)
- When the correct client ID is selected – assign client role and association

s. 47E(d)




6: Create Payment event – NIL VAC

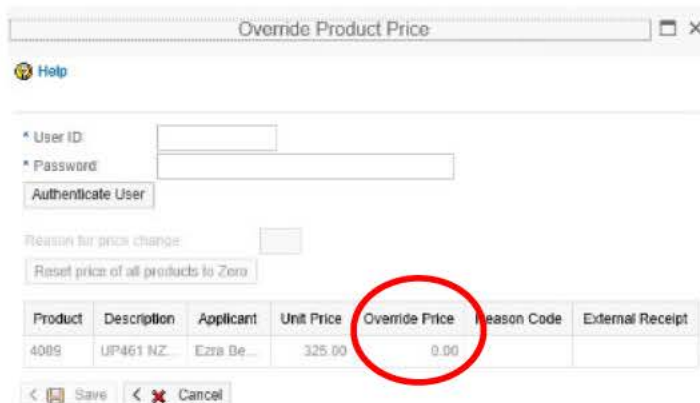
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In the permission request Open the Payment tab → Receipt → Initial Payment

s. 47E(d), s. 47F(1)



Section 78 has a NIL VAC - see supervisor for override key on payment



Override Product Price

Help

* User ID:

* Password:

Authenticate User

Reason for price change:

Reset price of all products to Zero

Product	Description	Applicant	Unit Price	Override Price	Reason Code	External Receipt
4009	UP461 NZ	Ezra Be...	325.00	0.00		

< Save < X Cancel

7: Within

a note re: NIL VAC – after creating payment with NIL VAC override on payment make note

is a s.78 Child born in A/a

s. 47E(d), s. 47F(1)

the Payment event make

9: Do a Client Location for the child (a movement check usually will not work as most babies born in Australia have no travel movements) – The child should then show as onshore

s. 47F(1)


10: Finalise BV – Otherwise Determined - Bridging Visa A

Do not grant a BVA – The child holds the visa, there is no application and therefore no BV. However there needs to be a BV event showing '*Otherwise Determined*' for a BV).


Open Event tab → Add Associated BV Decision

Select From Qualifier drop down → Otherwise Determined → Permission Type is BVA

s. 47E(d), s. 47F(1)



s. 47E(d)



11: Update Contact details – for the Child and both parents (including email for each)

12: If there is an Authorised contact (Forms 956 or 956A) update details

- Open → Client Tab → Contact The screen will open. Enter the Authorised person's name and click on ApContact Details tab to enter address and email details

13: Enter passport details – for the Child and both parents

14: Select electronic authorisation (- if e-communications selected by parents)




Within the permission request, open the Request tab → Additional Information

s. 47E(d)






From the **drop down box** select → Electronic Authorisation → choose the **correct address**

s. 47E(d)



15: Add Agent event – Once you have added the agent (if used), click on the Agent No to check you have added the correct address and email line for the migration agent


s. 47E(d)



16: Add Australian Values event

- If no form 147 has been provided, use the date of the child's birth and enter into the Note field – *s.78 deemed held visa*

s. 47F(1)



17: Create File Reference Number (TRIM Number)

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ICSE will automatically generate the File Reference number. You then copy this to search in TRIM and create TRIM file.

18. To Create and Request TRIM File

Open TRIM → in a Record Number search enter the file number.

Right click on the file → select Properties

s. 47F(1)



In the General Tab

- Current Location
- SYDNEY CREATE FILE and click OK

In the Display and/or Modify Note Tab

- click on Add Notes

s. 47E(d)

s. 47F(1)

Enter: -

NSW Family Residence
Administration
YOUR NAME
Level 6
300 Elizabeth Street
Sydney

Select *At the start* for placement of note and
tick *Insert with a user stamp* then click OK

s. 47F(1)

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Taxonomy Picker

Record Classification

VISA AND MIGRATION MANAGEMENT - Visa Processin

Modify BCS

Related Taxonomy

- ☐ VM-16 - Permanent Residency
- ☒ VM-16 - Temporary Residency
- ☐ VM-16 - Visa Refusals

Submit

The Record Classification box will appear and
Select → **VM-16-Temporary Residency**

Click → **Submit** to complete the file create request

The Competed Permission Request should show the following events

s. 47F(1)



19. Write the file number and Family name of the applicant on the envelope cover and place in your holding area until the file cover is received.

20. Match up the file cover with the application and give to team leader for allocation.

Note: IMMINENT TRAVEL SCENARIOS –

If the child has imminent travel – give application to team leader for immediate allocation/action. You can forward the file cover to the case officer once it is received.

Decision Support Unit (DSU) Processing a Regulation 2.08

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1: Search for child using name and date of birth (conduct search in ICSE and TRIPS)

s. 47E(d)



- if the child does not exist in the system – create new – and enter the child's details and save.

s. 47F(1)



- If the child has an existing record – use the record (ensure they are showing as onshore)
- If the child has multiple CID (Ensure you check the identities ARE the one person) – select the one where the child is listed as onshore and request merge of the multiple records(keeping the onshore record)

2: Placing the child onshore

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If the child is showing as offshore you need to change their location to onshore.

In the child's ISCE record open Client → Change Location → Onshore Birth Location Update

s. 47E(d)



Click YES to accept location change

s. 47F(1)



The Child's ISCE record should now show them as onshore

s. 47F(1)



3: Add the child into the parent's 461 visa application Permission that was lodged prior to their date of birth (and if finalised, after their date of birth).



– the child can now be selected from recently viewed clients

s. 47F(1)



For Client Role → select Applicant and Association to main applicant → select Child and add to permission request

s. 47E(d)



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5: Within the Payment event make a note re: NIL VAC – after creating payment with NIL VAC override on payment make note is a s.78 Child born in A/a

s. 47F(1)



7: Do a Client Location for the child (a movement check usually will not work as most babies born in Australia have no travel movements) – The child should then show as onshore

s. 47F(1)



8: Grant a Bridging Visa FROM THE CHILD'S DATE OF BIRTH – Determine which BV the child is to hold by checking what BV the parent held on the date of the child's birth. The child will hold the same BV with the same conditions, as the parent

Open Event tab → Add Associated BV Decision

Select from Qualifier drop down → Select Granted → Permission Type is the relevant BV

s. 47F(1)



9: Update Contact details – for the Child and both parents (including email for each)

It is important to add the child's contact details but also update the parent's details, particularly if the parent's 461 visa has already been granted as their contact details may have changed.

10: If there is an Authorised contact (Forms 956 or 956A) update details

- Open → Client Tab → Contact The screen will open. Enter the Authorised person's name and click on Contact Details tab to enter address and email details


11: Enter passport details – for the Child and update both parents if necessary

It is important to add the child's contact details but also update the parent's details, particularly if the parent's 461 visa has already been granted as their contact details may have changed.

12: Select electronic authorisation (- if e-communications selected by parents)

Within the permission request, open the Request tab → Additional Information

s. 47E(d)



From the **drop down box** select → Electronic Authorisation → choose the **correct address**

s. 47E(d)



13: Add Agent event (used/not used)– Once you have added the agent (if used), click on the Agent No. to check you have added the correct address and email line for the migration agent

s. 47F(1)



14: Add Australian Values event

- If no form 147 has been provided, use the date of the child's birth and enter into the Note field – *s.78 deemed held visa*

s. 47F(1)



14: Add the child's documents to the existing file for the parent's application.

If the parent's visa has been finalised – request the file back from Recall. Once you have the file, add the documents to the file.

In ICSE – make a Note – Case → Child added to application, documents placed on file.

Hand the file to the Team Leader for allocation

If the parent's application has not been finalised – locate the file and add the documents to the file.

In ICSE – make a Note – Case → Child added to application, documents placed on file.

Note – this visa does not requires an assessment as it is already deemed to exist.

We just need to “activate” the visa and the paperwork is needed to provide the necessary information for activation.

Policy states that a Form 147 is preferred but not required.

Ideally we would like to receive a Form 147, Form 1229, Child’s Australian birth certificate, Child’s passport, ID docs for both parents (passports/birth certificates)

Legally, we can grant with just an Australian birth certificate showing the parents and the 461 visa parent’s ID doc (to ensure we can locate them in our system). The child does not need to have a passport however we need to know what citizenship the child will hold.

Need to add in details about how things to look at in determining if s.78 eg: birth place of parents on child’s birth certificate.

1: DSU should have commenced PR – check commenced date is Child’s date of birth *(if it is not – return to DSU to be corrected)*


s. 47F(1)

There needs to be a NZ citizen added to the permission request even if not MoFU or a parent (choose ex-spouse option and then make note as to the NZ’s assoc. to child or 461 holder parent) – otherwise the visa grant will not go through in the system.

Include 461 parent and then remove from request – to link all associations (This is important down the track when the 461 parent lodges subsequent applications so the child is not left off and becomes visa-less)



3: Check payment

Should show "Price Override Narrative: s78 Child born in AU" – s.78 has NIL VAC
s. 47F(1)



4: Check that NO bridging visa has been granted. (Child is deemed to hold the 461 visa from birth - so lawful from birth)
If a BVA has been granted – give back to DSU to undo.

The BV Decision event qualifier should be "Otherwise Determined" with note "s78 grant"
s. 47F(1)




The parent should have signed form on behalf of child – Statement Made date entered

5: Australian Values

s. 47F(1)



s. 47E(d)



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7: Health – needs to be finalised Put in screen shots for going to HAP

For children from Low Risk Countries with no health requirements just “update visa”

For children where health requirements show – goto **Edit Health Examinations**

(1) Remove the Examinations required.

(2) Select “Exemption approved under policy” option” and

(3) leave note in the Comments field

s. 47F(1)

Proceed as for finalising health – Go to examinations summary page

8: Check the 461 parent’s visa for validity, expiry date and visa conditions.


Make a note of these details as you will need these for the grant of the child’s visa

s. 47F(1)


9: Complete ISCE Checklist

Select *"Not Applicable"* - which is the case as no assessment is required for s.78 visas but there are a couple of items where you cannot. In this instance select *"Met"* – see screen shot below for example.

s. 47E(d), s. 47F(1)



s. 47E(d)



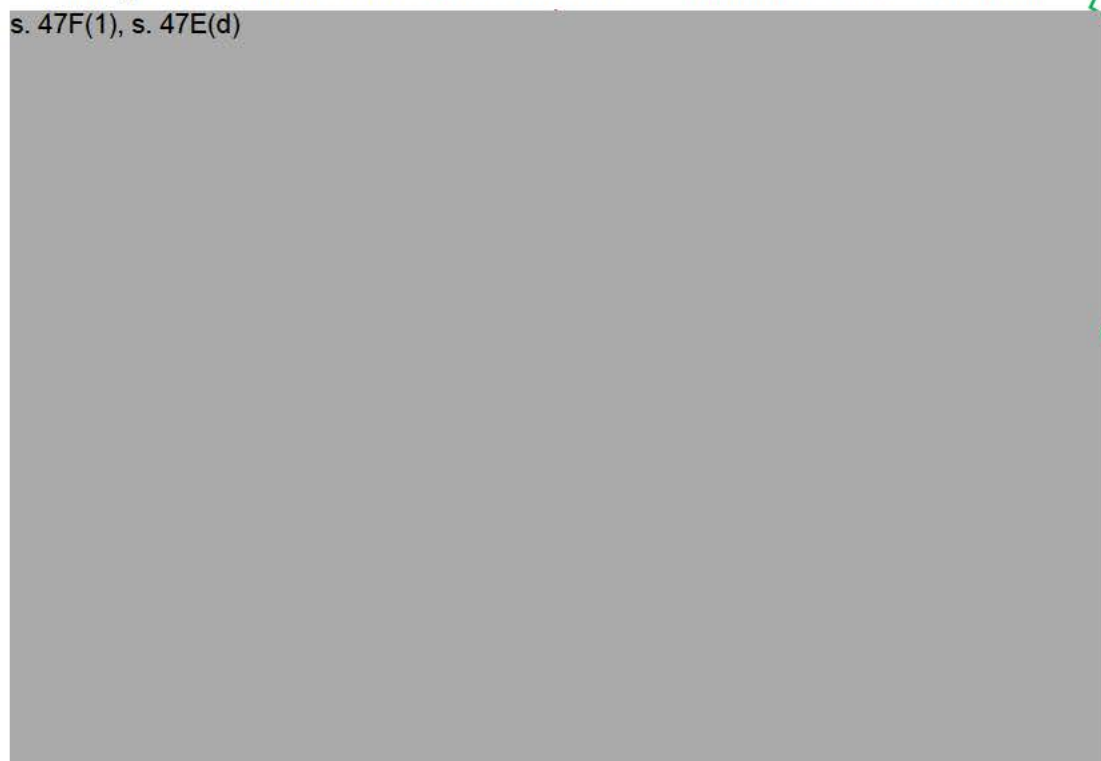
12: Location - Child – should show onshore (*NB: cannot do movement as child most like will not have travelled*)

