



Ministry for Primary Industries
Manatū Ahu Matua



12 June 2020

MPI reference: B20-0306
MBIE reference: 3723 19-20

COVID-19: Request for an exemption from border restrictions for crew on the fishing vessel *Captain Vincent Gann*

Purpose:

This briefing seeks your agreement that the 24 crew members on the fishing vessel, *Captain Vincent Gann*, are essential workers for the purpose of an exemption from COVID-19 temporary border restrictions.

Minister	Action Required:	Minister's Deadline
Minister of Fisheries Minister of Economic Development	Note the contents of this brief Agree that the crew members on the fishing vessel, <i>Captain Vincent Gann</i> , are essential workers for the purpose of an exemption from COVID-19 temporary border restrictions	As soon as practicable
Minister of Immigration	Copy for information	N/A

Comments: This issue has been widely covered by the New Zealand media (TVNZ, Radio NZ) for the past week. The coverage has centered on the relevant companies (AIMEX, TNL Limited) talking about their request for shipping crew to enter New Zealand being referred back-and-forth between government agencies, with no agency willing or able to make a final decision. The media is now reporting that TNL has approached MPI to prepare a request to Ministers to grant an exemption to border restrictions to the crew of the *Captain Vincent Gann* on the basis of them being essential workers.

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Siân Roguski	Manager, Immigration Policy, MBIE	s 9(2)(a)	
Cheyne Gillooly	Manager, Investment, Skills and Performance, MPI		✓

Key Messages

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 restrictions, including for 'other essential workers' identified by the Group of Ministers with Power to Act on COVID-19 matters [CAB-20-MIN-0122 refers].
2. 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]¹.
3. On 3 June 2020 the Ministry for Primary Industries (MPI) received a request to enable 24 crew members to enter New Zealand on board the fishing vessel *Captain Vincent Gann*, for the purposes of accessing necessary repair services from AIMEX Limited (AIMEX), a marine and industrial engineering business based in Port Nelson.
4. The vessel, represented by the New Zealand shipping logistics company TNL Limited (TNL), has been based in American Samoa for the past eight months. It is American-owned (by JM Fisheries LLC) and flagged to the United States.
5. Before seeking this exemption to border restrictions on the basis of the crew being essential workers, Immigration New Zealand declined TNL's request for an exemption on the basis of humanitarian grounds twice, before advising TNL to pursue an essential worker exemption through MPI.
6. This request is supported by MPI and the Ministry of Business, Innovation, and Employment (MBIE) because allowing the vessel to enter New Zealand will provide significant spillover benefits to the economy in the Nelson region and preserve significant international trade-related business.
7. The services required for the vessel will provide benefits to the local Nelson economy post-COVID 19, particularly for marine engineering and associated industries. TNL cites that the vessel operator spent s 9(2)(b)(ii) last year in Nelson during a refurbishment.
8. AIMEX claims that it stands to lose a large maintenance contract if it cannot perform the repairs on the vessel and that AIMEX employees are at risk of losing their jobs and income. If the vessel cannot dock, the employment of 40 ship engineers (primarily New Zealanders) at AIMEX would be jeopardised, including potentially adversely affecting any future vessels coming to Nelson to undergo engineering work.
9. While the 24 workers currently on the vessel will not undertake the repairs themselves, they are essential to ensure that the ship is delivered to Port Nelson to the benefit of the local economy.

¹ 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*.

Recommendations

1. The Ministry for Primary Industries and the Ministry of Business, Innovation and Employment 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, including for “other essential workers” identified by the Group of Ministers with Power to Act on COVID-19 matters [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]².

Noted
 - c) **Note** that officials have received a request to allow 24 crew members of the vessel *Captain Vincent Gann* enter New Zealand for approximately six weeks to undertake repairs by AIMEX Limited.

Noted
 - d) **Note** that this request is supported by the Ministry for Primary Industries and the Ministry of Business, Innovation, and Employment, as the crew are essential to ensure that the ship is delivered to Port Nelson to undertake repairs, with significant spill over economic benefits to the Nelson regional economy.

Noted
 - e) **Note** that prohibiting the vessel *Captain Vincent Gann* to dock in Nelson may adversely affect business for Port Nelson in the future.

