



BRIEFING

Confirmation of decisions that workers are essential workers

Date:	9 June 2020	Priority:	High
Security classification:	In Confidence	Tracking number:	3673 19-20

Action sought		
	Action sought	Deadline
Hon Kelvin Davis Minister of Tourism Hon Phil Twyford Minister for Economic Development Hon Dr Megan Woods Minister of Energy and Resources Hon Andrew Little Minister Responsible for the Government Communications Security Bureau Hon Nanaia Mahuta Minister of Local Government Hon Stuart Nash Minister of Fisheries Hon Damien O'Connor Minister of Agriculture Hon Ron Mark Minister of Defence	Agree to the recommendations	9 June 2020
Hon Iain Lees-Galloway Minister of Immigration	For noting	9 June 2020

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Siân Roguski	Manager, Immigration Policy	s 9(2)(a)	✓
Chris Wellington	Senior Policy Advisor		

The following departments/agencies have been consulted
N/A

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments

BRIEFING

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Purpose

This paper invites Ministers to reconsider and re-make decisions on requests for “other essential worker” status under immigration instructions, which you decided between 21 April 2020 and 2 June 2020. If a worker is determined to be an “other essential worker”, they may obtain an exception from border restrictions if their application for a visa or variation of visa conditions is approved by an immigration officer.

This review of your decisions is necessary to align them with immigration instructions that were amended by the Minister of Immigration on 3 June 2020 to clarify your authority to make exception decisions.

Recommended action

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

- a **Note** that on 21 April 2020, the Group of Ministers with Power to Act on COVID-19 matters 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
Noted
- b **Note** that the legal basis for decisions on exceptions to border restrictions derives from immigration instructions certified by the Minister of Immigration under the Immigration Act 2009
Noted
- c **Note** that immigration instructions were not updated following the decision by the Group of Ministers with Power to Act, to delegate decision making on whether a worker is an “other essential worker” to the Minister for Economic Development and the relevant portfolio Minister
Noted
- d **Note** that this was addressed on 3 June 2020 by the Minister of Immigration amending immigration instructions to specify that the Minister of Economic Development in consultation with the relevant portfolio Minister has the authority to determine who is an essential worker [BR-3581-19-20 refers]
Noted

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*.

- e s9(2)(h) _____

- Noted*
- f **Reconsider** the relevant information in the briefings attached as Appendix Two
Agree / Disagree
- g **Approve or decline** the requests for exceptions for essential workers you have previously decided by marking your decision in the column provided in Appendix One.
Agree / Disagree



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

09/06/2020

Hon Kelvin Davis
Minister of Tourism

..... / /

Hon Phil Twyford
Minister for Economic Development

..... / /

Hon Dr Megan Woods
Minister of Energy and Resources

..... / /

Hon Andrew Little
Minister Responsible for the Government Communications Security Bureau

..... / /

Hon Nanaia Mahuta
Minister of Local Government

..... / /

Hon Damien O'Connor
Minister of Agriculture

..... / /

Hon Ron Mark
Minister of Defence

..... / /

Background

1. On 21 April 2020, the Group of Ministers with Power to Act on COVID-19 matters 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.
2. The legal basis for Ministers’ decisions on essential workers derives from immigration instructions certified by the Minister of Immigration under the Immigration Act 2009 (the Act). Immigration instructions are the rules and criteria for the grant of visas (and variations of conditions on visas) and entry permission to New Zealand.
3. Due to an omission by Officials, immigration instructions were not updated following the decision by the Group of Ministers with Power to Act to delegate decision making on defining “other essential workers” to the Minister for Economic Development and the relevant portfolio Minister. s9(2)(h) [REDACTED]
[REDACTED]
4. To address this, the Minister of Immigration amended immigration instructions on 3 June 2020 to specify that the Minister for Economic Development in consultation with the relevant portfolio Minister has the authority to determine who is an essential worker.
5. At the same time, the Minister of Immigration updated the definition of “essential worker” to remove the requirement in instructions that the worker be “critical to delivering the response to COVID-19 and/or maintaining critical infrastructure”. “Essential workers” are now defined in instructions as “those workers who the Minister for Economic Development and the relevant portfolio Minister agree are essential workers [BR-3581-19-20 refers].

Decisions to be reconsidered

6. s9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED] decisions to grant exemptions, which are:

² 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*.