13: Movement on both parents - check 461 parent was onshore at time of birth

14: Grant 461 Visa

Ensure grant effect date is the Child's birth date. *Will need to add "effect time".*


s. 47F(1), s. 47E(d)



Ensure initial stay until and must not arrive after is same as 461 parent's visa

and has the same visa conditions as the parent's visa

s. 47F(1), s. 47E(d)




15: Check Visa prior to granting

Click Preview button (see next page)

15: Check Visa prior to granting

Click Preview button

s. 47E(d)




to check details of visa:

(1) Grant Date =DOB,

(2) Cease Date, Must not arrive After Date and Visa conditions = same as parents 461 parent's.

s. 47E(d)



16: Grant – double check after granted

Ensure everything is correct. If not – undo (see Team Leader), fix and re-grant.

17: Send Grant Notification letter using ECS Portal

18: Return any original documents – use ECS Miscellaneous Letter for returning original docs and send via Registered Post – record tracking number in ICSE

To process a child's visa where Regulation 2.08 applies :

- A child can be added to a parent's application even if the parent's visa has already been decided before they notify the Department of the birth of the child. The child is deemed to have a pending application still open.
- The child is deemed to have made the same application as their parent therefore they are deemed to have met all the time of application requirements. This includes Schedule 3 requirements.
- The child needs to meet all the time of decision requirements.
- Children under 6 months of age do not need to undergo health – See [Health policy](#).

Check the following (The DSU should have done this – but ensure it is correct)

- Check that the child was born after the parent's visa application was lodged and before a decision was made on the application.
- Check the correct BV has been granted to the child and from the date of their birth – under s.78, the child is deemed to hold the same BV as the parent on the date of their birth.

Process the application as for any standard 461 application. If the parent's application is yet to be finalised – finalised both applicants together and ensure grant with the same visa conditions.

(a) Manual s.78 visa grant for a Child who has departed prior to the visa grant

When a child born in Australia departs BEFORE having their s.78 UP461 activated – the UP461 visa can still be granted manually by TRIPS. See *Legal Opinion C26349*

(b) Manual s.78 visa grant when the Section 78 visa that ceased prior to notification of child's birth

When a child is born in Australia but the Department is notified of the child's birth after the S.78 visa has ceased – the UP461 visa can still be granted manually by TRIPS. This visa still needs to be granted as it can determine whether the child can be granted another visa onshore and what bridging visa they may be entitled to.

To action:

1. Raise the 461 permission as for a standard s.78 case.
2. Complete a s. 47E(d) form and send to TRIPS →
s. 22(1)(a)(ii)
 - Include a request to notify you once the visa is granted.

s. 47F(1)




TRIPS will do the following:

- place the child onshore
- grant the s.78 461 visa
- place the child offshore (when the child has departed)
- advise you by email, once the visa is granted.

TRIPS will not close off the permission request - You will need to finalise the permission request

4. To finalise the permission request – select *Otherwise finalised*

s. 47E(d)


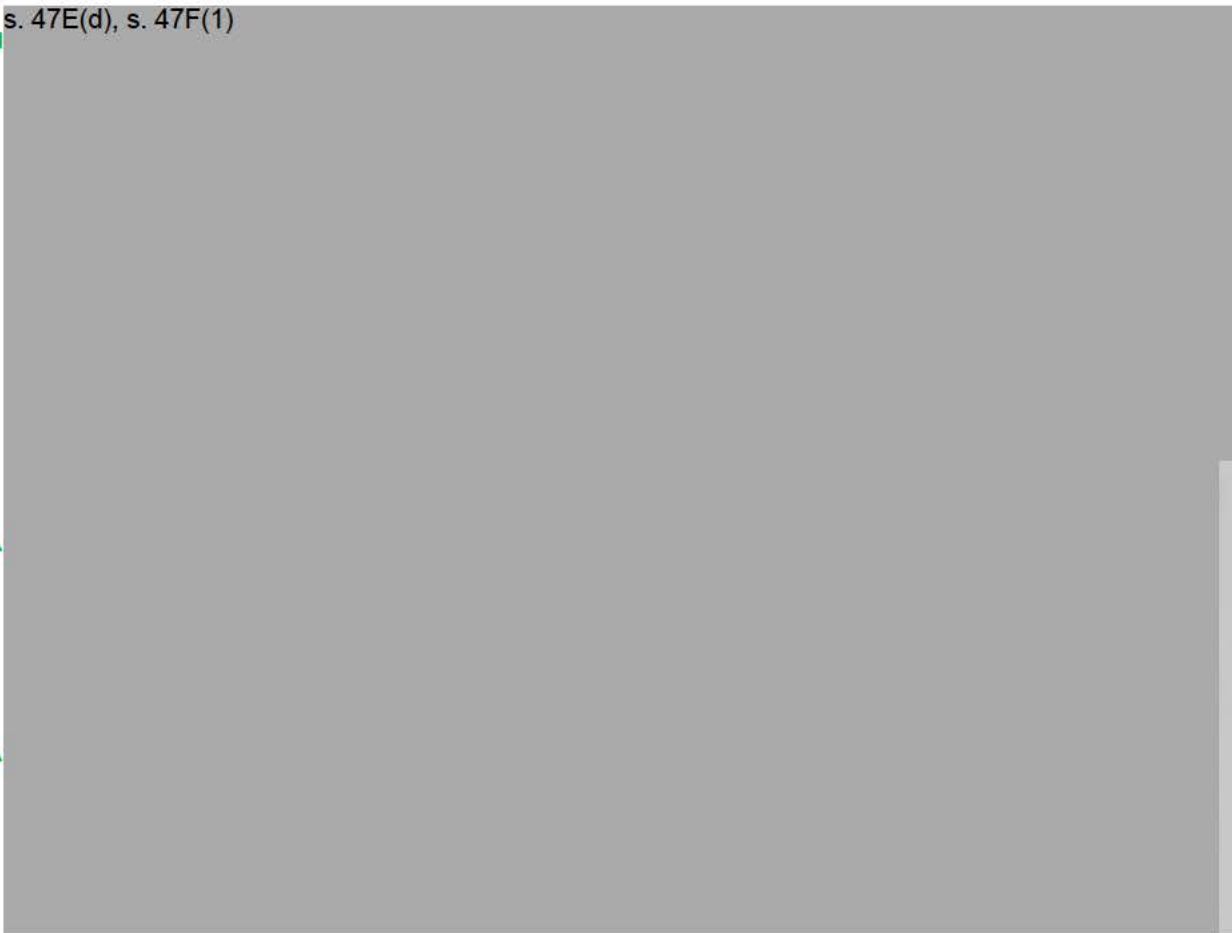


From the Qualifier drop down box select → Finalised by System Manager

s. 47E(d)



s. 47E(d), s. 47F(1)



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Initial Stay Until Date/Initial Stay Date: (only if applicable)	INSERT PARENT's VISA STAY UNTIL DATE
Visa Stay Period/Period of Stay:	INSERT PARENT's VISA PERIOD OF STAY
No of Entries/Entries Allowed:	M
Visa Conditions (Codes):	INSERT PARENT's CONDITIONS (if any – otherwise NIL)
Visa Grant No: (required for evidence or re-evidence only)	
Visa Evidence No: (required for evidence or re-evidence only)	
Visa Label (Evidence) Issue Date: (required for evidence or re-evidence only)	
Client PID:	INSERT CHILD's PID
Substantive Application ID (Must be provided for Bridging Visa Grants unless you require a stand alone BV not attached to a Substantive Application, remember Stand Alone BV's won't have a Sub Application ID to make them cease automatically when required, so you will need to request TRIPS HD to cease them manually when appropriate)	<p>ICSE Application Request ID: INSERT PID: INSERT CID: INSERT Australian birth certificate (INSERT State BDM issue) INSERT COUNTRY passport INSERT Other Forms/Docs eg: Form 1022 – notification of child's birth BV – otherwise determined S.78 deemed to hold the visa from birth – no visa application made and therefore no associated bridging visa Applicant will need to be placed onshore for section 78, 461 visa grant and then be placed offshore to reflect the applicant's actual location. (departed INSERT DEPARTURE DATE)</p>

From:	Your name and logon
Name of Office:	Sydney
Name of Branch/Section:	NZ Family Relationship Visa Centre
Is this a manual..... Grant or Evidence or Re-Evidence ?	Manual Grant
Why do you need TRIPS to do it?	Child born in A/a – substantial visa held by operation of s.78 has already ceased by the time the Department was notified of the child's birth.
Visa Class:	UP
Visa s/c:	461
Primary OR Secondary/Dependant Applicant (Criteria):	P OR S
Statistical (Stat) Code: (if required)	
FAMILY name:	INSERT CHILD's SURNAME
Given Name/s:	INSERT CHILD's GIVEN NAMES
Gender:	INSERT CHILD's GENDER
DOB:	INSERT CHILD's DOB
Birth Country:	Australia
Country of Current Citizenship:	INSERT CHILD's CITIZENSHIP
Travel Doc. Number & Country:	INSERT CHILD's PASSPORT NUMBER INSERT COUNTRY OF PASSPORT
Travel Doc. Type if NOT a Passport:	Passport
TD Issue Date:	INSERT CHILD's PASSPORT ISSUE DATE
TD Expiry date:	INSERT CHILD's PASSPORT EXPIRY DATE
Visa Grant date:	INSERT CHILD's DOB (Visa grant date)
Visa Application date:	INSERT CHILD's DOB (Visa appln. date)
Primary Applicants Visa Application date: (only if applicable)	INSERT CHILD's DOB (Visa appln. date)
Entry Expiry Date/Visa Cease Date:	INSERT PARENT's VISA CEASE DATE
Migrant Entry Date/Enter Before Date: (only if applicable)	INSERT PARENT's VISA ENTER BEFORE DATE

Initial Stay Until Date/Initial Stay Date: (only if applicable)	INSERT PARENT's VISA STAY UNTIL DATE
Visa Stay Period/Period of Stay:	INSERT PARENT's VISA PERIOD OF STAY
No of Entries/Entries Allowed:	M
Visa Conditions (Codes):	INSERT PARENT's CONDITIONS (if any – otherwise NIL)
Visa Grant No: (required for evidence or re-evidence only)	
Visa Evidence No: (required for evidence or re-evidence only)	
Visa Label (Evidence) Issue Date: (required for evidence or re-evidence only)	
Client PID:	INSERT CHILD's PID
Substantive Application ID (Must be provided for Bridging Visa Grants unless you require a stand alone BV not attached to a Substantive Application, remember Stand Alone BV's won't have a Sub Application ID to make them cease automatically when required, so you will need to request TRIPS HD to cease them manually when appropriate)	<p>ICSE Application Request ID: INSERT PID: INSERT CID: INSERT Australian birth certificate (INSERT State BDM issue) INSERT COUNTRY passport INSERT Other Forms/ BV – otherwise determined S.78 deemed to hold the visa from birth – no visa application made and therefore no associated bridging visa</p>

SECTION 78 OF THE *MIGRATION ACT 1958*

Section 78 Children born in Australia

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- (1) If:
- (a) a [child](#) born in Australia is a [non-citizen](#) when born; and
 - (b) at the time of the birth:
 - (i) one of the [child's](#) [parents](#) holds a visa (other than a [special purpose visa](#)); and
 - (ii) the other [parent](#) is, under section [83](#), included in that visa or does not hold a visa (other than a [special purpose visa](#));the [child](#) is taken to have been granted, at the time of the birth, a visa of the same kind and class and on the same terms and conditions (if any) as that visa.
- (2) If:
- (a) a [child](#) born in Australia is a [non-citizen](#) when born; and
 - (b) at the time of the birth, each of the [child's](#) [parents](#) holds a visa (other than a [special purpose visa](#));
- the [child](#) is taken to have been granted, at the time of the birth, visas of the same kind and class and on the same terms and conditions (if any) as each of those visas.
- (3) Subdivisions [AA](#), [AB](#), [AC](#) (other than section [68](#)) and [AH](#) do not apply in relation to visas granted under this section.

