



## BRIEFING

### COVID-19: Request for exemption to temporary border restrictions for critical workers for Brix & Co Limited

<b>Date:</b>	7 July 2020	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2021-0075

Action sought		
	Action sought	Deadline
Hon Phil Twyford <b>Minister for Economic Development</b>  Hon Damien O'Connor <b>Minister of Agriculture</b>	<b>Agree</b> that two engineers in the food and beverage sector are "critical workers" for the purpose of an exemption from temporary border restrictions.	8 July 2020
Hon Ian Lees-Galloway <b>Minister of Immigration</b>	Copy for information only.	N/A
Hon Megan Woods <b>Minister of Housing</b>	Copy for information only.	N/A

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Ruth Isaac	General Manager, Labour and Immigration Policy	s 9(2)(a)	✓
Cheyne Gillooly	Director – Investment, Skills and Performance, Ministry for Primary Industries		

The following departments/agencies have been consulted
This briefing was developed together with the Ministry for Primary Industries

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments



## BRIEFING

### COVID-19: Request for exemption to temporary border restrictions for critical workers for Brix

<b>Date:</b>	7 July 2020	<b>Priority:</b>	Urgent
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#### Purpose

This briefing seeks your agreement that two engineers in the food and beverage sector required to install a tunnel pasteuriser as part of the commissioning of a new bottling plant are “critical workers” for the purpose of an exemption from temporary border restrictions.

#### Recommended action

The Ministry of Business, Innovation and Employment and the Ministry for Primary Industries recommend that you:

- a **Note** that on 19 March 2020, Cabinet agreed to border restrictions preventing entry to New Zealand and high-level parameters for case-by-case exemptions to these restrictions [CAB-20-MIN-0122 refers].  
*Noted*
- b **Note** that on 21 April 2020, the Group of Ministers with Power to Act agreed to delegate decision making on whether a worker is an “other essential worker”, for the purpose of exceptions to border restrictions, to the Minister for Economic Development and the relevant portfolio Minister [Unnumbered Cabinet Minute]<sup>1</sup>.  
*Noted*
- c **Note** that on 8 June 2020, Cabinet agreed new criteria for exemptions to border restrictions and to delegate decision making on exemptions under those criteria to Immigration New Zealand [CAB-20-MIN-0268 refers].  
*Noted*
- d **Note** that the delegation and new criteria agreed by Cabinet on 8 June 2020 came into effect in immigration instructions on 18 June 2020.  
*Noted*
- e **Note** that on 2 July 2020, we provided advice to the Minister of Economic Development recommending that he delegate authority to decide exemption requests received before 18 June 2020 to Immigration New Zealand [3949 19-20 refers] but in the meantime, he and portfolio Ministers retain authority to decide exemption requests received before 18 June 2020.  
*Noted*

<sup>1</sup> Unnumbered Minute from Meeting of the COVID-19 Ministerial Group, entitled *COVID-19: Request for Exemption to Temporary Border Restrictions for Essential Worker, and Proposal to Delegate Decision Making to Joint Ministers*.

- f **Note** that on 21 May 2020, Brix & Co Limited lodged a request with the Ministry for Primary Industries that was transferred to the Ministry of Business, Innovation and Employment on 19 June 2020, to classify two engineers in the food and beverage sector as “critical workers” for the purposes of exemptions from COVID-19 temporary border restrictions.
- Noted*
- g **Note** that, as the request was made before 18 June 2020, the criteria that apply to the exemption request are the criteria set out in this briefing developed by the Minister for Economic Development, in force until 18 June 2020.
- Noted*
- h **Note** that this request is supported by the Ministry of Business, Innovation and Employment and the Ministry for Primary Industries because the engineers are required to commission and warrant equipment which requires specialised skills that are not available in New Zealand.
- Noted*
- i **Agree** that the two engineers are “critical workers” for the purposes of exemptions to the COVID-19 border restrictions.
- Agree / Disagree*
- j **Note** that, on arrival in New Zealand, the workers will be required to undergo quarantine or managed isolation in an approved facility for a minimum of 14 days.
- Noted*
- k **Note** that the date on which the workers can enter New Zealand will be determined by available capacity in managed isolation / quarantine facilities.
- Noted*

- I **Note** that all costs associated with the workers' quarantine or managed isolation will be met by Brix & Co Ltd.

*Noted*



Ruth Isaac  
**General Manager, Labour and Immigration Policy**  
Labour, Science and Enterprise Group  
Ministry of Business, Innovation and Employment  
6 / 7 / 2020



Cheyne Gillooly  
**Director – Investment, Skills and Performance**  
Ministry for Primary Industries  
6 / 7 / 2020

Hon Phil Twyford  
**Minister for Economic Development**  
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Hon Damien O'Connor  
**Minister of Agriculture**  
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## Background

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1. On 19 March 2020, Cabinet agreed to border restrictions preventing entry to New Zealand and high level parameters for case-by-case exemptions to these COVID-19 border restrictions [CAB-20-MIN-0122 refers].
2. On 21 April 2020, the COVID-19 Ministerial Group agreed to delegate further decision making on exemptions to border restrictions for essential workers to the Minister for Economic Development and the relevant portfolio Minister [Unnumbered Cabinet Minute]<sup>2</sup>.
3. On 8 June 2020, Cabinet agreed new criteria for exemptions to border restrictions and to delegate decision making on exemptions under those criteria to Immigration New Zealand [CAB-20-MIN-0268 refers]. The delegation and new criteria came into effect in immigration instructions on 18 June 2020.
4. On 2 July 2020, we advised the Minister of Economic Development that it is MBIE's view that the instructions and criteria in force at the time a request for essential worker status is received are the criteria against which the request must be considered. We recommended he delegate authority to decide exemption requests received before 18 June 2020 to Immigration New Zealand [3949 19-20 refers] as in the meantime he and portfolio Ministers retain authority to decide exemption requests received before 18 June 2020.