Noted
 - f) **Agree** that the 24 crew members on the vessel *Captain Vincent Gann* are essential workers for the purpose of exemptions to temporary border restrictions.

Agreed/Not Agreed
 - g) **Note** that, on arrival in New Zealand, the workers will be required to undergo quarantine or isolation on board the vessel or in an approved managed isolation facility for a minimum of 14 days and the costs of quarantine or managed isolation will be met by their employer.

Noted

² Ibid note 1.




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12 / 06 / 2020

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Minister of Fisheries

/ / 2020



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15 / 6 / 2020

Background

Border restrictions

10. 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, including for 'other essential workers' identified by the Group of Ministers with Power to Act on COVID-19 matters [CAB-20-MIN-0122 refers].
11. 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]³.

Test for essential workers

12. Following a request from you, we have applied the following test to the application to determine whether the requested workers are essential:
 - *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)*
 - *Whether international expertise, technical requirements or a unique talent is critical for success*
 - *Whether it is possible to redeploy workers already in New Zealand (or fill the position within New Zealand)*
 - *Whether there are already people performing these roles*
 - *The length of time the workers are likely to be in New Zealand*

The request

The Ministry for Primary Industries (MPI) has received a request from TNL International (TNL) to enable foreign workers to enter New Zealand on board the fishing vessel *Captain Vincent Gann*. The request relates to 24 crew members, primarily from the s 9(2)(a)

13. The vessel requires repairs which would be carried out by AIMEX Limited (AIMEX). This case has been twice rejected by Immigration New Zealand (MBIE) under humanitarian grounds before TNL was referred to MPI by Immigration New Zealand.

The vessel underwent a major refit in Nelson, arriving 12 December 2018 and departing 8 May 2019. Since May 2019, the vessel has fished out of American Samoa, with the exception being one port call to Manta, Ecuador in June 2019.

14. The vessel has developed a serious issue with its reduction gear and requires urgent repair. Failure to do so could result in serious damage to the vessel. Neither American Samoa nor Hawaii (other nearby ports) have marine engineering firms with technical expertise to work on the reduction gear.

³ Ibid note 1.

15. The vessel must discharge its fish at a cannery in Pago Pago, American Samoa, and New Zealand has the closest available port with the engineering expertise to complete the repair.
16. The vessel has a close relationship with the Nelson marine engineering industry and has spent significant amounts of money in the region, estimated at s 9(2)(b)(ii) during 2018-2019. This is primarily through AIMEX.
17. Marine engineering is a major industry in Nelson, employing hundreds of skilled staff in the construction, maintenance and repair of vessels. AIMEX employ shipping engineers who also support the New Zealand fishing fleet. Currently, the lack of overseas vessels is creating business viability problems for AIMEX who are faced with laying off 40 staff.
18. During Level 4 lockdown, AIMEX was able to minimise the level of redundancies made at the time with the assistance of the Governments wage subsidy. However, it is no longer able to. It claims that if it closed this would have a serious flow on effect to the local fishing and aquaculture industries.
19. This request is supported by MPI and the Ministry of Business, Innovation, and Employment (MBIE) because the work the vessel needs will provide key economic benefits and jobs to the Nelson community and the crew are essential to realise these benefits. Workers are primarily from s 9(2)(a)
20. While the workers will not undertake the repair themselves, they are necessary to ensure that the ship is delivered and that essential New Zealand workers, namely ship engineers, can stay employed. New Zealand is the closest country with the expertise and resources for the vessel to dock and AIMEX employs two technicians that have the specialist skills to undertake the repair. This is not something a general mechanic can work on.

Isolation arrangements

21. AIMEX and TNL have confirmed that all 24 crew will isolate on arrival in New Zealand and comply with relevant Government requirements and restrictions, whether that be isolation on the vessel or in a managed isolation facility. The crew will only be undertaking their normal on-board duties maintaining the vessel and will not work on the repairs.

Next Steps

22. If the requests are approved, in accordance with Immigration Instructions, *H5: COVID-19 Support Restricted Temporary Entry Instructions*, the workers will be invited to apply for supported temporary visas or variations of conditions as essential workers.