REGULATION 2.08 OF THE *MIGRATION REGULATIONS 1994*

Reg 2.08 Application by newborn child

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- (1) If:
- (a) a [non-citizen](#) applies for a visa; and
 - (b) after the application is made, but before it is decided, a [child](#), other than a [contributory parent newborn child](#), is born to the [non-citizen](#);
- then:
- (c) the [child](#) is taken to have applied for a visa of the same class at the time he or she was born; and
 - (d) the [child's](#) application is taken to be combined with the [non-citizen's](#) application.
- (2) Despite any provision in Schedule 2, a [child](#) referred to in subregulation (1):
- (a) must satisfy the criteria to be satisfied at the time of decision; and
 - (b) at the time of decision must satisfy a criterion (if any) applicable at the time of application that an applicant must be [sponsored](#), [nominated](#) or proposed.

Note: Regulations [2.07AL](#) and [2.08AA](#) apply in relation to an application by a [contributory parent newborn child](#).

Children born to substantive visa holders in Australia

Children born in Australia to a visa holder (whether a temporary or permanent visa) are not required to undergo an immigration medical examination until their parent applies for a new visa. This is because under s78 of the Act, a child born in Australia who is a non-citizen when born, and whose parents hold visas at the time of the birth, is taken to have been granted, at the time of the birth, visas of the same kind and class and on the same terms and conditions (if any) as the visas held by the parents. Parents should provide, as a minimum, the child's birth certificate to a departmental office as evidence of that child's birth in Australia.

Newborn children included in their parent's visa application

When visa holders who have given birth to a child during their stay in Australia apply for a further visa before the child's birth, the child is considered to have applied for the same visa as their parent(s) (regulation 2.08) - refer to [PAM3: GenGuideA - All visas- Visa application procedures - Adding child born after parent has applied \(reg. 2.08\)](#).

Subject to age considerations, the child must undergo whichever immigration medical examinations are required for their (parents') proposed additional period of stay. Special arrangements are, however, in place for newborn children who are under 6 months.

Note: The above applies also to children born to provisional visa holders do not have a finalised permanent visa application. Normally, the parent(s) would have already completed immigration medical examinations to a permanent standard and will not be required to undergo any further examinations. The child, however, not having had any immigration medical examinations, will have to undertake immigration medical examinations to the permanent standard before being granted the permanent visa.

Managing the health requirement for newborns under 6 months old in Australia

As a concession, newborns under 6 months old in Australia (either born in Australia or born offshore and completed an IME for visa grant and is now onshore and applied for another visa) can be assessed "on the papers", that is, they do not need to physically attend the Migration Medical Services Provider for a physical examination. Their medical status can be assessed by a MOC using medical documentation provided.

This policy only applies to newborns who are currently onshore, regardless of country of birth. Newborns who are offshore must attend a Panel Physician to complete an immigration medical examination.

If an on the papers assessment is applicable, be aware that the required documentation (specified below) must be received by the MMSP **no later than 5 days prior to the child turning 6 months of age** to allow for sufficient time for processing. If the MMSP receives the documentation after this time, the MMSP will not be able to process the case and will advise visa processing officers to request that the child undergo the standard onshore immigration medical examination process. That is, they will need to have a HAP ID, medical history completed online, and a valid passport for identity verification purposes.

In order to request an on the papers assessment, visa processing officers will need to request that the child's parents or guardians of the child obtain:

- a letter regarding the health of the child from their child's Australian treating general practitioner, paediatrician or obstetrician. The letter should state that the doctor has examined the child and provided details of the child's health and development including but not limited to:
 - General health, growth parameters (height, weight and head circumference) hearing, vision, and if relevant, chromosomal abnormalities, physical or intellectual impairment, or conditions that may result from maternal-foetal or maternal- neonatal transmission (for example, HIV infection), and
 - a signed eMedical consent form.

Once the documentation is obtained, the visa officer should send the letter, eMedical consent form **and** a request for an "on the papers assessment" form to BMVS via email to enquiries@bupamvs.com.au in order for them to complete the on the papers assessment of the child's ability to satisfy the health requirement.

Note: This concession is **not** limited to 6 months for newborns born onshore to IMAs that hold a TPV or SHEVs. For further information refer to [Requirements for children who arrived as, or are born onshore to IMAs](#).

For the required templates for requesting an on the papers assessment, refer to Bordernet's [Immigration health processing guidelines for visa officers](#).

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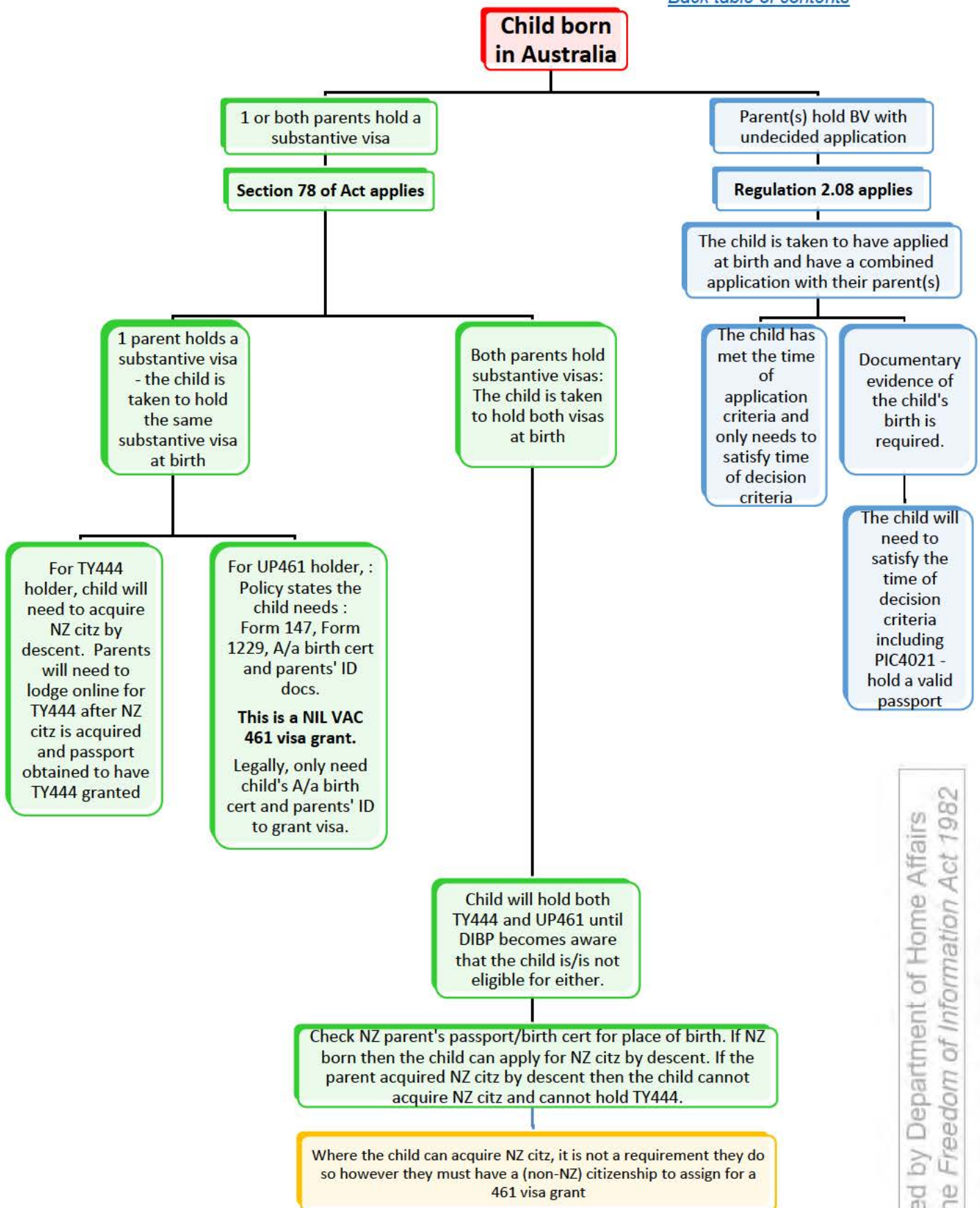
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FLOW CHART TO DETERMINE IS A CHILD IS S.78 OR REG 2.08 AFFECTED

[Back table of contents](#)



461 Withdrawal SOP

[Withdrawal = 1 point]

Who can withdraw a visa application?

- Any applicant who has made a visa application.
- Any persons with clear authority to act on the applicant's behalf (eg. a migration agent).
- If the applicant is under 18 years of age, a parent or guardian must sign this form on their behalf.

To validly withdraw a visa application the applicant/authorised person must provide a written request.

Withdrawal of a visa application by one applicant (such as the main applicant) does not constitute withdrawal of the visa applications of other applicants. Generally written notice of withdrawal must be given by each applicant.

The form 1446 can be used by multiple applicants included in a 461 visa application.

You must be satisfied the request is genuine – that is from the applicant/authorised person and so either a form 1446 or an email/letter – from the authorised email / address and with a copy of the applicant's passport (unless you have had phone contact with the applicant prior to email) is required.

