



BRIEFING

Immigration New Zealand Operational Manual: Amendments Requiring Ministerial Certification to implement the New Zealand Government response to the novel coronavirus (COVID-19) outbreak

Date:	19 March 2020	Priority:	Urgent
Security classification:	In Confidence	Tracking number:	BR 2766 19-20

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Agree to the recommendations	19 March 2020
Hon Poto Williams Associate Minister of Immigration	Copy for your information	N/A

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Alejandra Mercado	Manager, Operational Policy, Enablement	s 9(2)(a)	✓
Chris Holland	Senior Business Analyst, Operational Policy, Enablement	s 9(2)(a) N/A	

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☐ Withdrawn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

Immigration New Zealand Operational Manual: Amendments Requiring Ministerial Certification to implement the New Zealand Government response to the novel coronavirus (COVID-19) outbreak

Date:	19 March 2020	Priority:	Urgent
Security classification:	In Confidence	Tracking number:	BR 2766 19-20

Purpose

This paper seeks that you agree to and certify proposed changes to transit and border entry instructions. The instructions contribute to the New Zealand Government response to the novel coronavirus (COVID-19) outbreak and proposed enhanced border measures to strengthen the New Zealand border.

Immigration instructions are the rules and criteria for the grant of visas and entry permission to New Zealand. Section 22 of the Immigration Act 2009 (the Act) authorises the Minister of Immigration to certify changes to immigration instructions.

Recommended action

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

- a **Note** that the proposed immigration instructions expand the temporary border measures restricting entry into New Zealand by all temporary entry class visa holders, visa-waiver travellers and residence class visa holders where the visa was granted offshore and the person is arriving in New Zealand for the first time

Noted

- b **Note** that the proposed immigration instructions will come into effect from 11:59pm 19 March 2020 and will be in force until 11:59pm 31 March 2020

Noted

- c **Note** that the current list of people who are excluded from the border measures restricting entry into New Zealand has been updated to include diplomats accredited to New Zealand who are currently resident in New Zealand

Noted

- d **Note** that exceptions to the temporary border measures can be granted for reasons including but not limited to:

- Humanitarian reasons
- Essential health workers as confirmed by the Ministry of Health
- Other essential workers as defined by the New Zealand Government

- iv. Citizens of Samoa and Tonga for essential travel to New Zealand
- v. Partners and dependants of temporary work or student visa holders who normally live in New Zealand where the temporary work or student visa holder is currently in New Zealand.

Noted

- e **Note** that in order to prevent transit-visa waiver travellers from transiting New Zealand, a special direction is proposed to suspend the ability for these travellers to transit New Zealand without first applying for a transit visa

Noted

- f **Note** that an agreement has also been made between the New Zealand Government and the Australian Government to facilitate the transit of those people who are entitled to travel and enter into each country

Noted

- g **Note** that in order to prevent transit travellers, except in exceptional circumstances, the proposed immigration instructions amend the transit visa criteria so that a transit visa may not be granted unless an exception is made on a case-by-case basis, including and in particular, for humanitarian reasons

Noted

- h **Note** that the immigration instructions in Appendix 1 and Appendix 2 have been initialled by the General Manager, Enablement

Noted

- i **Agree** to the proposed changes to immigration instructions by signing the associated ministerial certificates attached at the end of Appendix 1 and Appendix 2

Agree / Disagree

- j **Agree** to suspend the waiver of the requirement to hold a transit visa for travel to New Zealand as specified in regulation 16 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 by signing the special direction in Appendix 3

Agree / Disagree

Stephen Dunstan
General Manager
Enablement
Ministry of Business, Innovation and Employment

