



Cabinet

Minute of Decision

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COVID-19 Border Restrictions Exceptions for Essential Workers and Others

Portfolios Economic Development / Immigration

On 8 June 2020, Cabinet:

Current border restrictions and exceptions

- 1 **noted** that the current categorisation for travel restrictions, as agreed by Cabinet on 19 March 2020 [CAB-20-MIN-0122], effectively closes New Zealand's borders to all countries and requires all arrivals to isolate or quarantine for 14 days:

Category	Coming from, or have been through, in 14 days prior to travel to New Zealand
Category 1A: Cannot travel to New Zealand	All countries
Category 1B: Can travel to New Zealand but must isolate for 14 days	People to whom Category 1A does not apply, except air and marine crew
Category 2: Can travel to New Zealand and must isolate for 14 days if unwell	None.

- 2 **noted** that the Category 1A restrictions will continue not to apply as follows:
- 2.1 New Zealand citizens and residence class visa holders¹ (including the Realm);
 - 2.2 the partner, legal guardian or any dependent children travelling with a New Zealand citizen or residence class visa holder;
 - 2.3 Australian citizens and permanent residence class visa holders ordinarily resident in New Zealand;
 - 2.4 people subject to regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, which includes air and some marine crew;
- 3 3.1 **noted** that the current requirement relating to family members travelling together to New Zealand (paragraph 2.2 above) has created some logistical difficulties for separated families;

¹ This exemption from these restrictions will not apply to a person whose residence class visa was granted offshore and the person is arriving in New Zealand for the first time.

3.2 **agreed** that the restriction referred to in paragraph 2.2 above be modified to cover the partners, dependent children and legal guardians of New Zealand citizens and residents who:

3.1.1 are travelling with their partner, parent or guardian; or

3.1.2 are ordinarily resident in New Zealand; or

3.1.3 have a visa based on their relationship to their New Zealand citizen or resident partner or parent;

4 **noted** that exceptions under the following exemption categories, which can be sought in relation to Category 1A on a case-by-case basis, will continue unchanged [CAB-20-MIN-0122]:

4.1 humanitarian reasons;

4.2 essential health workers;

4.3 citizens of Samoa and Tonga for essential travel to New Zealand;

4.4 partners or dependents of a temporary work or student visa holder, and who normally live in New Zealand;

4.5 any other essential workers identified by the group of Ministers with Power to Act;

Essential workers

5 **noted** that on 21 April 2020, the COVID-19 Ministerial Group agreed to delegate further decision making on exceptions to border restrictions for essential workers to the Minister for Economic Development and the relevant portfolio Minister, and agreed that requests for exceptions for classes of workers continue to be considered by the COVID-19 Ministerial Group;

6 **agreed** that an 'other essential worker' is someone who:

6.1 if the employer needs them short-term (less than six months):

6.1.1 the person has unique experience and technical or specialist skills that are not obtainable in New Zealand; or

6.1.2 the work must be significant in terms of a major infrastructure project, or event of national or regional importance, or government-approved programme, or in support of a government-to-government agreement, or have significant wider benefit to the national or regional economy; and

6.1.3 the role must be time critical (eg if the person does not come to New Zealand, the project, work or event will cease or be severely compromised, or significant costs will be incurred);

6.2 if the employer needs them long-term (more than six months), as well as meeting one of the criteria in paragraph 6.1 above:

6.2.1 earns twice the median salary (as an indicator of high skills); or

- 6.2.2 has a role that is essential for the completion or continuation of science programmes under a government-funded or partially government-funded contract, including research and development exchanges and partnerships; or
- 6.2.3 is undertaking a role that is essential for the delivery or execution of a government-approved event, or programme that is of major significance to New Zealand;

- 7 **agreed** that an application for an ‘other essential worker’ may also request approval for the worker’s partner and dependent children;
- 8 **agreed** that Immigration New Zealand, instead of Ministers, will decide exceptions under the ‘other essential worker’ category according to the criteria outlined in paragraphs 6 and 7 above;
- 9 **noted** that Immigration Instructions will provide that senior immigration officials will be guided by approved lists (for example, of programmes or events), and may rely on guidance from relevant portfolio agencies for other cases;
- 10 **agreed** that the costs of managed isolation or quarantine for exceptions under the ‘other essential worker’ category are to be met by the employer or sponsoring agency, or the individual;
- 11 **noted** that the Minister of Immigration and primary industry Ministers are considering how best to manage a range of issues relating to requests for border exceptions for primary industries that may not meet the proposed criteria, and will report back to Cabinet if they consider it necessary;
- 12 **noted** further work is being undertaken by officials on enabling people who are ordinarily resident in New Zealand to return to New Zealand;