****Check the contact details on the withdrawal request and update ICSE if required before processing the withdrawal.**

Once you are satisfied the withdrawal request is genuine, undertake the withdrawal process:

(1) Open permission request in ICSE

s. 47E(d)

(4) Do A **Movements Check** for Applicant(s) and NZ family member

s. 47E(d)

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Add Event → Information received

Qualifier → Other



s. 47E(d)



Information Type → Note

- What type of written request was received eg: Form 1446 / email from authorised source
 - Satisfied genuine request from applicant eg: signature/ID/address/authority etc confirmed with that on file
 - Where request is stored - on paper file or TRIM reference
 - Ensure correct receipt of information **date** is recorded
- 
- 

s. 47E(d)



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Add Event → *Withdrawn*

Qualifier → *Client Requested withdrawal*



s. 47E(d)



Information Type → *Note* - Form 1446/email/letter and reason for withdrawal if given
eg: r/ship over, relocating overseas, S/c 189 visa granted... etc

The ECS Notification letter SHOULD then be sent automatically – but check that it has.

s. 47E(d)



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Open Correspondance portal (ECS)

s. 47E(d)




Click on Sent Items →

s. 47E(d)



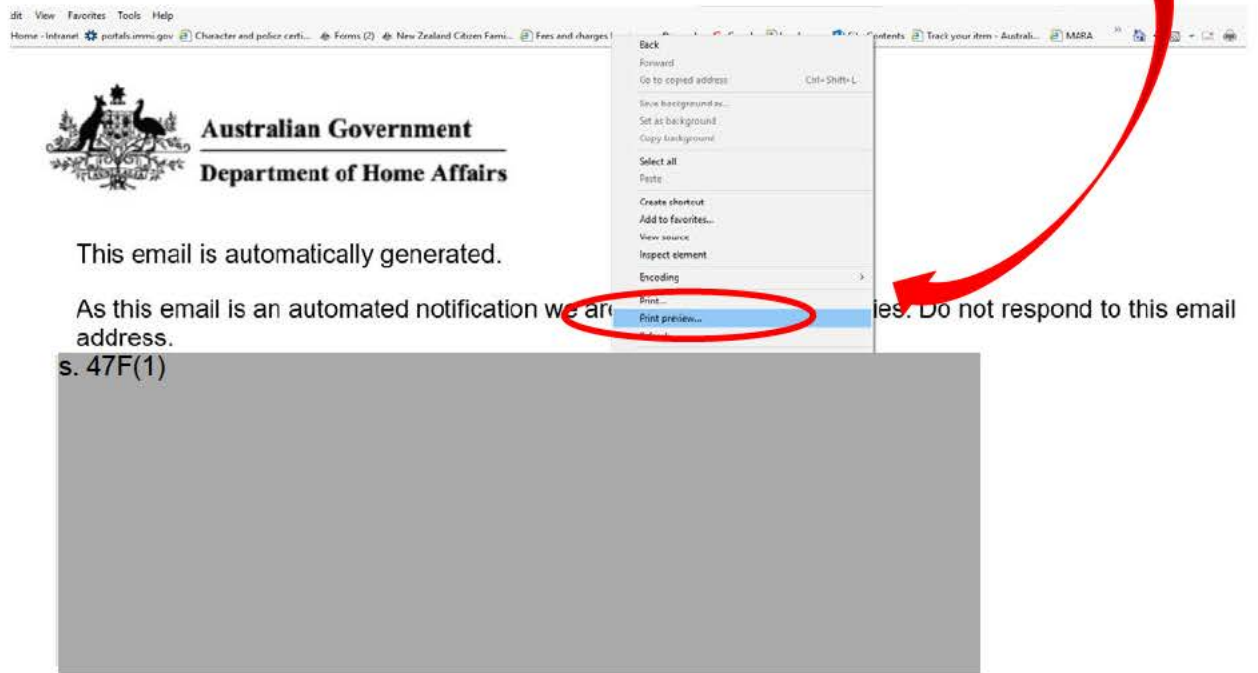
s. 47E(d)



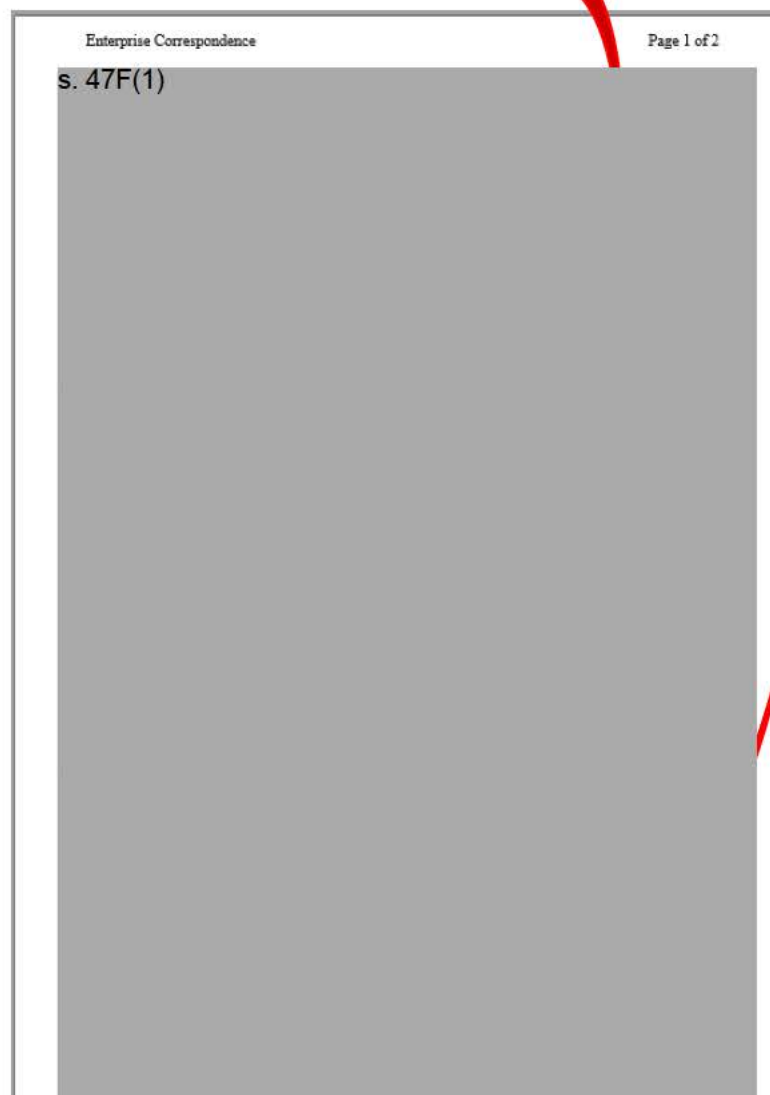
IMMI Withdrawal of Application → click on link → [View mail item](#)

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On the preview of the Cover letter → **Right Click on the mouse** → select **Print preview** → **Print**



This creates a printout that shows the exact date and time and the email address the email was sent (for email notifications)



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Next → print the IMMI Withdrawal of Application letter

Place the Cover sheet and Letter on the paperfile – cover letter on top

Use a highlighter to Highlight Subject on the Cover letter – this is for QA checks as indicates type of finalisation of application



Enterprise Correspondence Page 1 of 2

s. 47F(1)




Return any original personal documents from the open ECS portal

– go to Create Correspondence → use the Miscellaneous Template → IMMI Return of Documents letter.



s. 47E(d)



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Ensure that **all applicants are selected** and **Post option is selected**

s. 47F(1)



List the documents that are being returned in the letter

s. 47F(1)



documents

Save the letter

Press → Finalise Correspondence for Paper Print and print 2 copies – 1 to post and place the other copy on file.

s. 47F(1)



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In the ICSE permission request record the return of documents in ISCE

Add Event → Letter Sent (Manual)

Information Type → Note → Post type (eg: Reg. Post and tracking number or std. post) and list docs returned. [this can be copied from the open ECS letter and pasted into information and notes fields]

s. 47F(1)



In the ICSE permission request – end date you as the Allocated Case Officer:

Goto → Request → Additional Info...

s. 47F(1)



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Click on **Case Officer Allocated** to select → press **Open**

s. 47F(1)



Enter date withdrawal processed in **Effective To :** field

Press → **Save**

s. 47F(1)



Lastly – go to **HP Trim** → change file location to **Sydney PA**
and place the physical file in the Red PA trolley located near the kitchen

Remember to record the 1 point for your stats.

Provided by email on 12/08/2014

Provided by s. 22(1)(a)(ii)

s. 22(1)(a)(ii), s. 47E(d)

s. 22(1)(a)(ii)

Support Team

Guidelines with different scenarios for processing where child holds a substantive visa by operation of s78 at the time of the child's birth

Please note: These are guidelines only to assist processing officer to record a decision under s78.

Scenario 1 – Child born in Australia – Parents hold substantive visa that was processed in ICSE and is still in effect.

- 1) Application/Email is received where a child holds a visa by operation of s78
- 2) Locate the parents in ICSE Search for child in ICSE and note CID and PID, or create the child in ICSE without adding the child to an application.
- 3) Contact s. 22(1)(a)(ii) to have the child put onshore
- 4) Add the child to the substantive visa application. (**Please note:** If there is "sub entrant" permission request type available in ICSE, it should be used to grant the visa. If there is no "sub entrant" permission request type available in ICSE, AND the visa can be granted in the parents' visa application, the child should be added in that visa application and be granted visa there.)
- 5) Highlight and open the "Application variant" event, Click undo and record a note "No payment is required as child holds xxxx visa by operation of s78"
- 6) Click on the BV decision hyperlink, Qualifier "otherwise determined" and select relevant BV (A,C) and record a note "No BV decision required as the client has not made an application for a substantive visa"
- 7) Record the substantive visa decision with the effect date as the child's date of birth under s78, ensuing the end date is the same as the main applicant.
- 8) Add a note to grant event "Client holds XXX visa by operation of s78 as client's mother/father was the holder of XXX at the time of the child's birth. Australian birth certificate in TRIM at XXXX/XXXXXXXX"
- 9) User sends correspondence

Scenario 2 – Child born in Australia – Parents hold substantive visa that was granted in IRIS and the visa can be granted while the child is onshore eg: 457, 580

- 1) Application/Email is received where child holds a visa by operation of s78
- 2) Locate the Associated Visaed Principal/Student in ICSE, application was processed in IRIS, (Parent may need to be transferred to ICSE if they only have a PID)
- 3) Search for child in ICSE and note CID and PID, or create the child in ICSE without adding them to the parent's substantive visa application.
- 4) Contact s. 22(1)(a)(ii) to have the child put onshore
- 5) Create a Subsequent visa application ensure the commencement date is the child's date of birth, Add the child with the client role Dependant 1, Add the parent with the client role "Associated Visaed Principal/Student"
- 6) Enter payment (nil amount), maybe required to be overridden by manager "

- 7) Click on the BV decision hyperlink, Qualifier "otherwise determined" and select relevant BV (A,C) and record a note "No BV decision required as the client has not made an application for a substantive visa"
- 8) Record the substantive visa decision with the effect date as the child's date of birth under s78, ensuring the end date is the same as the Associated Visaed Principal/Student
- 9) Add a note to grant event "Client holds XXX visa by operation of s78 as client's mother/father was the holder of XXX at the time of the child's birth. Australian birth certificate in TRIM at XXXX/XXXXXXXX"
- 10) User sends correspondence

Please note: If 457 visa the visa must be linked to nomination to enable the visa to be granted. Link the visa to any approved nomination to enable the child's visa to be granted in ICSE. Unlink the nomination. Enter a Client of Interest note on the child and parent's CID "Client holds XXX visa by operation of s78 as client's mother/father was the holder of XXX at the time of the child's birth. Australian birth certificate in TRIM at XXXX/XXXXXXXX. Parent's visa processed in IRIS, visa application can be view in ICSE offspring RID XXXXXXXX. "

Scenario 3 – Child born in Australia – Substantive visas held by operation of s78 that has already ceased by the time Department notified of child's birth

- 1) Application/Email is received as child holds a visa by operation of s78
- 2) Locate the Associated Visaed Principal/Student in ICSE, user sees that parents visa expired after child's birth, but before they advised immigration and they hold a BV in association with a new application.
- 3) Search for child in ICSE and note CID and PID, or create the child in ICSE without adding them to the parent's substantive visa application
- 4) Contact s. 22(1)(a)(ii) to have the child put onshore
- 5) Add the child to the parent's substantive visa application
- 6) Complete the TRIPS manual grant form and forward to s. 22(1)(a)(ii) requesting to have the expired substantive visa recorded in TRIPS from date of birth to cease date.
- 7) Raise a ticket with IT Support for the grant event added to the substantive visa application.
- 8) Send correspondence

Further information -

- 1) If there is no "sub entrant" permission request type available in ICSE, AND the visa cannot be normally granted in the parents' visa application (eg. visa otherwise must be granted while client is offshore), it will depend on the visa and what workaround is available.
- 2) For visa subclass that has to be granted while client is offshore, TRIPS may need to reverse the onshore birth trigger (which put the child offshore), then VPO grant the visa with "enter before date" in the future (whether they like it or not, they have no choice but do it). Ideally, the visa needs to be evidenced immediately after grant. TRIPS then put child onshore again.
- 3) For other reasons that visa cannot be granted in ICSE, s. 22(1)(a)(ii), s. 47E(d) (I cannot think any reason right now, but just in case)

For information on how to process a Child Born in Australia to Visa Holders/Visa Applicant holding a Bridging Visa at the time of the child's Birth, please see TRIM reference ADD2012/1589023.