Hon Iain Lees-Galloway
Minister of Immigration

19 / 03 / 2020

..... / /

Background

Temporary border control measures

1. On 1 February 2020, Cabinet authorised Ministers with Power to Act to take decisions on New Zealand's response to the COVID-19 outbreak and propose enhanced border measures [CAB-20-MIN-0015]. These included introducing temporary border control measures restricting the ability of people who have been in or transited through mainland China from entering New Zealand.
2. The current temporary border measures reflect the Category 1A restrictions and deny entry permission to any person who has been present in or transited through mainland China or Iran within 14 days prior to boarding a craft to New Zealand.
3. On 19 March 2020, Ministers with Power to Act, agreed to expand Category 1A countries to include the rest of the world and restrict any person from coming to New Zealand, unless excluded as below. This applies to passengers boarding a plane to New Zealand from 11:59pm 19 March 2020 to 11:59pm 31 March 2020.
4. This restricts any travel to New Zealand by a temporary entry class or transit visa holder, visa waiver or transit visa waiver traveller, or a resident visa holder whose visa was granted offshore and is travelling to New Zealand for the first time, regardless of where the traveller is coming from (including Australia and the Pacific), unless specifically exempted.
5. The following people will continue to be excluded from the temporary border measures:
 - a. New Zealand citizens
 - b. New Zealand resident and permanent resident visa holders
 - c. The partner, dependent children or legal guardian travelling with a New Zealand citizen, resident or permanent resident visa holder
 - d. Australian citizens and permanent resident visa holders whose primary place of residence is New Zealand
 - e. Aircraft crew and marine crew
 - f. Other people deemed to have entry permission on arrival by regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (the Regulations) such as cruise ship passengers and crew¹, members of a visiting force and members of a scientific expedition under the auspices of a Contracting Party to the Antarctic Treaty.
6. Cabinet agreed to exclude diplomats accredited to New Zealand and who are currently resident in New Zealand from the temporary border measures.
7. Cabinet also agreed that an exception to the travel restrictions for reasons including but not limited to:
 - a. Humanitarian reasons
 - b. Essential health workers, as confirmed by the Ministry of Health
 - c. Other essential workers, as defined by the New Zealand Government
 - d. Citizens of Samoa and Tonga, for essential travel to New Zealand

¹ All cruise ships are current prohibited from entering New Zealand until 30 June 2020.

- e. Partners and dependants of temporary work or student visa holders who normally live in New Zealand where the temporary work or student visa holder is currently in New Zealand.

Transit passengers

- 8. Currently, transit passengers can travel to New Zealand for the purposes of transiting through to another country provided they stay for no more than 24 hours in the transit area of an airport. Transit passengers are required to have a transit visa or transit visa waiver status may not apply for a visa of any class or type or entry permission while in New Zealand.
- 9. As transit passengers do not apply for entry permission they are currently not covered by the border entry instructions refusing entry permission to New Zealand. In order to prevent transit visa holders and those to whom a transit visa waiver applies from coming to New Zealand (as per the new measures agreed by Ministers with Power to Act), the following actions are proposed:

Transit-visa waiver

- 10. It is proposed that you issue a special direction to suspend the waiver of the requirement to hold a transit visa for travel to New Zealand as specified in regulation 16 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 under section 86(4)(b) of the Act. A special direction for your agreement is attached at Appendix 3.
- 11. A special direction under this section cannot be renewed. As it cannot be renewed it is proposed that the special direction be valid for the maximum length permitted under the Act, which is three months. This would mean the special direction would expire on 19 June 2020. If required the special direction can be revoked earlier.

Transit visa applications

- 12. It is proposed that you certify immigration instructions which restrict the basis on which a transit visa will be granted to humanitarian reasons (as the other agreed exceptions for travel to New Zealand are particular to travellers who are seeking to enter New Zealand). A transit visa might otherwise be granted, as an absolute discretion decision under section 87 of the Immigration Act 2009.

Those who currently hold a transit visa

- 13. Any travellers who currently hold a transit visa for New Zealand who attempt to travel to New Zealand while the temporary border measures are in place may be denied boarding under section 97 of the Immigration Act 2009.

Agreement with Australia

- 14. An agreement has also been made between the New Zealand Government and the Australian Government to facilitate the transit of those people who are entitled to travel and enter into each country (i.e. those who are not subject to the border measures in each respective country). For New Zealand, this means enabling the transit to Australia of:
 - a. Australian citizens
 - b. Australian permanent residents
 - c. immediate family members of Australian citizens and permanent residents including spouses, minor dependants and legal guardians.