## The request is for an exemption for two engineers

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5. On 21 May June 2020, Brix & Co Ltd (Brix) lodged a request with the Ministry for Primary Industries (MPI) that was transferred to the Ministry of Business, Innovation and Employment (MBIE) on 19 June 2020, to classify two engineers in the agricultural sector as "critical workers" for the purposes of exemptions from COVID-19 temporary border restrictions.
6. Brix manufactures beverages for export. The company has ordered and received delivery of a tunnel pasteuriser, which is essential for the commissioning of a new bottling plant that will support the production of a number of beverages for export. The equipment has been purchased from a China-based company whose engineers are required to oversee its installation and provide a warranty.

The information provided by Brix in support of its request is set out below. MBIE and MPI support the request because the workers are required to commission and warrant equipment which requires specialised skills that are not available in New Zealand.

## Criteria to be applied to assess whether the workers are critical

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7. As Brix's request was received prior to 18 June 2020, we have applied the following guidelines to the request to advise you on whether the requested workers are essential.
  - a. *Whether individuals from overseas are critical for delivery of time critical projects or programmes that are of strategic economic importance (such as, providing significant spill-over benefits to the economy or major employment in a region, preserving significant international trade-related business)*
  - b. *Whether international expertise, technical requirements or a unique talent is critical for success*
  - c. *Whether it is possible to redeploy workers already in New Zealand (or fill the position within New Zealand)*
  - d. *Whether there are already people performing these roles*
  - e. *The length of time the workers are likely to be in New Zealand*

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<sup>2</sup> Ibid note 1.

## How the workers meet the criteria

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8. The relevant information provided by Brix, in relation to the criteria that applied at the time it submitted its request, is set out below.

*Whether individuals from overseas are critical for delivery of time critical projects or programmes that are of strategic economic importance (such as, providing significant spill over benefits to the economy or major employment in a region, preserving significant international trade-related business)*

9. Brix manufactures beverages for export. The company has ordered and received delivery of a tunnel pasteuriser, which increases the shelf life of products and eliminates spoilage and bacterial growth. The equipment is essential for the commissioning of a new bottling plant that will support the production of a number of beverages for export.
10. The equipment has been purchased from a China-based company whose engineers are required to oversee its installation and provide a warranty. A machine of this nature and model has never been installed and commissioned in New Zealand, so there is currently no related installation knowledge or experience available in New Zealand.
11. The project is time critical as without the unit operating Brix cannot produce in-demand “other beverage products” such as non-alcoholic and alcoholic ready to drink beverages, energy drinks and juices for export. Several current large domestic and export contracts and projected future contracts with an estimated value of more than \$9(2)(a) are contingent on successful commissioning of the equipment by 1 September 2020.
12. Completion of the current contracts is expected to create up to 45 further full time jobs in the Greater Auckland region due to higher production capacity. Installation of the equipment will open up export opportunities for New Zealand by extending the shelf life of products and thus the products that can be exported.

*Where international expertise, technical requirements or a unique talent is critical for success (eg space programme, film projects, scientific research programmes)*

13. The machinery is new technology for Brix and requires direct support for the final stages of its installation and commissioning from the s 9(2)(a) Engineers. The international expertise of the s 9(2)(a) engineers from the s 9(2)(a) company that manufactures the equipment is necessary to oversee the installation and provide the warranty for the equipment.

*Whether it is possible to redeploy workers already in New Zealand*

14. A machine of this nature and model has never been installed and commissioned in New Zealand, so there is currently no related installation knowledge or experience available in New Zealand.

*Whether there are already people performing the roles*

15. No workers are currently performing the roles.

## Consultation

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16. The Ministry of Primary Industries supports the request because the international expertise of the s 9(2)(a) engineers from the s 9(2)(a) company that manufactures the equipment is necessary to oversee the installation and provide the warranty for the equipment.

## Dates of travel and managed isolation

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17. If the request is approved, the workers will be required to undergo quarantine or managed isolation in an approved facility for a minimum of 14 days on arrival in New Zealand. The date

on which the workers can enter New Zealand will be determined by available capacity in managed isolation / quarantine facilities.

18. Brix has agreed that it will meet all costs associated with the workers' quarantine or managed isolation.

## **Visa status of the workers**

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19. If the requests are approved, in accordance with immigration instructions, the workers will be invited to apply for a Critical Purpose Visitor Visa, another visa that suits their circumstances, or a variation of conditions.