I.T. Change Release NOV18 Children born onshore - Location update in ICSE - Quick Reference guide



TRIM: ADD2018/5037114 - Contents:

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What is changing from 17 November 2018?

Changes will be made to enable Decision Makers to update the location of children born in Australia to Onshore in ICSE. This is limited to children born in Australia, who have no movements and who are younger than 18 years old at the time the child's location is changed to Onshore. An Undo function will also be available if the location has been updated to onshore incorrectly and needs to be reversed.

This change removes the need for decision makers to contact the TRIPS Helpdesk to change the child's location to Onshore from Date of Birth (or to reverse the location update if required).

A log of any Onshore Birth Location Updates or Undo's will be automatically added to the 'Client Additional Information' tab in the clients ICSE record, which includes the users logon and (EST) date and time the update or undo was performed.

Access to these functions (Location update and Undo functions) in ICSE has been provisioned to most Visa processing officers and Citizenship officers. If you do not have access, please see the "What to do if you do not have access to these new functions" section at the end of this guide.

IMPORTANT:

THIS FUNCTION IS NOT TO BE USED IN LEIU OF A REAL ARRIVAL MOVEMENT.

YOU CAN ONLY CHANGE A CLIENTS LOCATION TO ONSHORE BEFORE YOU HAVE CREATED A PERMISSION REQUEST OR AFTER YOU HAVE FINALISIED A PERMISSION REQUEST. ICSE LIMITATIONS WILL NOT ALLOW YOU TO CHANGE THE ONSHORE BIRTH LOCATION DURING THE PROCESSING OF A PERMISSION REQUEST.

Updating Location of a child born onshore in ICSE:

You will need to create the child's record in ICSE, as per best practice procedure you will need to sight and TRIM the relevant documentation/evidence that proves the child was born in Australia and add the TRIM record number and the document description under 'Client Additional Information', Information type: 'TRIM Record Number'.

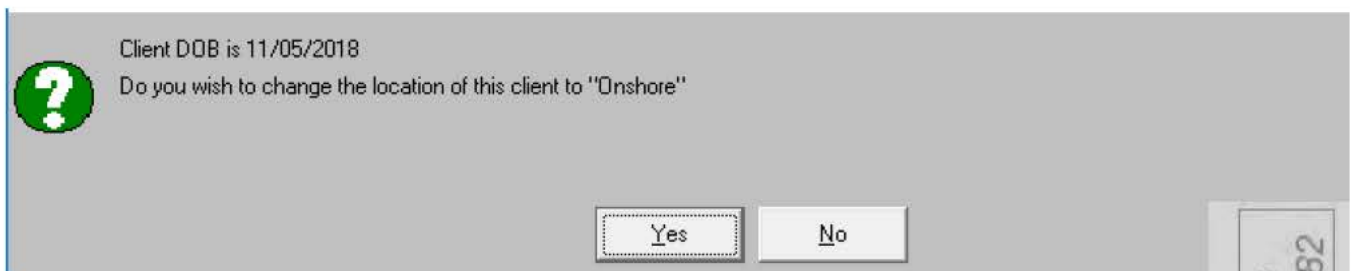
Location Change	Birth Location Change: to Onshore by TEST17 at 10-08-2018.16.23.20.6704	11/05/2018
PID	0001573765	09/07/2018
TRIM Record Number	ADD2018/45627 - Australian (NS'w) Birth Certificate	31/10/2018

Information Type: ☐ Only Current Info Types

The child will need to have a Country of Birth of Australia recorded in ICSE and their principal/preferred Date of Birth will need to be under 18 years of age at the time of the update. Using the 'Client menu' from within the 'Client Detail' screen or the 'Client menu' from within a permission request, scroll down to 'Change Location', then arrow across to 'Onshore Birth Location Update'.

s. 47E(d)

A pop-up window will appear, displaying the clients Date of Birth and asking if you wish to change the location of the client to 'onshore'. If you want to proceed, select 'Yes' button.



Client DOB is 11/05/2018
Do you wish to change the location of this client to "Onshore"

Yes No

A refresh of the ICSE record will automatically happen and the location status of the client will now show as 'Onshore' on the right hand side of the 'Client Detail' screen.

If the 'Onshore Birth Location Update' menu item is greyed out refer to page 6 of this guide for further information/instructions.

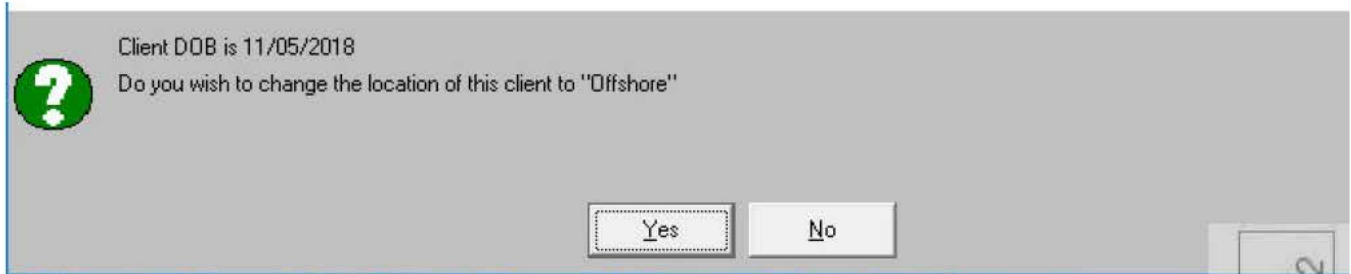
The 'Onshore Birth Location Update' will be automatically logged in the 'Client Additional Information' tab in the clients ICSE record, with the user's logon and (EST) date & time, the update was processed.

Reversing a Location update of a child born onshore in ICSE:

If you have incorrectly changed a client's location to Onshore in ICSE, you can reverse the location update, by using the 'Onshore Birth Location Undo' function. This function will only be able to be selected, if the client's location was updated to Onshore using the 'Onshore Birth Location Update' in the first instance. Using the 'Client menu' from within the 'Client Detail' screen or the 'Client menu' from within a permission request, scroll down to 'Change Location', then arrow across to 'Onshore Birth Location Undo'.

s. 47E(d)

As per the 'Onshore Birth Location Update' function a pop-up window will appear, displaying the clients Date of Birth and asking if you wish to change the location of the client to 'offshore'. If you want to proceed, select 'Yes' button.



A refresh of the ICSE record will automatically happen and the location status of the client will now show as 'Offshore' on the right hand side of the 'Client Detail' screen. Note: Even after using the 'Onshore Birth Location Undo' function, the client's location may still show 'Onshore' if you have recorded any onshore grants. For the 'Onshore Birth Location Undo' to work correctly you must reverse/undo any onshore grants you have recorded for the client, then the 'Onshore Birth Location Undo' will be automatically applied to the location status and the client will now show as 'Offshore' on the right hand side of the 'Client Detail' screen.

If the 'Onshore Birth Location Undo' menu item is greyed out refer to page 6 of this guide for further information/instructions.

The 'Onshore Birth Location Undo' will be automatically logged in the 'Client Additional Information' tab in the clients ICSE record, with the user's logon and (EST) date & time the update was processed.

What to do if you receive an error message:

Error Message: 'Client is 18 and over, please contact TRIPS Helpdesk'



You will not be able to use the Onshore Birth location update function in ICSE if the client is 18 years or over. If you have the Date of Birth of your client incorrect, you will need to make a new principal/preferred Date of Birth with the correct DoB for your client and mark the other entry in the Name & Birth list as 'Recorded in Error'. Then if the new principal/preferred Date of Birth is under 18 years old, you should now be able to proceed with the location update in ICSE. If you have changed the Date of Birth, you will also need to contact TRIPS Helpdesk to update the DoB on the TRIPS record for your client.

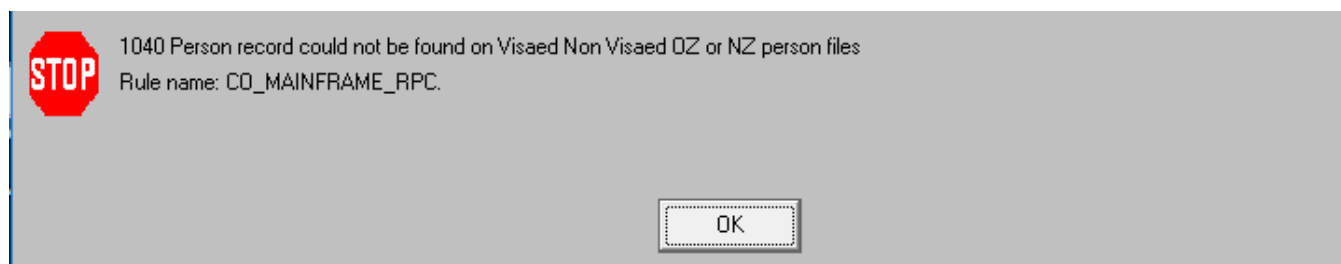
If your client is 18 years old or older you will need to contact the TRIPS Helpdesk to discuss why you require a client born in Australia, of this age, to have their location updated to Onshore.

Error Message: 'Country of birth of client is not recorded as Australia. Please contact TRIPS Helpdesk'



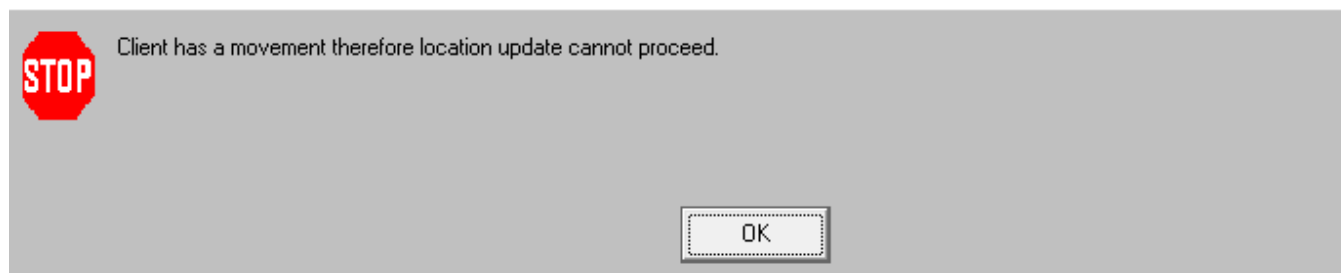
You will not be able to use the Onshore Birth location update function in ICSE if the clients Country of Birth is not recorded as Australia. If you have the Country of Birth of your client incorrect, you will need to make a new principal/preferred entry with the correct Country of Birth for your client and mark the other entry in the Name & Birth list as 'Recorded in Error'. You should now be able to proceed with the location update in ICSE. If you have changed the Country of Birth, you will also need to contact TRIPS Helpdesk to update the Country of Birth on the TRIPS record for your client.

