



# Cook Islands Immigration Act 2021

## A. Immigration Policies – Fundamentals

### A1. Lawful decision-making

*See sections 65, 67, 71, 72, 76, 92, 103, and Part 16 Cook Islands Immigration Act 2021*

- All decisions made by officials must be made lawfully, and in accordance with the relevant Public Service or agency Code of Conduct.
- Decisions that are not made lawfully may be subject to challenge or be void (without effect).

### A2. Powers and Delegations

*See Part 16 Cook Islands Immigration Act 2021*

- Immigration decisions must be made by authorised persons.
- The Minister of Foreign Affairs and Immigration may delegate any powers to the Principal Immigration Officer, except the power to:
  - waive prohibition on entry or applying for a visa or permit
  - grant permanent residence, and
  - recommend the revocation of a person's status as an honorary permanent resident or permanent resident.
- The Principal Immigration Officer may delegate any of their powers to an immigration officer, class of immigration officers, designated officer, or class of designated officers.
- The Principal Immigration Officer may designate people as immigration officers and specify which functions and powers an officer is authorised to perform and exercise. The Principal Immigration Officer may revoke any designation of a person as an immigration officer in writing at will.

### A3. Working hours and payment

- The working hours for Immigration are from 8am to 4pm Monday to Friday, excluding public holidays.
- Immigration staff will sometimes need to work outside of these working hours to provide a service under the Immigration Act. In these situations, the person who necessitated the work (e.g. an owner of a craft arriving after hours, etc), must pay a charge for the immigration officers' attendance.

### A4. Revenue Collection

*See sections 219-222 and Schedule 4 Cook Islands Immigration Act 2021 and Ministry of Finance and Economic Management Act 1995-96*

- Fees and fines provided for by immigration, passport and other related laws contribute to official Government Revenue.
- Revenue collection and handling is subject to the MFEM Act 1995-96 and relevant Public Service or agency Code of Conduct.

### A5. Access to Law & Policies, Reasons for Decisions

*See sections 11-13, 76 Cook Islands Immigration Act 2021*

- People generally have a right to access information relating to immigration services and what legislation or criteria apply to these services, and on what basis decisions have been made.
- All decisions made under legislation are conveyed to applicants or to those to whom they apply.
- Where these are negative decisions or decisions which adversely affect a person's liberty or movements, they should be in writing, and document the nature of the decision, legislative basis for the decision and any appeal rights.

## A6. Client Interviews

*See Part 15 Cook Islands Immigration Act 2021*

- Client interviews are commonly employed by officers in a number of scenarios, including during processing of applications, on arrival or departure, or within the Cook Islands to determine identity or status.
- While there may be a legislative basis for some interviews, many are based upon a general power to enquire about immigration matters.

## A7. Complaints

- When a member of the public is unhappy with the service they have received or the way they have been treated there is a process through which they can make a formal complaint.
- A complaint does not have to be made directly by the person affected. It could be made by someone else on their behalf.
- A complaints procedure is different to an appeal procedure as it does not involve a review of a decision taken.

## A8. Reviewing a Decision

*See Part 12 Cook Islands Immigration Act 2021*

- People can review decisions made by an immigration officer to refuse a study or work visa or permit, or resident visa or permit. No other visa or permit decisions can be reviewed. There is, however, provision to judicially review a decision, and deportation orders can be appealed.
- The Minister has the power to confirm, vary or overrule the decision by the immigration officer.

## A9. Security

- People who need permits in their passports must wait for process completion and **must not** leave their passports with Immigration staff.
- People's personal details are kept on record within the immigration office and this information is kept secure to prevent access to it by unauthorised person(s).

## A10. Data Collection and Recording

*See Part 14 Cook Islands Immigration Act 2021*

- Collecting, recording, and updating data allows analysis that can:
  - Enable evidence-based policy-making
  - Identify previous refusal or compliance cases
  - Improve management and operational decisions
  - Enable intelligence-led targeting.
- All applications are recorded. All decisions including grant, refusal, withdrawals, cancellations are also recorded.

## A11. Record Keeping and Application Processing

*See Part 14 Cook Islands Immigration Act 2021*

- Records are kept of client applications and any other client interactions involving the application of legislation or decision-making.

## A12. Information Sharing

*See Part 14 Cook Islands Immigration Act 2021*

- Sharing information is an important part of intelligence gathering and investigation.
- An immigration officer may supply information indicating whether a prospective employee, a student, or an intern has the right to study or work in the Cook Islands.
- The Principal Immigration Officer may receive information about the births and deaths of persons without continuing rights from other departments or government agencies in the Cook Islands in order to make immigration decisions.
- The Principal Immigration Officer may give to, or receive from, any Cook Islands government agency or organisation information that may assist in operating the immigration system, or to support the effective governance and health and well-being of the Cook Islands generally.
- The Principal Immigration Officer may make an agreement with an overseas crime agency or international body or person to disclose information about processing international passengers or border security.

### **A13. Agency Relationships**

- Immigration maintains a number of relationships with other agencies and organisations that are important for its work including Police, Customs, Airport Authority, Biosecurity, Business Trade and Investment Board (BTIB), etc.

### **A14. Designated Places**

*See section 188 Cook Islands Immigration Act 2021*

- A designated place is that part of an airport or port or any other place so designated by the Principal Immigration Officer.
- The Principal Immigration Officer may designate places for the purpose of:
  - exercising powers and carrying out functions under the Cook Islands Immigration Act at the border of the Cook Islands and
  - carrying out of obligations by carriers, persons in charge of craft and passengers arriving in, and departing from the Cook Islands.

### **A15. Review**

- The Cook Islands Immigration Act Standard Operating Procedures must be reviewed every 12 months to ensure they remain up to date and relevant.