Diplomatic and consular staff

- 13 **agreed** that the Category 1A restrictions will continue not to apply to diplomats accredited to New Zealand and currently resident in New Zealand, and be extended to also include:
- 13.1 new diplomatic and consular personnel filling established positions at a foreign mission or consular post in New Zealand;
- 13.2 such other diplomatic and consular personnel authorised by the Minister of Foreign Affairs or his delegate on a case by case basis, s 6(c)
- 14 **directed** officials to:
- 14.1 submit to the Ministers of Foreign Affairs and Health (or their delegates), for their approval by 12 June 2020, in consultation with the Prime Minister, the isolation and any other COVID-19 health requirements that diplomatic and consular personnel allowed to enter New Zealand will be asked to fulfil;
- 14.2 ensure that these requirements are consistent with New Zealand’s international obligations and s 6(c)

- 15 **noted** that for the purpose of paragraphs 13 and 14 above, diplomatic and consular personnel are defined as persons eligible to hold a New Zealand diplomatic, consular or official visa, including recognised family members;

Arrivals at the maritime border

- 16 **agreed** to expand the exception categories that can be sought in relation to Category 1A, on a case-by-case basis, to cover people arriving via the maritime border, where there is a compelling need for the vessel to travel to New Zealand, namely:
- 16.1 delivery of vessel to a business (including yachts and other vessels for refit and repair);
 - 16.2 emergency and humanitarian situations;
 - 16.3 crew changes;
 - 16.4 discharge of catch;
 - 16.5 supply and support of ongoing operations, or resupply associated with any of those activities;

- 17 s9(2)(f)(iv)
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Implementation

- 18 **noted** that the current Expression of Interest (EOI) process involves the manual processing of exceptions requests without a robust automated ICT solution for recording requests, and is not sustainable in its current form;
- 19 **noted** that:
- 19.1 officials have started working on a potential ICT solution that would allow for online EOIs which sync to Immigration New Zealand's systems, reliable recording of details and decisions, and the collection of a fee;
 - 19.2 this could be implemented four to six weeks after Cabinet's decisions relating to the paper under CAB-20-SUB-0268;
- 20 **noted** that small changes to the exceptions criteria, including clarifying family entry and diplomatic exemptions, can be implemented earlier by way of an amendment to Immigration Instructions;
- 21 **agreed** that the Minister for Economic Development and the relevant portfolio Minister may grant exceptions to the temporary border restrictions for 'essential workers' until Immigration New Zealand is able to consider applications;

Cost recovery from businesses and sponsoring organisations

- 22 **noted** that the costs incurred by Immigration New Zealand for processing exceptions to border restrictions are currently unfunded;

- 23 **agreed** to establish a fee for the EoI stage of processing an exception request, in the range of:
- 23.1 \$250 to \$440 for employers who request exceptions for essential workers (or organisations or agencies that sponsor requests);
- 23.2 \$30 to \$50 for individual applicants under all other established and future critical purpose categories;
- 24 **invited** the Minister of Immigration to confirm the exact amount of the fees within the indicated ranges when seeking Cabinet approval to introduce regulations to give effect to the fees;
- 25 **noted** that consistent with New Zealand's international obligations and established practice, this fee would not apply in the case of diplomats and consular personnel, or to members of groups entering New Zealand pursuant to bilateral agreements obliging the government to facilitate their entry (e.g. personnel of National Antarctic Programmes);
- 26 **noted** that, the Minister of Immigration will revoke the Special Direction currently in place waiving visa and variation of conditions fees;
- 27 **noted** that the Minister of Immigration, through the certification of Immigration Instructions, will provide further detail and definitions as required to operationalise these changes;
- 28 **invited** the Minister of Immigration to give effect to these decisions through certifying Immigration Instructions and issuing drafting instructions to the Parliamentary Counsel Office to establish the EoI fee.

Michael Webster
Secretary of the Cabinet