Error Message: '1040 Person record could not be found on Visaed OZ or NZ person files'



This error means that the TRIPS PID linked to the ICSE record, is no longer active/allocated to a client. This can happen when multiple PIDs are merged for a client, but the PID that was linked to the ICSE record was **not** kept in the merge process. You will need to go to the ICSE 'Client Enquiry' screen and perform a new Name and DOB search with the TRIPS radio-button selected. Once you have found the active PID for the client (a PID will be 10 digit number), you will need to contact the TRIPS Helpdesk and advise that the PID in your ICSE record is no longer active and ask for the active PID to be added to your clients CID. Once this has been actioned, you should now be able to proceed with the location update in ICSE.

Error Message: 'Client has a movement therefore location update cannot proceed'



This error means that the TRIPS PID linked to the ICSE record already has a movement and therefore a 'Onshore Birth Location Update' cannot be applied to the record, you can check if the client has a movement in the 'Interval Calculator' via a 'Movement check'. If you need to grant your client a back-dated visa, you will need to contact the TRIPS Helpdesk and advise that you require the departure movement to be deleted temporarily so you can grant a back-dated visa for the client. Once the departure has been removed, you should now be able to proceed with the 'Onshore Birth Location Update' in ICSE. After you have granted the visa, you will need to reply back to TRIPS Helpdesk and advise them that they can now add the departure back to the client's record.

The 'Onshore Birth Location Update' menu item is greyed out:

If the 'Onshore Birth Location Update' option is greyed out this indicates that the ICSE record does not have a TRIPS PID linked to it all, check this in the 'Client Additional Information' tab. An ICSE record must have an active PID linked to it, to allow a location update to be passed from ICSE to TRIPS. If you do a perform a new Name and DOB search with the TRIPS radio-button selected and find the client does have an active PID (a PID will be 10 digit number), you will need to contact the TRIPS Helpdesk and advise that your ICSE record has no PID linked to it and ask for the active PID to be added to your clients CID. Supply both the CID and active PID number you require to be linked.

The 'Onshore Birth Location Undo' menu item is greyed out:

If the 'Onshore Birth Location Undo' option is greyed out this indicates that the location of the client has not been changed to 'Onshore' via an ICSE applied 'Onshore Birth Location Update'. You can only reverse an 'Onshore Birth Location Update' via the 'Onshore Birth Location Undo' function, if the client was added onshore via the ICSE applied 'Onshore Birth Location Update' in the first instance. Contact the TRIPS Helpdesk if you think that the client's location status is incorrect.

Any other error messages:

If you receive any other error messages while using these functions they can be referred to TRIPS Helpdesk via email: [s.22\(1\)\(a\)\(ii\)](mailto:s.22(1)(a)(ii)@trips.gov.au) Ensure you include the CID and PID of the client's record, a screenshot of any error/s, the steps you took to get to the error/s and the required expected outcome of the function/s you are trying to perform. If TRIPS Helpdesk are unable to assist with your issue, they should be able to refer the enquiry to the appropriate area, or you may be instructed to raise a ticket via IT Support.

Access and what to do if you do not have access to these new functions:

Listed below are the ICSE access roles that include the new 'Onshore Birth Location Update' & 'Onshore Birth Location Undo' functions in ICSE. If you require these new functions, you will need to ensure you have the appropriate ICSE access and if not you will need to request the relevant ICSE access in EasySAP. TRIPS Helpdesk cannot assist you with ICSE access at all.

Menu option	Update Access
Onshore Birth Location Update	<ul style="list-style-type: none">• DFAT Visa issue – (150)• Clerical Support – Update (201)• Investigation Officer – Update (203)• Decision Officer – Citz (301)• Decision Officer – Citz/Resi/Counter (302)• Decision Officer – Protection Visa (305)• Compliance Officer (306)• Ministerial Intervention Officer (307)• LE Decision (351)• Senior Decision – Citz/Resi/Counter (401)• Senior Decision Officer – Compliance (402)

Menu option	Update Access
	<ul style="list-style-type: none"> • Decision Officer – CO Citz (501) • Managers – (701) • Manager Prima Facie PV – (702) • Australian Security Cleared (802) • Enforcement Managers (852) • ICSE Systems Admin (901)
Onshore Birth Location Undo	<ul style="list-style-type: none"> • DFAT Visa issue – (150) • Clerical Support – Update (201) • Investigation Officer – Update (203) • Decision Officer – Citz (301) • Decision Officer – Citz/Resi/Counter (302) • Decision Officer – Protection Visa (305) • Compliance Officer (306) • Ministerial Intervention Officer (307) • LE Decision (351) • Senior Decision – Citz/Resi/Counter (401) • Senior Decision Officer – Compliance (402) • Decision Officer – CO Citz (501) • Managers – (701) • Manager Prima Facie PV – (702) • Australian Security Cleared (802) • Enforcement Managers (852) • ICSE Systems Admin (901)

PROCESSING 461 VISA APPLICATIONS.

KEY DATES

19th November 2016:- MoFU changed

the definition of member of family unit has changed - Regulation 1.12 - to limit the family members to :-

- Partners (marriage and de facto)
- Biological / adopted or step children under 18 years,
- Dependent adult children under 23 years
- Dependent adult children 23 years and over – only if medically incapacitated (physical/mental) and unable to work
- Biological / adopted or step children of dependent adult child who is medically incapacitated (physical/mental) and unable to work

20th February 2017: - method and place of lodgedment changes

Schedule 1 change – a Ministerial instrument for where and how a 461 application can be lodged came into effect. *This instrument was replaced by a new instrument on 8 June 2018 – but no changes were made with respect to the 461 visa validity.*

1. For applications made in Australia—applications must be:

- i) posted to: New Zealand Family Relationship visa application
Department of Immigration and Border Protection
GPO Box 9984
Sydney NSW 2001;

OR

- ii) delivered by courier service to: New Zealand Family Relationship visa application
Department of Immigration and Border Protection
26 Lee Street
Sydney NSW 2000; or

2. For applications made outside Australia—the application must be made at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia

1st July 2017: - Can no longer be an Eligible NZ citiz MoFU

Further restrictions on who could apply for a 461 were introduced via which NZ citizens could be the head of the Family Unit...

461.212 (2)

An applicant meets the requirements of this subclause if the applicant is a member of the family unit of:

- (a) a person, other than an eligible New Zealand citizen, who is in Australia as the holder of a Subclass 444 (Special Category) visa; or
- (b) a person, other than an eligible New Zealand citizen, who:
- (i) is outside Australia; and
 - (ii) will be accompanying the applicant to Australia; and
 - (iii) will, on entry, be the holder of a special category visa.

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PROCESSING 461 VISA APPLICATIONS.

WHEN STARTING TO ASSESS A NEW APPLICATION -

It is advisable to use the Checklist in [APPENDIX B](#) → as you go through the ICSE checks and application as it steps you through all of the 461 Regulation (See [APPENDIX A](#) for 461 Regs – post 1 July 2017) and will ensure you haven't missed anything.

It is also useful if someone else has to take over the file – can see in a glance what is there and what is not.

This document is not controversial and can remain on the file – even for FOI or AAT.

In ICSE do the following and compare information with the Form 147, 956 and ID docs provided

1: OPEN THE PERMISSION REQUEST IN ICSE

Ensure both applicant and NZ citizen are listed.

- ICSE will not permit a visa grant if there is no NZ citizen in the permission request.
- For s.78 grants where there is no NZ citizen parent - you have to change the 461 visa holding parent's role to NZ SCV holder for the grant and then change them back to "Removed from Request" role and make an ICSE → Note - Client (for parent) that no NZ citiz parent listed on birth cert
- For "Rollover" applicants no longer MoFU who were child/other family – there is no *Ex-parent/family member* role available in ICSE so list NZ SCV holder as *Ex-partner spouse/de facto* as role and put a → Note – Client (for NZ SCV holder) that actual role is Ex-Parent, Step-parent, Other Family Member.

2: DO CHECKS (NOTE – THESE CHECKS NEED TO ALSO BE REDONE AT TIME OF DECISION)

s. 47E(d)

3) Movement Check – for both applicant and NZ SCV holder

(i) For the applicant:

- check if onshore at time of application
- if spent 12 months cumulative time in Australia (For PIC4001 - AFP)
- for "Rollovers" if spent >2 months outside A/ since last visa grant (if yes can check PAX cards through CSP for travel destinations to see where have travelled and compare with Form 80 listed travel) (For PIC 4001 – O/S)

(ii) For the NZ SCV Holder

- check if onshore at time of application **Tangilanu
- check whether ENZC or not

3: OPEN NZ SCV HOLDER RECORD TO CHECK :

- all permission requests – ensure are not PR (eg. BB155) or A/a citizen
- visa current held – MUST hold TY444

4: CHECK APPLICANT'S VISA STATUS - note visa conditions and whether SCH3 or not

Visa Conditions of concerned with: 8501, 8202, 8547 ie: conditions that require the applicant to do something. Eg: maintain health insurance, meet course requirement, employer work limitation (conditions found on visas such as 461, 500, 457)

Not of concern – visa conditions that are about what the applicant cannot do such as on visitor visas

5: CHECK FOR APPLICANT AND NZ SCV HOLDER

- Passport → valid passport (as long as there is a current passport)
- Contact details → Check are correct and no typos especially the applicant's email address
- Name/DOB → Check all names are listed and if not – update

6: CHECK MIGRATION AGENT LISTED AND IF THERE IS A FORM 956 (OR THE OTHER WAY AROUND)

7: CHECK IN CLIENT → ADDITIONAL INFORMATION → ELECTRONIC COMMUNICATION that the correct option is selected eg: home, authorise contact ** watch out for listing email address here as does not auto-update when client changes email or migration agent

8: CHECK → CLIENT ADDITIONAL INFORMATION and update Relationship Status and Country of Usual Residence.

9: DETERMINE HEALTH → Go to → select → check for all questions and then amend any questions as needed using information in Form 147 and Form 80. This will run the health matrix for you and determine what health requirements is any are needed.

If you have done all the above – you will have confirmed all the information in the Form 147 is on ICSE and can start looking at the documentation provided in the application.

10: CHECK FORM 80 (You may have already done this while completing the ICSE checks)

*Note for “Rollovers” also check travel in past 5 years (since last visa grant) any country travelled back to for 2 months or more where they have previously provided a penal check – they will need a new penal.

*Note for “Rollovers” claiming to still be MoFU and is a child over 18 years – check for work history. If working – will not be dependent and therefor no longer MoFU – need Form 1023 to correct Form 147 claim (this is most relevant for adult children 23 years and over)

11: CHECK ANY PENALS PROVIDED and if they the correct ones or is further action required. Note any that are required and not provided.

12: CHECK IS EVIDENCE OF HEALTH INSURANCE IS PROVIDED and whether they state they have it in the Form 147. Must have if have 8501 and policy would prefer all to have it but not mandatory.

13: ASSESS MoFU RELATIONSHIP EVIDENCE (Regulation 1.12)

FOR CHILD UNDER 18 YEARS :-

- Birth certificate showing parents or lawful adoption certificate
- Form 1229 – permission to grant visa (OR letter and ID from non-migrating parent OR custody documents)

FOR ADULT CHILD 18 <23 YEARS :-

- Birth certificate showing parents or lawful adoption certificate
- Evidence of dependency - living at same residence and financial support

Note – for school leavers/just turned 18 there will be minimal evidence of support but evidence they have just finished school and still living at home is sufficient.