Amendments to Border Entry instructions

Proposed new immigration instructions

15. The following proposed changes to immigration instructions expand the temporary border measures restricting entry into New Zealand by residence class visa holders where the visa was granted offshore and the person is arriving in New Zealand for the first time, all temporary entry class visa holders and visa-waiver travellers. This will be effective from 11:59pm 19 March 2020 until 11:59pm 31 March 2020, unless amended or revoked earlier.
16. Further immigration instructions will be provided for certification if this response needs to be extended beyond 31 March 2020.
17. Proposed additions to immigration instructions are highlighted for ease of reference. Deletions have not been highlighted. Highlighting will not appear in the published versions of the amended Operational Manual.

Communication

18. The Immigration New Zealand website has been updated to reflect the proposed changes. Carriers have also been updated.
19. Changes will be communicated to all staff, licensed immigration advisers and the general public through the release of an amendment circular as soon as the new immigration instructions are certified.

**Appendix 1 - Proposed amendments to Border Entry instructions
effective on and after 11:59pm 19 March 2020**

Proactively Released

Y4.50 People who must be refused entry permission: novel coronavirus (COVID-19) outbreak

See also Immigration Act 2009 ss 22 and 107.

These instructions are valid until 11:59pm 31 March 2020.

- a. Entry permission must be refused to any person, except a person listed in Y4.50(b), who is not otherwise dealt with under Y4.1 and who is:
 - i. the holder of a temporary entry class visa
 - ii. a person described under Schedule 2 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (visa-waiver travellers, including Australians)
 - iii. the holder of a residence class visa whose visa was granted offshore and who is arriving in New Zealand for the first time.
- b. The following persons must be granted entry permission:
 - i. Those listed in Y3.10(a)
 - ii. The partner, legal guardian or any dependent children who are travelling with a New Zealand Citizen or a person listed at Y3.10(a)
 - iii. Australian citizens or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia, where New Zealand is their primary place of established residence
 - iv. Diplomats accredited to New Zealand and currently resident in New Zealand.
- c. A person subject to (a) above may still be granted entry permission by an immigration officer as an exception to instructions (see Y4.45), for reasons including but not limited to:
 - i. Humanitarian reasons
 - ii. Essential health workers as confirmed by the Ministry of Health
 - iii. Other essential workers as defined by the New Zealand Government
 - iv. Citizens of Samoa and Tonga for essential travel to New Zealand
 - v. Partners or dependants of a temporary work or student visa holder, and currently resident in New Zealand where the temporary work or student visa holder is currently in New Zealand.

Notes:

- For the avoidance of doubt, New Zealand citizens are not subject to this instruction and people subject to regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 are deemed to be granted entry permission.
- 'Commercial craft' and 'craft' have the same meaning as section 4 of the Immigration Act 2009.
- Restrictions also apply to people travelling on a transit visa or transit visa-waiver.



BORDER ENTRY INSTRUCTIONS
MINISTERIAL CERTIFICATE

I certify, in accordance with section 22 of the Immigration Act 2009, that the amendments contained in Appendix 1 of the submission dated 19 March 2020 are part of Border Entry instructions on and after 11:59pm 19 March 2020.

Hon Iain Lees-Galloway
Minister of Immigration

(day)

(month)

(year)

Proactively Released

**Appendix 2 - Proposed amendments to Transit visa instructions
effective on and after 11:59pm 19 March 2020**

Proactively Released

N2.1 Who must apply for a transit visa

See also *Immigration Act 2009 s 86*

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 16, reg 23B, sch 1, sch 2*

- a. A person intending to travel to and be in New Zealand as a transit passenger must apply for and obtain a transit visa before proceeding to New Zealand, unless they are:
- a New Zealand citizen or residence class visa holder; or
 - the holder of a temporary entry class visa with relevant travel conditions; or
 - a person to whom a visa waiver applies under [E2.1](#) and (from 1 October 2019) they hold a transit or traveller ETA; or
 - a person whose immediate or final destination after transiting through New Zealand is Australia and he or she holds a current visa issued by the government of Australia to enter Australia and (from 1 October 2019) they hold a transit ETA; or
 - a person who is a citizen of a country listed under [N2.5](#) Transit visa waiver country list and (from 1 October 2019) they hold a transit ETA; or
 - a person the Minister has, by special direction, classified as a person to whom a transit visa waiver applies; or
 - (from 1 October 2019) a person travelling from Australia and holds a transit ETA.
- b. The Minister may, by special direction, suspend any transit visa waiver described in (a)(v) or (vi) above.