- 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*
- d. Whether there are already people performing these roles*
- e. The length of time the workers are likely to be in New Zealand*

Appendix One

Summary of decisions by Joint Ministers

Date	Employer	Exempted Essential Workers	Work Activity	Hon Phil Twyford Minister for Economic Development	Portfolio Minister	
7 May 20	DHL	1 specialist cargo unloader + partner + dependent s 9(2)(	Support the unloading and transport of wind turbine blades from Port Taranaki to the site of the Waipipi windfarm project in South Taranaki. The Waipipi Wind Farm will produce enough electricity each year to power about 70,000 homes and save the emission of roughly 350,000 tonnes of carbon. The worker has essential skills in handling delicate cargo, such as wind turbine blades.	Confirm Decline	Hon Megan Woods Minister of Energy and Resources	Confirm Decline
7 May 20	PACE Power and Air	1 power system support worker + partner s 9(2)(a)	Provide specialist support in the event of power or compressed air infrastructure failures for a range of essential services in the central North Island. PACE Engineering Limited, based in Hamilton, provides emergency power and compressed air services that support a range of essential services, including civil defence, electricity generation and medical facilities. The worker has a specialist technical skillset across a range of fields and 35 years of experience in his field that is not readily available in New Zealand.	Confirm Decline	Hon Megan Woods Minister of Energy and Resources	Confirm Decline
7 May 20	Pohokura Gas Supply	2 gas technicians s 9(2)(a)	Support the commissioning of the Pohokura Compression Depletion project, to maintain the deliverability of the Pohokura gas field as the reservoir pressure declines. It is a key requirement to the ongoing production of supply to New Zealand, and is considered a lifeline service - the Pohokura production station processes 40 per cent of the New Zealand gas supply into the Maui pipeline.	Confirm Decline	Hon Dr Megan Woods Minister of Energy and Resources	Confirm Decline
s 6(a)						
9 May 20	Kainga Ora	1 construction project manager + partner s 9(2)	Lead key projects for large construction developments in Auckland. Lead and coordinate site visits and ensure ongoing compliance with COVID Alert Level requirements.	Confirm Decline	Hon Dr Megan Woods Minister of Housing	Confirm Decline
11 May 20	Rocket Lab	26 payload experts, certifiers, security s 9(2)(	Facilitate monthly (at least) launches of international rocket payloads from Rocket Lab's facilities on the Mahia Peninsula. Exemption sought to cover workers for launches in May, June and July. Further exemptions will be required for following months.	Confirm Decline	Hon Phil Twyford Minister for Economic Development	
11 May 20	CityRail Link	15 key engineering roles. Exemptions sought for 15 of 50 in first tranche s 9(2)(a)	Progression of CityRail Link transport infrastructure project over a period of two years. Downstream cost of delay of one month estimated at s 9(2)(	Confirm Decline	Hon Phil Twyford Minister for Economic Development	

Date	Employer	Exempted Essential Workers	Work Activity	Hon Phil Twyford Minister for Economic Development	Portfolio Minister	
11 May 20	Wisk (formerly Zephyr Airways)	2 specialist ground radar engineers s 9(2)(a)	Construct a ground radar in Canterbury which will support the ongoing development of Wisk's technology programme. Wisk has invested around s 9(2) in New Zealand since 2016 and plans to invest a further s 9(2). Disruption to flows of engineers and other technical staff could result in the cessation of Wisk's Research and Development activities in New Zealand.	Confirm Decline	Hon Phil Twyford Minister for Economic Development	
11 May 20	Big Shell Productions	14 cast and crew + 1 nanny + 1 dependent s 9(2)(a)	Complete final three weeks of filming for movie, <i>The Power of The Dog</i> . The budget for the film is s 9(2)(b) with New Zealand spending forecast at s 9(2)(b)(ii) will be covered by the Screen Production Grant.	Confirm Decline	Hon Phil Twyford Minister for Economic Development	
11 May 20	Light Storm Entertainment	41 cast and crew s 9(2)(a)	Complete filming on <i>Avatar</i> movies so that post-production by Weta Digital can commence. Completion of filming expected to employ 400 New Zealand production crew, for six months, with an estimated spend of s 9(2). Post production by Weta Digital estimated to employ 650-1000 workers over the next five years, with a spend of s 9(2)(b) per year.	Confirm Decline	Hon Phil Twyford Minister for Economic Development	
11 May 20	Ministry for Primary Industries	13 antenatal sheep scanners s 9(2)(a)	Ultrasound pregnancy scanning of ewes to contribute to the sheep breeding industry and minimise animal welfare concerns, which are compounded by recent drought. Critical gap in New Zealand's domestic capacity to service the sheep industry during May - June 2020.	Confirm Decline	Hon Damien O'Connor Minister of Agriculture	Confirm Decline
18 May 20	Ports of Taranaki	3 dependents s 9(2)(a)	Immediate family of worker previously granted an exemption	Confirm Decline	Hon Phil Twyford Minister for Economic Development	
18 May 20	Wellington Zoo	1 veterinarian + partner s 9(2)(a)	Specialist veterinarian services for Wellington Zoo critical for the delivery of specialist treatment for exotic animals and injured native wildlife. Recruitment efforts in New Zealand did not identify candidates suitably qualified for the role. Wellington Zoo provides care for over 600 zoo animals. Deferral would have a significant impact on animal welfare and conservation.	Confirm Decline	Hon Damien O'Connor Minister of Agriculture	Confirm Decline
19 May 20	Waimakariri District Council	1 water engineer s 9(2)(a)	Overall ownership of the operation of Waimakariri District Council's water supplies, including maintenance contracts, management of service requests, as well as responding to operational events. No suitable candidate for this role could be found in New Zealand.	Confirm Decline	Hon Nanaia Mahuta Minister of Local Government	Confirm Decline