FOR ADULT CHILD 23 YEARS AND OLDER :-

- Birth certificate showing parents or lawful adoption certificate
- Evidence of incapacity to work due to physical or mental incapacity
- Evidence of dependency - living at same residence and financial support

FOR SPOUSE/DE FACTO

- Look at 6 months immediately prior to lodgement – for both 1st time and “Rollover” applicants
- Do not have to satisfy all 4 pillars of Reg 1.15A or 1.09A but for 1st time applicants this is preferred and evidence of the genuine and continuing relationship is required.
- For “Rollovers” need a few documents to show they continue to be MoFU
- In all cases statutory declarations are not enough.
- No risk tiering such as PRoMPT in 461 – must be evidence based.

NOTE: Child of the relationship does not mean automatically to grant. Child of the relationship is not an Australian citizen or permanent resident. Child goes to Nature of Household in relationship assessment.

NOTE: Long term relationship is not automatically to grant – must show in 6 months immediately prior to lodgement still in the relationship. Length of relationship goes to Commitment of relationship.

FOR OTHER FAMILY APPLICANTS INCLUDING “ROLLOVERS” CLAIMING TO STILL BE MOFU

- Sends.57 NJ letter – Not meet under Reg 1.12 → in G:/Drive → 461 Folder → Natural Justice

FOR ENZC MoFU, A/a citz MoFU, No TY444 MoFU or no MoFU listed

- send appropriate s.57 NJ letter → in G:/Drive → 461 Folder → Natural Justice

FOR NO LONGER MOFU – SPOUSE/DE FACTO

- Statement regarding relationship breakdown – when, is there still contact and why (eg: children)
- Statement regarding relationship status since ending with NZ SCV holder – even if that relationship has also ended.

Policy states we cannot make any further investigation so use PIC 4010 – Settlement Criteria as way to look further

- Evidence of employment
- Evidence of lease / private arrangement / home ownership
- List of residents and relationship to them.

FOR NO LONGER MOFU – ADULT CHILD

- Statement when became independent
- Statutory Declaration from parents re: living arrangement (if still living at home) eg: pays board/rent or rent free and whether living with partner
- Evidence of employment
- Evidence of lease / private arrangement / home ownership
- List of residents and relationship to them.

For No Longer MoFU – other family

- Statement when became independent
- Statutory Declaration from NZ SCV Holder re: living arrangement (if still living at home) eg: pays board/rent or rent free and whether living with partner
- Evidence of employment
- Evidence of lease / private arrangement / home ownership
- List of residents and relationship to them.

FOR RELATIONSHIP OVER – POST LODGEMENT

1st Time applicants – only option is withdrawal or refusal

- Send a s.57 NJ letter

“Rollover” applicants – may still meet requirements for grant as a No Longer MoFU

- see above for what to request.
- ** must show was on relationship up to the time claiming relationship ended.
- Still send a s.57 NJ letter

The checklist document should now be complete and you can enter everything into ICSE using it and send s.56 request letter – 28 day request.

FINALISING 461 APPLICATION

1: DO CHECKS

s. 47E(d)

3) Movement Check – for both applicant and NZ SCV holder

(i) For the applicant:

- check if onshore at time of application
- if spent 12 months cumulative time in Australia (For PIC4001 - AFP)
- for “Rollovers” if spent >2 months outside A/ since last visa grant (if yes can check PAX cards through CSP for travel destinations to see where have travelled and compare with Form 80 listed travel) (For PIC 4001 – O/S)

(ii) For the NZ SCV Holder

- check if onshore

2: OPEN NZ SCV HOLDER RECORD TO CHECK :

- check have not become a PR or A/a citz since lodgement
- visa current held – MUST hold TY444

3: Complete ICSE CHECKLIST and FINALISE – See [APPENDIX C](#) for Standard wording to use

4: ASSESSED EVENT

5: GRANT

Circumstances for adding visa condition 8501:-

- Where the applicant has a MOC OPINION of MEETS due to some health issue (Other than pregnancy)
- Where the applicant is 65 years or older
- Where there is an existing health issue

6: CHECK ECS NOTIFICATION LETTER HAS BEEN SENT

7: RETURN ORIGINAL DOCUMENTS USING ECS MISCELLANEOUS LETTER OPTION

8: END DATE CASE OFFICER ALLOCATED IN ICSE

8: SEND FILE TO SYDNEY PA and change TRIM Marking

APPENDIX A

Subclass 461 - New Zealand Citizen Family Relationship (Temporary)

461.1 Interpretation

Note: There are no interpretation provisions specific to this Part.

461.2 Primary criteria

Note: All applicants must meet the primary criteria.

461.21 Criteria to be satisfied at time of application

461.211

The applicant is not a New Zealand citizen.

461.212

(1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is a [member of the family unit](#) of:

(a) a person, other than an [eligible New Zealand citizen](#), who is [in Australia](#) as the holder of a [Subclass 444 \(Special Category\) visa](#); or

(b) a person, other than an [eligible New Zealand citizen](#), who:

(i) is [outside Australia](#); and

(ii) will be accompanying the applicant to Australia; and

(iii) will, on [entry](#), be the holder of a special category visa.

(3) An applicant meets the requirements of this subclause if the applicant:

(a) either:

(i) is [in Australia](#) as the holder of a Subclass 461 (New Zealand Citizen Family Relationship (Temporary)) visa; or

(ii) is not the [holder](#) of a [substantive visa](#) and the last [substantive visa](#) held by the applicant was a Subclass 461 visa; and

(b) is no longer a [member of the family unit](#) of the person in relation to whom the applicant was granted a Subclass 461 visa; and

(c) has not become a [member of the family unit](#) of another person (whether or not the applicant is still a [member of the family unit](#) of that other person).

(4) An applicant meets the requirements of this subclause if the applicant:

(a) is [outside Australia](#); and

(b) either:

- (i) the applicant was lawfully present [in Australia](#) as the holder of a Subclass 461 visa for a period of, or periods that total, not less than 2 years in the period of 5 years immediately before the application for the visa; or
- (ii) the Minister is satisfied that the applicant:
 - (A) has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia; and
 - (B) has not been absent from Australia for a continuous period of 5 years or more immediately before the application for the visa, unless there are compelling reasons for the absence; and
- (c) on last [departure from Australia](#) was a holder of a Subclass 461 visa; and
- (d) is no longer a [member of the family unit](#) of the person in relation to whom the applicant was granted a Subclass 461 visa; and
- (e) has not become a [member of the family unit](#) of another person (whether or not the applicant is still a [member of the family unit](#) of that other person).

461.213

If the application is made [in Australia](#):

- (a) at the time of application, the applicant held a [substantive temporary visa](#) other than a [Subclass 403 \(Temporary Work \(International Relations\)\) visa](#) in the [Domestic Worker \(Diplomatic or Consular\) stream](#); or
- (b) if the applicant did not hold a [substantive visa](#) at that time:
 - (i) the last [substantive temporary visa](#) held by the applicant was not a visa mentioned in paragraph (a); and
 - (ii) the applicant satisfies [Schedule 3](#) criteria [3002](#), [3003](#), [3004](#) and [3005](#).

461.22 Criteria to be satisfied at time of decision

461.221

The applicant continues to satisfy the criterion in subclause 461.212(1).

461.222

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

461.223

The applicant:

- (a) satisfies public interest criteria [4001](#), [4002](#), [4003](#), [4004](#), [4007](#), [4010](#), [4013](#), [4014](#), [4020](#) and [4021](#); and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion [4019](#).

461.224

If the applicant has not turned 18, public interest criteria [4017](#) and [4018](#) are satisfied in relation to the applicant.

461.225

If the application is made [in Australia](#), the applicant has complied substantially with the conditions that apply or applied to the last of any [substantive visas](#) held by the applicant, and to any subsequent [bridging visa](#).

461.226

If the application is made [outside Australia](#) and the applicant has previously been [in Australia](#), the applicant satisfies special return criteria [5001](#) and [5002](#).

461.3 **Secondary criteria**

Note: All applicants must satisfy the primary criteria.

461.4 **Circumstances applicable to grant**

461.411

If the application is made [outside Australia](#), the applicant must be [outside Australia](#) at the time of grant.

461.412

If the application is made [in Australia](#), the applicant must be [in Australia](#) at the time of grant.

461.5 **When visa is in effect**

461.511

[Temporary visa](#) permitting the holder to travel to, and [enter](#) and [remain in, Australia](#) for a period of 5 years from the date of grant.

461.6 **Conditions**

461.611

Either or both of conditions [8303](#) and [8501](#) may be imposed.



DATE LODGED: _____ Previous VISA: _____ Valid Until: _____
APPLICANT: _____ **DOB:** _____
DEPENDANT 1: _____ DOB: _____
DEPENDANT 2: _____ DOB: _____
DEPENDANT 3: _____ DOB: _____
NZ CITIZEN: _____ **DOB:** _____
TYPE OF R/SHIP: Spouse / Defacto/ 461-r/ship over, Child, Dep. Child <23yr, Dep. Child 23yr+
ADDRESS: _____
Phone: _____ Email permission: Y / N : _____

APPLICATION CHECKLIST	Requested	MET
SCH 1: Completed form 147 + VAC + correctly received		
Form 80		
Passport copy		
Birth Certificate		
Change of name – divorce, deed poll etc		
P/Pt photo - Applicant		
NZ Passport or B/C for SCV		
PA and SCV holder onshore at time of appln		

ICSE	Requested	MET
Names and alias correct for PA, dependants and SCV holder		
Contact details in ICSE (address, e-mail, phone) for PA & SCV holder		
Travel Doc in ICSE		
No duplicate PID		
Agent or authorised recipient. MARN:		
Contact details in ICSE.		

ASSESSMENT – TIME OF APPLICATION	Requested	MET
461.211 Applicant is not a NZ citizen Citizenship:		
461.212(2) NZ holds TY444 AND is not an Eligible NZ citizen		
Applicant is a Member of family unit of SCV holder		
Evidence provided - 1.15A or 1.09A or dependency or R/ship over		
461.212(3) Previous member of family unit		
461.213 Holds substantive visa – not s/c 426		
Does not hold substantive visa - meets Sch 3: 3002,3003,3004 & 3005		

ASSESSMENT – TIME OF DECISION	Requested	MET
461.221 continues to satisfy 461.212 (time of application criteria)		
461.222 intends to comply with conditions		
461.223		
PIC 4001 Character/Penal		
SRS		
Safeguards		
s. 124		
Military discharge		
PIC 4002 Security		
PIC 4003 Foreign Relations/WMD		
PIC 4004 No Debt to Commonwealth		
PIC 4007 Health		
PIC 4010 Live/Settle in Australia		
PICs 4013 & 4014 Not subject to exclusion periods		
PIC 4019 Values statement		
PIC 4020 Fraud		
PIC 4021 Valid Passport		

	Requested	MET
461.224 If <18 PICs 4017 & 4018 Custody/Child's best interest		
461.225 Complied with last visa conditions		
461.411 In A/A at time of grant		
461.611 PIC 8501 Must hold Health Insurance		
OR reciprocal health arrangement		

DECISION	
Decision record in TRIM / ICSE	
Return of original documents if requested	

EVIDENCE/MATERIAL CONSIDERED - Case File referred to above; Migration Act; Migration Regulations, PAM3, MSI.

☐ **DECISION** - I grant a visa to the above named applicant(s) who have satisfied the criteria prescribed by the Migration Regulations for the grant of a subclass **461** visa in the NZ Citizen Family Relationship visa class (UP).