Note: The Minister of Immigration has given a special direction to:

- suspend the waiver of the requirement to hold a transit visa before travelling to and being in New Zealand as a transit passenger, as specified in regulation 16 of the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010*, except for Schedule 1(2) – Citizens of Australia and people who hold a current permanent residence visa (including a resident return visa) issued by the Government of Australia, where Australia is their final destination, and
- classify the immediate family members (spouses, minor dependants and legal guardians) of Australian citizens and holders of a current permanent residence visa (including a resident return visa) issued by the Government of Australia as persons to whom a transit visa waiver applies, where Australia is their final destination.

This is valid from 11:59pm 19 March 2020 until 19 June 2020, unless cancelled earlier.



N2.5 Transit visa country waiver list

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg 16, sch 2*

Bahamas	Papua New Guinea
Bermuda	Paraguay
Bolivia	Peru
Colombia	Philippines
Costa Rica	Republic of Marshall Islands
Ecuador	Samoa
Federated States of Micronesia	Solomon Islands
Indonesia	Thailand
Kiribati	Tonga
Nauru	Tuvalu
Palau	Vanuatu
Panama	Venezuela

Note: The Minister of Immigration has given a special direction to:

- suspend the waiver of the requirement to hold a transit visa before travelling to and being in New Zealand as a transit passenger, as specified in regulation 16 of the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010*, except for Schedule 1(2) – Citizens of Australia and people who hold a current permanent residence visa (including a resident return visa) issued by the Government of Australia, where Australia is their final destination, and
- classify the immediate family members (spouses, minor dependants and legal guardians) of Australian citizens and holders of a current permanent residence visa (including a resident return visa) issued by the Government of Australia as persons to whom a transit visa waiver applies, where Australia is their final destination.

This is valid from 11:59pm 19 March 2020 until 19 June 2020, unless cancelled earlier.



N2.10 General rules for transit visas

See also *Immigration Act 2009 s 86(1), 89(1)*

See also *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 reg, 15, 17*

N2.10.1 People who must be refused a transit visa: novel coronavirus (COVID-19) outbreak

From 11.59pm 19 March 2020 until 11.59pm 31 March 2020, a transit visa will not be granted unless an immigration officer is satisfied that exceptional circumstances, in particular humanitarian circumstances, warrant the grant of a transit visa.

N2.10.2 General rules

- a. Subject to N2.10.1, transit visas may be granted to applicants who:
 - i. apply in the prescribed manner (see N3.10.1) for a transit visa; and
 - ii. have stated a genuine intention to be in New Zealand only for the purpose of reaching a further destination; and
 - iii. will be confined to a transit area during the whole of their stay in New Zealand; and
 - iv. will not be in New Zealand longer than 24 hours.
- b. Holders of transit visas are not entitled to apply for entry permission or any class or type of visa while in New Zealand during the transit period.

N2.10.3 Currency of transit visa

See also *Immigration Act 2009 s 88*

A transit visa is current for the period or until the date specified in it. The transit visa may be valid for any number of journeys to New Zealand in that period or until that date.

N2.10.5 Cancellation of transit visa

See also *Immigration Act 2009 ss 66, 90*

- a. If there is sufficient reason, the Minister or an immigration officer may cancel a transit visa at any time.
- b. If a transit visa is cancelled based on (a) above; and
 - i. the person is outside New Zealand, the Minister or an immigration officer must notify the person in writing;
 - ii. the person has arrived in New Zealand, the person is liable for turnaround.

N2.10.10 Expiry of transit period

See also *Immigration Act 2009 s 91*

- a. Where the holder of a transit visa is still in New Zealand on the expiry of the transit period, an immigration officer may by his or her absolute discretion:
 - i. extend the period for which the person may remain in New Zealand as a transit visa holder; or
 - ii. grant the person a visa and entry permission.