Date	Employer	Exempted Essential Workers	Work Activity	Hon Phil Twyford Minister for Economic Development	Portfolio Minister	
19 May 20	Penwarden Holdings Ltd	3 scampi fishers s 9(2)(a)	Enable the fishing vessel <i>Bilyara</i> to continue to operate in New Zealand waters and maintain seven jobs (including four New Zealand-based crew) and a niche export market. The <i>Bilyara</i> is a New Zealand-owned, New Zealand-flagged vessel, specifically set up for scampi fishing and on-board processing, packing, and freezing.	Confirm Decline	Hon Stuart Nash Minister of Fisheries	Confirm Decline
20 May 20	Krones	6 service technicians s 9(2)(a)	Provide a critical break-down service and technical support for food and beverage producers in New Zealand. Install a new can filling line for Coca Cola Amatil. Overhaul a blow moulding aseptic filling line on behalf of Krones at the Mars Manufacturing Apollo plant in Hastings, which is overdue for critical maintenance.	Confirm Decline	Hon Damien O'Connor Minister for Food Safety	Confirm Decline
22 May 20	Northland Regional Council	1 logistics manager + partner + 2 dependents s 9(2)(a)	Worker to take up a permanent role as s 9(2)(a) for the Northland Transport Network Group, at the Northland Regional Council to deliver joined-up transportation services for Northland. The role is a specialist role which was unable to be filled after two rounds of unsuccessful advertising in New Zealand over a period of 10 months.	Confirm Decline	Hon Nanaia Mahuta Minister of Local Government	Confirm Decline
24 May 20	Siemens Gamesa Renewable Energy	1 site manager 1 installation lead s 9(2)(a)	Assembly of 31 wind turbines for the Waipipi wind farm that will supply electricity to the national grid. Assembly requires workers trained and certified in the use of the equipment not available in New Zealand.	Confirm Decline	Hon Dr Megan Woods Minister of Energy and Resources	Confirm Decline
24 May 20	OMV	18 technical specialist gas workers s 9(2)(a)	Drilling of six wells to improve production of the late-life Maui gas field to unlock gas supplies and support New Zealand's energy security during electricity demand peaks. The workers are technical specialists required to operate the Archer Emerald drilling rig. OMV currently employs 41 New Zealand workers in a workforce of 56. The exempted essential workers are required to top up the workforce of specialist personnel not available in New Zealand.	Confirm Decline	Hon Dr Megan Woods Minister of Energy and Resources	Confirm Decline
24 May 20	Contact Energy Mercury Energy	1 specialist electricity worker s 9(2)(a)	Specialist maintenance work on equipment for two geothermal electricity plants. No alternative expertise in New Zealand or able to be trained in the specialist testing/servicing required in the limited time available to perform the work. Without the maintenance, continuing operation of the electricity plants will put the security of electricity supply into the national grid at risk.	Confirm Decline	Hon Dr Megan Woods Minister of Energy and Resources	Confirm Decline

