



BRIEFING

COVID-19: Requests for exemptions to border restrictions for essential workers

Date:	9 April 2020	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2936 19-20

Action sought		
	Action sought	Dead line
Hon Phil Twyford Minister of Transport Minister for Economic Development Hon Iain Lees-Galloway Minister of Immigration	Agree to lodge the attached Cabinet paper, seeking approval to: <ul style="list-style-type: none">Make an exemption to temporary border restrictions for an essential aviation worker; andDelegate further decisions on exemptions to border restrictions for essential workers to the relevant portfolio Minister and the Minister for Economic Development	4 April 2020
Hon Poto Williams Associate Minister of Immigration	Copy for information only	N/A

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Shelley Tucker	Policy Manager, Resilience and Security		s 9(2)(a)	✓(in regard to the request for exemption)
Siân Roguski	Manager, Immigration Policy	04 901 3855	s 9(2)(a)	✓(in regard to the proposal to delegate decision making)

The following departments/agencies have been consulted
The Ministry of Health

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments



BRIEFING

COVID-19: Requests for exemptions to border restrictions for essential workers

Date:	9 April 2020	Priority:	Medium
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Purpose

This briefing seeks your agreement to take a paper to the Ad Hoc Cabinet Committee on COVID-19 Response to recommend:

- an exemption to COVID-19 temporary border restrictions to enable an essential worker in the aviation sector to enter New Zealand; and
- delegation of further decisions on exemptions for essential workers to the relevant portfolio Minister and the Minister for Economic Development.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that on 19 March 2020, Cabinet agreed to border restrictions preventing entry to New Zealand [CAB-20-MIN-0122 refers]. The following groups are not subject to the restrictions:
- a. New Zealand citizens and residence class visa holders;
 - b. The partner, legal guardian or any dependent children travelling with a New Zealand citizen or residence class visa holder;
 - c. Australian citizens and permanent residence class visa holders ordinarily resident in New Zealand; and
 - d. People subject to regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, which includes air and marine crew
- Noted*
- b **Note** that Cabinet also agreed high level parameters for case-by-case exemptions to COVID-19 border restrictions, which include [CAB-20-MIN-0122 refers]:
- a. Those who need to travel for humanitarian reasons;
 - b. Essential health workers;
 - c. Citizens of Samoa and Tonga for essential travel to New Zealand;
 - d. Partners or dependents of a temporary work or student visa holder, and who normally live in New Zealand; and
 - e. Any other essential workers identified by the group of Ministers with Power to Act

Noted

Specific request for exemption to the temporary border measures

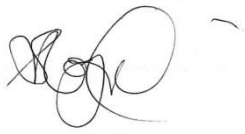
- c **Note** that Officials have received a request to enable a worker in the aviation sector to enter New Zealand to perform an essential role, providing oversight of Boeing aircraft safety issues
Noted
- d **Note** that this request is supported by the Ministry of Transport and the Ministry of Business, Innovation and Employment, as the worker is critical to the safety and viability of the commercial aviation sector in New Zealand
Noted
- e **Note** that the request includes the wife and child of the essential worker
Noted
- f **Note** that, on arrival in Auckland, the worker and his family will be required to undergo quarantine or managed isolation in an approved facility for a minimum of 14 days.
Noted
- g **Note** that all costs associated with the worker's international and domestic travel are to be met by the CAA as the sponsoring employer
Noted
- h **Agree** to recommend that COVID-19 Ministers with Power to Act make an exemption to the COVID-19 border restrictions for the essential worker and his family
Agree / Disagree

Proposal to delegate decision making on specific exemptions to Ministers

- i **Note** that further requests for exemptions to temporary border restrictions for essential workers are anticipated
Noted
- j **Note** that officials are considering the following factors when developing advice on requests for exemption:
- a. Why the workers are needed to ensure the continuity of an essential service;
 - b. Why it is not possible to re-deploy workers already in New Zealand (this could include time constraint or the specific nature of the work being done);
 - c. What is happening to any staff currently performing the role(s);
 - d. The length of the visa required and the reason for that length of visa; and
 - e. Requirements for quarantine or managed isolation in an approved facility and whether appropriate domestic travel arrangements are in place
- Noted*
- k **Agree** to recommend that COVID-19 Ministers with Power to Act delegate further decision making on exemptions to border restrictions for essential workers to the Minister for Economic Development and the relevant portfolio Minister
Agree / Disagree
- l **Agree** to lodge the Cabinet paper at Annex Two by 4pm on Wednesday 15 April for the Ad Hoc Cabinet Committee on COVID-19 response to give effect to recommendations h and k above
Agree / Disagree