N2.10.15 Restrictions on the grant of transit visas to certain groups as designated by the United Nations Security Council

See also *United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 reg 13; United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017 reg 47; United Nations (Iran-Joint Comprehensive Plan of Action) Regulations 2016 reg 32; United Nations Sanctions (Lebanon) Regulations 2008 reg 17; United Nations Sanctions (Democratic Republic of the Congo) Regulations 2004 reg 12D; United Nations Sanctions (Sudan) Regulations 2004 reg 13D; United Nations Sanctions (Somalia) Regulations 2018 reg 20, United Nations Sanctions (Eritrea) Regulations 2010 reg 13; United Nations Sanctions (Libya) Regulations 2018 reg 23; United Nations Sanctions (Mali) Regulations 2018 reg 4; United Nations Sanctions (Guinea-Bissau) Regulations 2012 reg 4; United Nations Sanctions (Central African Republic) Regulations 2014 reg 13; United Nations Sanctions (Yemen) Regulations 2014 reg 4; United Nations Sanctions (South Sudan) Regulations 2015 reg 4.*

- a. In accordance with United Nations sanctions, no person who is a designated individual or specified entity may enter New Zealand or transit through New Zealand, meaning that no such person may be granted a visa. This restriction is in place for the following people:
 - i. designated individuals from the Democratic People's Republic of Korea (DPRK), and:
 - o their immediate family members; and
 - o an individual (whether or not a DPRK national) acting on the behalf or under the direction of a designated individual; and
 - o an individual (whether or not a DPRK national) assisting in the evasion or violation of the measures set out in the UN resolutions listed in section 3 of the United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017

- ii. designated individuals and specified entities from Al-Qaida and Taliban
 - iii. designated individuals from Iran
 - iv. designated individuals from Lebanon
 - v. designated individuals from the Democratic Republic of Congo
 - vi. designated individuals from Sudan
 - vii. designated individuals from Somalia
 - viii. designated individuals from Eritrea
 - ix. designated individuals from Libya
 - x. designated individuals from Mali
 - xi. designated individuals from Guinea-Bissau
 - xii. designated individuals from Central African Republic
 - xiii. designated individuals from Yemen
 - xiv. designated individuals from South Sudan.
- b. Immigration officers must contact the Ministry of Foreign Affairs and Trade when processing any immigration application from a person to whom (a) above applies.
- c. A visa may only be granted to a person to whom (a) above applies on the advice of the Secretary of Foreign Affairs and Trade.
-

Note: For the purposes of these instructions, a designated individual and a specified entity is someone who is named on a list of such persons held by INZ and updated from time to time.

Proactively Released

TRANSIT VISA INSTRUCTIONS

MINISTERIAL CERTIFICATE

I certify, in accordance with section 22 of the Immigration Act 2009, that the amendments contained in Appendix 2 of the submission dated 19 March 2020 are part of Transit visa instructions on and after 11:59pm 19 March 2020.

Hon Iain Lees-Galloway
Minister of Immigration

(day)

(month)

(year)

Proactively Released

Proactively Released

Immigration Act 2009

Special direction – Suspend the waiver of the requirement to hold transit visa for travel to New Zealand

Pursuant to section 86(4)(b) of the Immigration Act 2009, I suspend the waiver of the requirement to hold a transit visa before travelling to and being in New Zealand as a transit passenger, as specified in regulation 16 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, except for Schedule 1(2) – Citizens of Australia and people who hold a current permanent residence visa (including a resident return visa) issued by the Government of Australia, where Australia is their final destination.

Pursuant to section 86(4)(a) of the Immigration Act 2009, I classify the immediate family members (spouses, minor dependants and legal guardians) of Australian citizens and holders of a current permanent residence visa (including a resident return visa) issued by the Government of Australia as persons to whom a transit visa waiver applies, where Australia is their final destination.

This special direction comes into force at 11:59pm on the 19th day of March 2020. This special direction expires on 19 June 2020, unless cancelled earlier.

Dated this 19th day of March 2020
Hon IAIN LEES-GALLOWAY, Minister of Immigration

Hon Iain Lees-Galloway
Minister of Immigration