Date	Employer	Exempted Essential Workers	Work Activity	Hon Phil Twyford Minister for Economic Development	Portfolio Minister	
24 May 20	Datacom/ Trustpower	1 ICT energy worker + partner s 9(2)(	Support the development and continued operation of Trustpower's digital platforms for power, gas internet, phone, and mobile services. The worker holds an application-specific and technical skillset required for supporting Trustpower's digital platforms.	Confirm Decline	Hon Dr Megan Woods Minister of Energy and Resources	Confirm Decline
24 May 20	Eagle Maritime Surveyors	1 cargo surveyor s 9(2)(a)	Provide logistical support to the Waipipi Windfarm Project currently under construction in South Taranaki. The worker is essential for supporting the transportation of wind turbine components to the windfarm. The role of cargo surveyor is critical to ensuring that the turbines arrive in a safe manner for construction, and for contractual and insurance mechanisms.	Confirm Decline	Hon Dr Megan Woods Minister of Energy and Resources	Confirm Decline
24 May 20	Doppelmayr Lifts	1 chairlift installer s 9(2)(a)	Complete installation of a new chairlift for the Remarkables Ski Field, Queenstown. The chairlift is a new model, with a rope gauge thicker than any other in New Zealand. There are no current workers in New Zealand with the technical capability to complete the installation process.	Confirm Decline	Hon Kelvin Davis Minister of Tourism	Confirm Decline
28 May 20	Gateway Vets	1 veterinarian s 9(2)(a)	Production animal veterinarian in the South Canterbury region for four months over the calving season (July to November) when the Gateway Vets clinic in Geraldine has an increased workload of up to fivefold (2019). There are not enough qualified veterinarians in New Zealand to service the workload during the calving season. A recruitment agency engaged to search for a New Zealand veterinarian has been unable to connect any prospective employees.	Confirm Decline	Hon Damien O'Connor Minister of Agriculture	Confirm Decline
28 May 20	Gr bbles Veterinary Pathology	1 veterinary pathologist s 9(2)(a)	Provide veterinary pathology and laboratory diagnostic services under contract to the Ministry of Primary Industries (MPI) to over 870 veterinary clinics throughout New Zealand, and animal health surveillance services to MPI to maintain essential biosecurity monitoring of animals, and to meet international reporting requirements. There is a shortage of qualified and experienced veterinary pathologists in New Zealand and worldwide and recruitment efforts have failed to find suitably qualified New Zealanders to fill the position (pathologists require a further three years training following completion of a BVSc.	Confirm Decline	Hon Damien O'Connor Minister of Agriculture	Confirm Decline

Date	Employer	Exempted Essential Workers	Work Activity	Hon Phil Twyford Minister for Economic Development	Portfolio Minister	
28 May 20	New Zealand Defence Force	38 ship crew s 9(2)(a)	Delivery in late June 2020, of the new naval tanker Aotearoa, from South Korea. The vessel is at the centre of the \$500m Maritime Sustainment Capability Project. The vessel will be a strategic asset for maritime operations, including Humanitarian Assistance and Disaster Relief operations. If delivery is delayed the Crown will incur costs of s 9(2)(per day. There are currently no people within New Zealand with the necessary system and equipment familiarity specific to the vessel to undertake its safe delivery to New Zealand within the proposed time-frame. Sending New Zealand crew to South Korea would introduce risks of infection for the crew en-route and during an extended training period in South Korea at considerable cost.	Confirm Decline	Hon Ron Mark Minister of Defence	Confirm Decline
28 May 20	Sealord	2 chief engineers s 9	Crew the New Zealand owned fishing vessel Ocean Dawn, operated by Sealord Group Ltd (Sealord), on a 12-week rotation. The Ocean Dawn is one of Sealord's largest vessels and is essential to the performance of its business. The engineers are highly skilled and hold appropriate qualifications, and are not able to be replaced by New Zealanders at this time. An extensive recruitment campaign over six months in 2018 was unable to find a suitable New Zealander to fill the roles. If the Ocean Dawn ceases to operate, the employment of an additional 88 crew members (primarily New Zealanders) would be at risk.	Confirm Decline	Hon Stuart Nash Minister of Fisheries	Confirm Decline
28 May 20	Sku	2 specialist installation and testing technicians s 9(2)(	Complete installation and testing of specialist computer systems in a newly expanded banana ripening facility in Auckland. The technicians are highly skilled, qualified and experienced in commissioning the proprietary software used in ripening rooms. No technicians with experience setting up the proprietary software are available in New Zealand. Sku is the sole supplier of bananas for s 9(2)(b) supermarkets in New Zealand and has made a significant investment in new facilities engaging an additional eight staff. If the commissioning of the expanded facility cannot be completed before mid-June, the supply of bananas to s 9(2)(b) supermarkets nationwide will not meet projected demand.	Confirm Decline	Hon Damien O'Connor Minister of Agriculture	Confirm Decline
28 May 20	Meadow Mushrooms	2 specialist equipment installers s 9(2)(a)	Complete the installation and calibration of specialist proprietary systems and software for a new s 9(2)(b) mushroom production facility in Christchurch. The workers are qualified in the establishment of proprietary software for mushroom growing rooms and their services cannot be provided by anyone already in New Zealand. If the workers are unable to complete the project, 120 workers could face redundancy.	Confirm Decline	Hon Damien O'Connor Minister of Agriculture and Food Safety	Confirm Decline

Appendix Two

**Briefings seeking decisions to exempt essential workers from
COVID-19 border restrictions made between 21 April and 3 June
2020**