- m **Note** that advice is being developed, with a view to a submission to Cabinet, on the approach for considering exemptions requested through the marine pathway (primarily cargo vessels, fishing vessels and small marine craft)

Noted



Siân Roguski
Manager, Immigration Policy
LSE, MBIE

09 / 04 / 2020



Shelley Tucker
Policy Manager, Resilience and Security, Ministry of Transport

09 / 04 / 2020

Hon Iain Lees-Galloway
Minister of Immigration

..... / /

Hon Phil Twyford
Minister for Economic Development
Minister of Transport

..... / /

Background

2. On 19 March 2020, Cabinet agreed to border restrictions preventing entry to New Zealand [CAB-20-MIN-0122 refers]. The following groups are not subject to the restrictions:
 - a. New Zealand citizens and residence class visa holders;
 - b. The partner, legal guardian or any dependent children travelling with a New Zealand citizen or residence class visa holder;
 - c. Australian citizens and permanent residence class visa holders ordinarily resident in New Zealand; and
 - d. People subject to regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, which includes air and marine crew
3. Cabinet also agreed high level parameters for case-by-case exemptions to COVID-19 border restrictions, which include [CAB-20-MIN-0122 refers]:
 - a. Those who need to travel for humanitarian reasons;
 - b. Essential health workers;
 - c. Citizens of Samoa and Tonga for essential travel to New Zealand;
 - d. Partners or dependents of a temporary work or student visa holder, and who normally live in New Zealand; and
 - e. Any other essential workers identified by the group of Ministers with Power to Act.

A request has been made for an exemption to the travel restrictions for an essential worker in the aviation sector

4. Officials have received a request to enable an essential worker in the aviation sector to enter New Zealand to provide critical oversight of Boeing aircraft safety issues.
5. The worker was on holiday in s 9(2)(a) [redacted] when temporary border restrictions were introduced in New Zealand. The request includes an exemption for the wife and child of the worker, who are also in s 9(2)(a) [redacted].
6. This request is supported by the Ministry of Transport and the Ministry of Business, Innovation and Employment as the worker is deemed to be critical to the provision of critical aviation services.
7. Details of the worker and his family are listed in Annex One.

The worker is critical to the safety and viability of the commercial aviation sector

8. The worker is an Airworthiness Engineer for the Civil Aviation Authority (CAA). He is responsible for the certification of aircraft and associated product.
9. He holds unique knowledge in the field of Boeing aircraft safety issues that is critical to the regulatory oversight of both Air New Zealand and Airwork (cargo/freight deliveries). This includes recent and ongoing safety interventions regarding aircraft defects and airworthiness. He is currently working on a design change that would enable Air New Zealand aircraft to carry freight in passenger compartments, which would significantly add to freight transport capacity.

10. He provides specialised oversight of topics that only he has knowledge of within the CAA, including fatigue of transport aircraft structures, alternate means of compliance, crashworthiness, and Boeing structures. He is currently managing the end of lease arrangements and Boeing 777 upgrades for Air NZ which are crucial to their commercial revenue and operational viability.
11. He is also currently working on the approval of a design change supporting the emergency medical industry which would be significantly expedited if he was in the country and able to access CAA systems and equipment. Any further delays to this work will delay the approval of changes to allow the transportation of a medical attendant on EMS helicopters.
12. This work is critical for the safety and viability of the commercial aviation sector and cannot be deferred for a significant length of time. Any deferral of this work will negatively impact the financial position of Air New Zealand significantly. It also creates risks to the ability of critical freight transport operators to continue to operate safely. Due to his unique knowledge and experience, it is not possible to re-deploy workers already in New Zealand to undertake this work.

The worker and his family will be quarantined on arrival in New Zealand

13. On arrival in Auckland the worker and his family will be required to undergo quarantine or managed isolation in an approved facility for a minimum of 14 days. The CAA is coordinating domestic travel (under the essential worker criteria) from Auckland to Wellington for the family and transport to their residence in Wellington after the quarantine period.
14. All costs associated with the worker's international and domestic travel are to be met by the CAA as the sponsoring employer.

We also support an exemption for the family members of the worker

15. The worker and his family have resided in New Zealand since 2017 and this is now their home. They have a very young child (1 year old) and for these reasons the worker could not be reasonably expected to return to New Zealand without his wife and child accompanying him.

