



BRIEFING

Draft Cabinet paper: Omnibus Bill 2020 Changes to the Immigration Act 2009

Date:	9 April 2020	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2966 19-20

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Note that a range of possible amendments to the Immigration Act could be progressed through the proposed Omnibus Bill Agree to the proposed amendments to be included in the Bill Discuss the attached draft Cabinet paper and timing with officials	14 April 2020

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Siân Roguski	Manager, Immigration Policy	04 901 1572	s 9(2)(a)	✓
Lorraine Sorley	Policy Advisor	04 901 2062		

The following departments/agencies have been consulted

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments



BRIEFING

Draft Cabinet Paper: Omnibus Bill 2020 Changes to the Immigration Act 2009

Date:	9 April 2020	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2966 19-20

Purpose

This briefing provides you with a draft Cabinet paper seeking approval to include amendments to the Immigration Act 2009 in an upcoming Omnibus Bill, for discussion with officials.

Recommended action

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

- a **Note** that, as discussed with you on Monday 6 April 2020, a range of possible amendments to the Immigration Act could be progressed through the proposed Omnibus Bill

Noted

- b **Note** that officials are working through the detail of identified possible amendments, including which proposals would require a Cabinet decision and which decisions may be delegated to you as portfolio Minister

Noted

- a) **Agree** to the proposed amendments set out in Table one below:

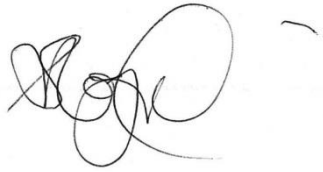
Table One: Proposed amendments to Immigration Act 2009

(please tick one)

Proposal	Agree	Disagree	Discuss
Proposal one: The power to vary the visa conditions of classes of people			
Proposal two: The power to extend the expiry date of visas for a class of people			
Proposal three: The power to grant visas to individuals and classes of people in the absence of an application			
Proposal four: Removing the requirement for visa applicants to provide an address for service			
Proposal five: The power to waive any regulatory requirements for making an application for classes of people			
Proposal six: The power to waive, in an individual case, the requirement to obtain a transit visa			
Proposal seven: The power to suspend the ability to make applications for visas by classes of people			
Proposal eight: The power to revoke the entry permission of any individual, including of people deemed to hold a visa and entry permission			

- c **Discuss** the attached early draft Cabinet paper, and likely timing, with officials at the scheduled teleconference on Tuesday 14 April 2020.

Agree / Disagree



Siân Roguski
Manager, Immigration Policy
Labour, Science and Enterprise, MBIE

09 / 04 / 2020

Hon Iain Lees-Galloway
Minister of Immigration

..... / /

Proactively Released

Background

1. On Wednesday 15 April, the COVID-19 Ministerial Group will consider a Cabinet paper outlining proposed law changes in response to COVID-19. That Cabinet paper proposes that a second Omnibus Bill be progressed as soon as possible after the House resumes.
2. If the COVID-19 Ministerial Group agrees to progress the Omnibus Bill, it currently appears likely that it will be introduced the week commencing 27 April 2020, or failing that, the week following. In order to meet either deadline, early policy decisions are needed as to whether any amendments to the Immigration Act 2009 should be included in the Omnibus Bill.

An early draft Cabinet paper is attached for your consideration

3. Officials discussed a list of possible amendments with you on Monday 6 April 2020, and at this stage we recommend that eight of those amendments continue to be progressed. We note that two other possibilities that were raised – removing the requirement for oaths to be sworn at a court, and updating warrant of commitment timeframes – are not included, as more work is needed to determine if they are appropriate to deal with by way of an Omnibus Bill.

The amendments cover a range of areas but all would increase flexibility

4. The proposed amendments are listed below with the detail of these discussed in the draft Cabinet paper in Annex One. Some of them are relatively minor (for example, removing the requirement to provide a physical address for service) while some could be very far reaching, such as the power to vary visa conditions across entire classes of people. While far reaching, this particular new power could have been used, for example, to place requirements to obey the directions of a Medical Officer of Health relating to a notifiable infectious disease on existing visa holders rather than just new visa applicants.

Proposal one: The power to vary the visa conditions of classes of people

Proposal two: The power to extend the expiry date of visas for a class of people

Proposal three: The power to grant visas to individuals and classes of people in the absence of an application

Proposal four: Removing the requirement for visa applicants to provide an address for service

Proposal five: The power to waive any regulatory requirements for making an application for classes of people

Proposal six: The power to waive, in an individual case, the requirement to obtain a transit visa

Proposal seven: The power to suspend the ability to make applications for visas by classes of people

Proposal eight: The power to revoke the entry permission of any individual, including of people deemed to hold a visa and entry permission

We are working through details with MBIE Legal and external agencies

5. In addition to teasing out the specific detail of the proposed changes, we are seeking to ensure that
 - there are appropriate levels of delegation for each proposed power (some will be non-delegable i.e. only able to be exercised by the Minister)

- the specific mechanism for giving effect to the proposal is appropriate, for example should the power be exercised by a modified form of special direction or some other instruction, and
- the levels of public and parliamentary scrutiny that will be appropriate when using the new power (for example, some being required to be published in the Gazette and on the Ministry's websites).

It is possible that some of those amendments will not require formal Cabinet approval

6. Depending on the decisions made by the COVID-19 Ministerial Group on 15 April, some of the proposed amendments may not require Cabinet agreement. In that case, your agreement to them (through your response to the recommendations in this paper) will be sufficient for drafting instructions to be prepared for PCO.

It is possible that a different vehicle could be used for some of those amendments

7. We understand that a proposal to review and extend the Epidemic Preparedness Act 2006 is currently being developed. If this proceeds, it is possible that some of the Immigration Act amendment proposals could potentially be moved across to that work. We will keep your office advised of any changes.

We are consulting at speed with interested agencies

8. Given the timeframes, we are consulting with interested agencies in parallel with presenting you with the proposals and draft Cabinet paper. The agencies we have provided a copy of the draft paper to are:

(Primary consultees)

- PCO
- Ministry of Foreign Affairs and Trade
- Ministry of Education
- Department of Prime Minister and Cabinet

(For information, and comment if they wish)

- Treasury
- Ministry of Social Development
- Department of Internal Affairs

Next steps

9. Possible timings for the paper and Bill are set out in the table below.

Date	Deliverable
Wednesday 15 April / Friday 17 April	Final Cabinet paper provided to Minister's office
Wednesday 15 April / Monday 20 April	Paper lodged with Cabinet Office
Thursday 16 April / Tuesday 21 April	The COVID-19 Ministerial Group considers the paper
Monday 20 April / Monday 27 April	Cabinet confirms the COVID-19 Ministerial Group's decisions

Monday 27 April / Monday 4 May	Cabinet approves Bill for introduction and refers it to Executive Council
Week beginning 27 April / Week beginning 4 May	Bill introduced to House
Early May	Select Committee consideration (brief)
Mid-May	New legislation enacted

Annex

Annex One: Draft Cabinet paper - *Omnibus Bill 2020: Changes to the Immigration Act 2009*

Proactively Released

Proactively Released