OR

☐ **DECISION - REFUSED** – see attached decision record

OR

☐ **WITHDRAWN** – Client requested withdrawal

Date: ____/____/____

Name: _____

Position Number: _____

APS 4 Case Officer
NZ Family Relationship Visa Centre
Department of Home Affairs

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APPENDIX C: STANDARD WORDING FOR CHECKLISTS

INITIAL ONSHORE CHECKLIST

Item Description	Status Option	Note
Not a NZ Citizen	Met Not Met	XX(Country) citizen - ppt and birth certificate provided
MoFU of SCV holder	Met Not Met	Spouse - Reg 1.15A satisfied – Evidence considered: - De Facto - Reg 1.09A satisfied - Evidence considered: - Child under 18years – Dependent Child – over 18 years <23years – Dependency satisfied - Evidence considered: - MoFU - Child – 23 years and over - Medical incapacity - Evidence considered: - Not Assessed as Reg 461.XX not satisfied
App holds/held temp visa (not 426)	Met Not Met	- Insert visa
Complied with last visa conditions	Met Not Met Not Applicable	NIL Conditions 8501 - Evidence provided showing Health insurance maintained 8202 - Evidence provided showing Study maintained/completed 8107 – Evidence provided show nominated Employment maintained
Unlawful non-citizen, sch3 (3002, 3003, 3004, & 3005)	Met Not Met Not Applicable	SCH 3 – satisfied – Evidence considered: - SCH 3 300X not satisfied – see decision record for details
PIC 4001 Character/Penal	Met Not Met Not Applicable	AFP - clear (XX/XX/2018) - complete disclosure XXCountry – clear (XX/XX/2018) Penal Validity extended (<3mth) to date of visa grant (XX/XX/2018) due to Dept delays as per Penal Checking Handbook 4.13 Child under 16 years of age Not Assessed as Reg 461.XX not satisfied
PIC 4002 Security	Met Not Met Not Applicable	Form 80 provided - No further checking required Child under 18 years of age Not Assessed as Reg 461.XX not satisfied
PIC 4003 Foreign Relations/WMD	Met Not Met Not Applicable	Form 80 provided - No further checking required Child under 18 years of age Not Assessed as Reg 461.XX not satisfied
PIC 4004 No Debt to Commonwealth	Met Not Met Not Applicable	Referred to s. and COI, no indications of debt to Commonwealth Not Assessed as Reg 461.XX not satisfied
PIC4007 Health	Met Not Met Waived	Autocleared - (XX/XX/2018) Meets (MOC) - (XX/XX/2018) Low Risk - no requirements Not Assessed as Reg 461.XX not satisfied
PICs 4009 & 4010 Live/Settle in Australia	Met Not Met Not Applicable	Evidence provided with MoFU docs Not Assessed as Reg 461.XX not satisfied
PICs 4013 & 4014 Not subject to exclusion periods	Met Not Met Not Applicable	No information/evidence to indicate PIC4013 / 4014 exclusions period issues Not Assessed as Reg 461.XX not satisfied
If<18 PICs 4017 & 4018 Custody/Child's best interest	Met Not Met Not Applicable	Form 1229 provided Custody documents provided
PIC 4019 - Australian Values	Met Not Met	Signed XX/XX/2018
Satisfies PIC 4020	Met Not Met Not Applicable	No information/evidence to indicate any PIC 4020 concerns See decision record for details
PIC 4021 - Passport Provided	Met Not Met Waived	Country XX– valid to XX/XX/2018

ONSHORE ROLLOVER CHECKLIST

Item Description	Status Option	Note
Not a NZ Citizen	Met Not Met	XX(Country) - ppt and birth certificate provided
Current/Former 461 Holder	Met Not Met	Current 461 holder at lodgement / Former 461 Holder at lodgement
Continue to be MoFU of SCV holder	Met Not Met Not Applicable	Still Spouse - Reg 1.15A satisfied – Evidence considered: -
		Still De Facto - Reg 1.09A satisfied - Evidence considered: -
		Still Child under 18years – Dependent
		Child – over 18 years <23years –Dependency satisfied - Evidence considered: -
No Longer MoFU of Sponsor	Met Not Met Not Applicable	MoFU - Child –23 years & over -Medical incapacity satisfied - Evidence considered: -
		Statutory declaration provided - R/ship ended XX date
		Statutory declaration provided – R/ship status not MoFU of anyone
		Statutory declaration provided – R/ship status not MoFU of anyone
Not MoFU of another (except another SCV holder)	Met Not Met Not Applicable	Statutory declaration provided – R/ship status not MoFU of anyone
		Statutory declaration provided – R/ship status not MoFU of anyone
Unlawful non-citizen, sch3 (3002, 3003, 3004, & 3005)	Met Not Met Not Applicable	SCH 3 – satisfied – Evidence considered: -
		SCH 3 300X not satisfied – see decision record for details
PIC 4001 Character/Penal	Met Not Met Not Applicable	AFP - clear (XX/XX/2018) - complete disclosure
		XXCountry – clear (XX/XX/2018)
		AFP Validity extended (<3mth) to date of visa grant (XX/XX/2018) due to Dept delays as per Penal Checking Handbook 4.13
		Not returned since issued therefore still valid as per Penal checking handbook 4.14.1
		Less than 2 months return to any previous countries since grant of previous visa
		Less than 12 months accum. in any new country in past 10 yrs since prev. visa grant
PIC 4002 Security	Met Not Met Not Applicable	Child under 16 years of age
		Form 80 provided - No further checking required
PIC 4003 Foreign Relations/WMD	Met Not Met Not Applicable	Child under 18 years of age
		Form 80 provided - No further checking required
PIC 4004 No Debt to Commonwealth	Met Not Met Not Applicable	Child under 18 years of age
		Referred to s. and COI, no indications of debt to Commonwealth
PIC4007 Health	Met Not Met Waived	Autocleared - (XX/XX/2018)
		Meets (MOC) - (XX/XX/2018)
		Low Risk - no requirements
PICs 4009 & 4010 Live/Settle in Australia	Met Not Met Not Applicable	Evidence provided with MoFU docs
		Evidence of employment and living arrangements – ability to settle satisfied
PICs 4013 & 4014 Not subject to exclusion periods	Met Not Met Not Applicable	Not Assessed as Reg 461.XX not satisfied
		No information/evidence to indicate PIC4013 / 4014 exclusions period issues
If<18 PICs 4017 & 4018 Custody/Child's best interest	Met Not Met Not Applicable	Not Assessed as Reg 461.XX not satisfied
		No information/evidence to indicate PIC4013 / 4014 exclusions period issues
PIC 4019 - Australian Values	Met Not Met	Form 1229 provided
		Custody documents provided
Satisfies PIC 4020	Met Not Met Not Applicable	Signed XX/XX/2018
		No information/evidence to indicate any PIC 4020 concerns
PIC 4021 - Passport Provided	Met Not Met Waived	See decision record for details
		Country XX– valid to XX/XX/2018
Complied with last visa conditions	Met Not Met Not Applicable	NIL Conditions
		8501 - Evidence provided showing Health insurance maintained

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Steps for when NZ penal required.

When a New Zealand penal is required – request the Consent to Disclose at the same time – to be provided with the NZ MoJ certificate.

Remember to attach the *Country – NZ – Consent to disclosure of information for MoJ form* → G:\Rocks\RESIDENC\461 NZ Family\Character instructions – pdf

In the ESC -s.56 request letter – Request Checklist and Details :

body

REQUEST CHECKLIST AND DETAILS

We need more information to help us assess your application

All forms are available on our website immi.homeaffairs.gov.au/help-support/departmental-forms

1: From the task list select → Application → Other requirements

and → Applicant Character → Police Certificates

s. 47E(d)

s. 47E(d)

2: In the list area – change :

☐ Other Requirements → Consent to Disclose

☐ Police Certificates → Police Certificates - New Zealand

See the attached "Request Detail", which provides a detailed explanation relating to the checklist item(s) listed below.

- Applicant and Others
 - Application
 - Other requirements
 - ☐ Consent to Disclose
 - Business Skills
 - Applicant Character
 - Police clearance certificates
 - ☐ Police clearance certificates - New Zealand

3: In the body of the letter under the heading “Consent to Disclose” paste the following:

When you provide your New Zealand police check to the Department, you need to also provide a completed “Consent to Disclose” form so that your police check can be verified as per the instructions for the New Zealand police check.

The Consent to Disclose form is attached for your use.

If the applicant has already provided a NZ MoJ certificate you can use the following:

You provided a one page Ministry of Justice certificate from New Zealand.
The instruction for a New Zealand police checks states:

“If you receive only one letter from the NZ Ministry of Justice, indicating 'no convictions' you will need to supply this letter and your consent for the Department to seek confirmation from the NZ Ministry of Justice in relation to the number of letters issued.”

The Department now needs to obtain further details about your record.
Please complete and return the attached "Consent to Disclose" document.

4: In the body of the letter under the heading Police Certificates add – New Zealand to title.

Insert the following paragraph about providing evidence of applying for the check after the first paragraph:-

Police certificates – New Zealand

You must provide police certificate(s) from each country where you have lived for a total of 12 months or more in the last 10 years as evidence that you satisfy the character requirements. These 12 months are calculated cumulatively and need not have been consecutive.

You must provide us with evidence, within 28 days after you are taken to have received this letter, that you have requested the information from the New Zealand authorities.

When you receive your New Zealand police check, you must then give it to us as soon as possible

WHAT TO DO ONCE YOU HAVE RECEIVED THE NEW ZEALAND MOJ CERTIFICATE

If the certificate is one page only – forward the “Consent to Disclose” document to:

s. 22(1)(a)(ii)

NOTE: the NZ MoJ certificates must be no older than 6 months. If not the MoJ will not verify the certificate. You will need to request a new NZ penal from the applicant.

**Check the Consent to Disclose includes the MoJ request ID number. If the applicant has not filled this in, check the MoJ certificate and include it in the body of your email (Optional section)

The EMAIL:

Ensure you send from the relevant mailbox ie: 461, Partner or PIC

In the subject line of the email include the client name and DOB as this will assist identifying the case when you receive the response. For example: -

Request for Confirmation of 1 page MoJ certificate - s. 47F(1)

Body of the email

Optional → RE: MoJ request ID: XXXX

Dear MoJ,

The applicant, INSERT NAME AND DOB has provided a NZ MoJ certificate issued on INSERT DATE OF MoJ Certificate – 1 page only.

Please verify whether a second (“convictions”) letter was issued to the applicant.

Consent to Disclosure signed by the applicant is attached.

INSERT YOUR SIGNATURE BLOCK

TRIM the sent email as an ADD file in the application BCC file.

ICSE → Case – Note → Email sent to MoJ to verify 1 page NZ penal – INSERT TRIM REF

Expected email response period: 1-3 days.

MoJ Response received:

TRIM the verification email as an ADD file in the application BCC file.

ICSE → Case – Note → MoJ verified 1 page NZ penal – INSERT TRIM REF

In the ISCE Checklist – when entering NZ penal details, include MoJ verification date received.

THINGS TO NOTE:

- **CERTIFICATES ISSUED PRE-MARCH 2018** → Certificates obtained before March 2018, that are still valid (applicant not returned to NZ since they were issued) do not require verification from MoJ. (current verification requirements came into effect March 2018)
- **AGE of New Zealand penal** → MoJ will not verify certificates older than 6 months. If the certificate is older than 6 months, will need to request new certificate.
- **ATTACHING DOCUMENTS** → in ECS request letters and emails to MoJ – ensure you have attached the relevant document.
- **MoJ Certificate and Consent to Disclose** → When the applicant provides the 2 documents together in an email – you can forward them together for verification. If other documents are included in the email – you cannot forward the client's email. You must then save the Consent to Disclose or 'drag and drop' into a new email to ensure the applicant's privacy is not breached.
- **USE THE RIGHT MAILBOX** → Do not use your personal mailbox as no one else will be able to action the email. You may have passed on the case, be away on leave etc. Using the correct group mailbox ensures the case will be actioned in a timely manner.