We are seeking approval to a streamlined process for consideration of further exemptions to border restrictions for essential workers

16. Further requests for exemptions are expected in the coming weeks. Some of these may be urgent, for example, in cases where critical infrastructure has broken down and requires offshore expertise to fix it urgently. As such, we are seeking agreement to a streamlined process for further requests for exemptions from the border restrictions for essential workers that will ensure consistent decision making.

Delegation of decisions is recommended to enable streamlined and robust decisions on further exemptions

17. The threshold for making exemptions to temporary border restrictions for essential workers should be high and reserved for exceptional cases where there is no other alternative. It is important that decisions are made consistently across different essential services and do not undermine the integrity of border restrictions and Alert Level 4 settings.
18. In order to streamline the decision making process but ensure that any exemptions are subject to an appropriate level of scrutiny, we recommend delegating decisions on further exemptions for essential workers to the relevant portfolio Minister and the Minister for Economic Development, given his key role in respect of Essential Services in the economy.

19. Under this model the Minister for Economic Development would be involved in all decisions to grant exemptions for essential workers. This will provide a “moderation” function across requests and ensure consistency.

Advice on further requests for exemptions will need to consider a defined set of factors

20. To ensure consistency, advice to Ministers will be prepared jointly by the lead agency for the relevant essential service and the Ministry of Business, Innovation and Employment Essential Services work stream. This advice will need to include consideration of the following factors:
- a. Why the workers are needed to ensure the continuity of an essential service;
 - b. Why it is not possible to re-deploy workers already in New Zealand (this could include time constraints or the specific nature of the work being done);
 - c. What is happening to any staff currently performing the role(s);
 - d. The length of the visa required and the reason for that length of visa; and
 - e. The requirement to undergo quarantines or managed isolation in an approved facility for a minimum of 14 days and whether appropriate domestic travel arrangements are in place.

Requests that include family members

21. Requests for exemption that include partners and/or dependents of essential workers will be considered on a case-by-case basis and will not be granted by default. Requests that include partners or dependents will need to specify the case for allowing them to enter.
22. Matters that would be considered in allowing exemptions for family members would be:
- a. The length of the time the worker is required for – we would only expect requests to include family members if the essential worker was expected to be in New Zealand for a significant period of time;
 - b. The number of family members an exemption is sought for – the starting point for consideration would be immediate family members – the partner and dependent children of the worker;
 - c. The long term accommodation situation of the family – the worker and family may be returning to New Zealand to an established household unit (as is the case for the aviation worker discussed in this paper).

Next steps

23. We are seeking your agreement to consult with your colleagues on the proposed approach to future exemptions and to lodge the attached draft Cabinet paper seeking agreement from Ministers with Power to Act to:
- a. Grant an exemption for the aviation worker and his family; and
 - b. Delegate further decisions on exemptions for essential workers.
24. To enable consideration of the paper at CVD on Thursday 16 April, the paper will need to be lodged by 4pm on Wednesday 15 April.

25. If the specific request for exemption is approved, Immigration New Zealand will invite the worker (and his family members, if approved) to apply for a variation of the conditions of their existing temporary visas that will enable them to enter New Zealand.

Upcoming advice and draft Cabinet paper on framework for decisions on border restrictions for maritime vessels

26. We note that a number of exemptions are also being requested through the marine pathway – primarily by arriving small marine craft and research vessels, but also fishing vessels seeking to discharge fish in New Zealand.
27. A pending issue is the imminent 6-monthly change-over of crew on a number of large fishing vessels that operate continuously in New Zealand waters (scheduled for May 2020). The change-over date may be able to be extended but this would have an impact on the welfare of the crew already in New Zealand waters. There would be economic impacts if the vessels ceased to operate.
28. To ensure that decision making on these exemptions reflects Cabinet's decisions on the temporary border restrictions, officials are developing advice and we expect to bring a paper to Cabinet shortly on a proposed approach and framework to be applied to these exemptions.

Annexes

Annex One

List of essential workers

List of family members

Annex Two: Draft Cabinet paper: COVID-19: Request for exemption to temporary border restrictions for essential workers and proposal to delegate decision making to joint Ministers

Annex One

List of essential workers

NAME	DOB	NATIONALITY	PASSPORT NUMBER
s 9(2)(a) [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

List of family members

NAME	DOB	NATIONALITY	PASSPORT NUMBER
s 9(2)(a) [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Annex Two: Draft Cabinet paper: COVID-19: Request for exemption to temporary border restrictions for essential workers

Proactively Released