



BRIEFING

Special direction to allow transit through New Zealand for citizens and residents of Chile

Date:	11 April 2020	Priority:	Urgent
Security classification:	In Confidence	Tracking number:	2973 19-20

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Sign the special direction	11 April 2020

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

The following departments/agencies have been consulted
Ministry of Foreign Affairs and Trade

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments



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Purpose

This briefing provides further information and a proposed special direction regarding transit through New Zealand by citizens and residents of Chile, following the conclusion of a reciprocal agreement between New Zealand and Chile to allow the transiting of citizens and residents through the respective countries.

Recommended action

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

- a **Note** that the Ministry of Foreign Affairs and Trade has concluded an arrangement with Chile allowing its citizens and residents to transit New Zealand (and vice versa)
Noted
- b **Note** that on 10 April 2020, Ministers with Power to Act agreed to enact the arrangement with Chile
Noted
- c **Agree** to classify the individuals described in the attached special direction in Appendix 1 as persons to whom a transit visa waiver applies by signing the attached special direction

Agree / Disagree

- d **Note** that as further Government to Government arrangements are concluded, officials will provide further special directions for your consideration

Noted



Stephen Dunstan
General Manager, Enablement
Immigration New Zealand, MBIE

11 / April / 2020

Hon Iain Lees-Galloway
Minister of Immigration

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Background

1. People transiting New Zealand must normally hold a transit visa or transit ETA. Transit passengers can only travel through an international airport, must stay in the transit area of the airport or on board the aircraft, and may not be in New Zealand for a transit period exceeding 24 hours unless the time is extended by an immigration officer. They have no right to apply for a visa or entry permission on arrival.
2. On 19 March 2020, you issued a special direction which suspended the transit visa waiver regime. This had the effect of preventing any transit through New Zealand, implementing Cabinet decisions to that effect. These measures were taken to support the Government response to COVID-19.
3. On 25 March 2020, Ministers with Power to Act on COVID-19 agreed that there be an exemption to the closure of the borders to incoming transit passengers in the case where passengers departing from New Zealand are disembarking at an overseas port where there is a Government to Government arrangement that those passengers will be accepted as part of repatriation.
4. On 6 April 2020, Cabinet noted the 25 March 2020 agreement referred to in paragraph 3 above and strengthened the requirements by agreeing [CAB-20 MIN-0156] that transit through New Zealand should continue to be allowed where there is a Government to Government agreement¹ to support the repatriation of stranded people, where the following conditions are met:
 - a. passengers remain airside and do not exceed 10 hours in transit
 - b. health requirements have been met
 - c. there is a formally documented Government to Government undertaking that all passengers will either be accepted at the port of disembarkation and/or allowed to transit that port in order to travel onwards to a third country.
5. On 6 April 2020, MFAT concluded a reciprocal transit arrangement with Chile which allows its citizens and foreign nationals who are ordinarily resident and their immediate family travelling with them (partners, spouses, dependent children under the age of 24 and legal guardians) to transit New Zealand to Chile.
6. The transit arrangement did not meet all of the conditions agreed by Cabinet on 6 April. As such MFAT completed a briefing 'New Zealand – Chile Transit Arrangement and exception for third-country nationals coming from Rarotonga' to seek agreement from Ministers with Power to Act to enact the transit arrangement as previously concluded.
7. We understand that on 10 April 2020 Ministers with Power to Act agreed to enact the current terms of the transit arrangement with Chile.

Implementation

8. To implement the transit arrangement with Chile it is proposed that you issue a special direction under section 86(4)(a) of the Immigration Act 2009 (the Act) which classifies persons outlined in the transit arrangement as persons to whom a transit visa waiver applies. This means that they will not require a transit visa or NZeTA to travel to and be in New Zealand as a transit passenger.

¹ Diplomatic protocols require that the word arrangement rather than agreement is used.

9. In accordance with section 86(5) the special direction:
 - a. must be published in the *Gazette* and notified in writing through diplomatic channels to the countries concerned; and
 - b. is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives.
10. In accordance with section 86(6) of the Act, the proposed special direction may not be effectively continued in force by the making of a further special direction to the same or similar effect. However, this does not prevent similar special directions being made for other groups of people if other arrangements are concluded.
11. Details of the transit agreement will be published on Immigration New Zealand's website and MFAT will advise Chile through diplomatic channels.

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Appendix 1 – Special direction

Immigration Act 2009

Special direction – Waiver of the requirement for a transit visa to travel to and be in New Zealand as a transit passenger

Pursuant to section 86(4)(a) of the Immigration Act 2009, by special direction, the following persons are classified as persons to whom a transit visa waiver applies. Any person who is to travel to and be in New Zealand as a transit passenger on y, and who is:

1. a citizen of, or a foreign national ordinarily resident in, Chile; and
2. their immediate family (partners, spouses, dependent children under the age of 24 and legal guardians), travelling with the citizen of, or foreign national ordinarily resident in, Chile, and
3. whose immediate or ultimate destination after transiting through New Zealand is Chile.

This special direction expires on 19 June 2020, unless cancelled earlier.

Dated this 11th day of April 2020
Hon IAIN LEES-GALLOWAY, Minister of Immigration

Hon Iain Lees-Galloway
Minister of Immigration