



BRIEFING

Immigration New Zealand Operational Manual: Amendments Requiring Ministerial Certification to implement the New Zealand Government response to the novel coronavirus outbreak 2019-nCoV

Date:	2 February 2020	Priority:	Urgent
Security classification:	In Confidence	Tracking number:	N/A

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Agree to the recommendations	2 February 2020

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Jason Austin	Team Leader, Operational Policy, Enablement	s 9(2)(a)	N/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☐ Withdrawn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

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Purpose

This paper seeks that you agree to and certify proposed changes to border entry instructions. The instructions contribute to the strengthening of the New Zealand border, as agreed by Cabinet in response to the novel coronavirus outbreak. 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.

A special direction for those travelling on the New Zealand Government-chartered flight from Wuhan is also provided for your agreement.

Recommended action

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

- a **Note** that the Border Entry instructions in Appendix 1 have been initialled by the General Manager, Enablement

Noted

- b **Agree** to the proposed changes to Border Entry instructions by signing the associated Ministerial Certificate attached at the end of Appendix 1

Agree / Disagree

- c **Note** that a chartered flight is anticipated to depart for New Zealand in the coming days, and that passengers who are not existing New Zealand visa holders will be granted a visa on arrival

Noted

- d **Agree** to the waiver of visa and electronic travel authority requirements for those aboard the New Zealand Government-chartered flight by signing the special direction in Appendix 2

Agree / Disagree



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

2 / 2 / 20
..... / /

Hon Iain Lees-Galloway
Minister of Immigration

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Background

1. Following Cabinet agreement, the Prime Minister has announced a range of short term changes to New Zealand's border settings in response to risks arising from the novel coronavirus (2019-nCoV) outbreak. These changes include amendments to Border Entry instructions which regulate entry permission.
2. The response outlined in this briefing is similar to the response of the Australian Border Force, who have announced that they will deny entry to anyone who has left mainland China from 1 February, with the exception of Australian citizens, permanent residents, and immediate family members of Australian citizens and permanent residents.

Amendment to Border Entry instructions

Proposed new immigration instructions

3. The proposed immigration instructions contained in Appendix 1 state that entry permission must be denied to people who have been in, or transited through, mainland China between 3 February and midnight 16 February 2020. People excluded from this provision include:
 - 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. People covered by regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (the Regulations). This includes a number of groups such as cruise ship passengers and marine and aircraft crew who hold an ETA, members of a visiting force, and members of a scientific expedition under the auspices of a Contracting Party to the Antarctic Treaty.
4. The proposed immigration instructions are applicable until 11:59 pm on 16 February 2020. This time-limited approach is consistent with the developing nature of the outbreak and the international response. Further immigration instructions will be provided for certification if this response needs to be extended beyond 16 February.
5. Cruise ship passengers and marine and aircraft crew cannot be refused entry permission by operation of the Regulations, and those persons are deemed to hold a visa and have been granted entry permission on arrival in New Zealand. That said, it is possible to suspend their visa waiver status at any point between embarkation onto the craft and arrival in New Zealand. If a carrier informs INZ that a person boarding a craft has or suspected of having the novel coronavirus (2019-nCoV), it is possible to suspend their visa waiver status at any point up until their arrival in New Zealand which means the person has no legal basis to apply for entry permission or a visa on arrival. It is also possible to revoke their entry permission and cancel their visa on arrival.

Other responses to implement the temporary border control measure

6. A number of other mechanisms will also contribute to the response:
 - a. All travellers (including those exempt from the border closure) arriving out of mainland China will be asked to self-isolate for a period of 14 days from the time they leave mainland China.

- b. Immigration officers will exercise specific powers under section 97 of the Act to deny the boarding of any travellers subject to the temporary border control measures onto any aircraft before it leaves for New Zealand.
- c. For those travellers who have been refused entry permission but are required to stay in New Zealand (such as those who may be subject to quarantine or are unable to return to mainland China as commercial services are unable to take them) will be subject to turnaround under section 115 of the Act. This allows an immigration officer to let the traveller into New Zealand, subject to residence and reporting requirements (such as residing at a specific place, under section 315 of the Act).

Special direction for those on New Zealand Government-chartered flight from Wuhan

7. The New Zealand Government has chartered a flight to assist the departure of people from Wuhan province in China, in response to the novel coronavirus outbreak. The flight is scheduled to depart China in the coming days.
8. Although most passengers will be New Zealand citizens or resident visa holders, some non-visa holders, including those from the Pacific, may also be on board. To assist the departure and arrival of those who are travelling on the flight, a special direction is required to waive the requirement to hold a visa or electronic travel authority permitting travel to New Zealand. A visa will be granted on arrival for those who do not already have a valid New Zealand visa.
9. The special direction is limited to those approved for the flight by the Ministry of Foreign Affairs and Trade. It is also limited to those travelling on the New Zealand Government-chartered flight departing before 10 February. This date allows for some uncertainty regarding the exact departure date of the flight.

Communication

10. 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.
11. Specific communications will be sent to key stakeholders and the Immigration New Zealand website will be updated to reflect the new policy.

Appendices

12. The proposed changes are set out in the appendices as follows:
 - Appendix 1 contains proposed amended Border Entry instructions.
 - Appendix 2 contains a special direction to exempt passengers on the New Zealand Government-chartered flight from Wuhan from the requirement to hold a visa permitting travel to New Zealand.
13. Proposed additions to immigration and operational instructions are highlighted for ease of reference. Highlighting will not appear in the published versions of the amended Operational Manual.

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Y4.50 People who must be refused entry permission: novel coronavirus outbreak 2019-nCoV

See also *Immigration Act 2009 ss 22 and 107*.

- 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 has been present in, or transited through, mainland China between 11:59 pm on 2 February 2020 and 11:59 pm on 16 February 2020.
- b. The following persons must be granted entry permission:
 - Those listed in Y3.10(a)
 - The partner, legal guardian or any dependent children who are travelling with a New Zealand Citizen or a person listed at Y3.10(a)
 - 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.
- 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).

Note: For the avoidance of doubt, New Zealand citizens and people subject to regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 are not subject to this instruction.

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**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 2 February 2020 are part of Border Entry instructions on and after 2 February 2020.

Hon Iain Lees-Galloway
Minister of Immigration

(day)

(month)

(year)

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Appendix 2 - Proposed special direction

Immigration Act 2009

Special direction – Waiver of the Requirement for a Visa or an Electronic Travel Authority Permitting Travel to New Zealand

Pursuant to section 69(2)(a) of the Act, I waive the requirement to hold a visa permitting travel to New Zealand for individuals who:

- a. are travelling to New Zealand before 10 February 2020 as part of the assisted departure flight from China chartered by the New Zealand Government, and
- b. are approved to travel on the flight by the New Zealand Ministry of Foreign Affairs and Trade, and
- c. either require a visa to travel to New Zealand, and they do not hold a visa, or
- d. require an Electronic Travel Authority to travel to New Zealand, and they do not hold an Electronic Travel Authority.

This special direction expires on 11 February 2020, unless cancelled earlier.

Dated this day of February 2020
Hon IAIN LEES-GALLOWAY, Minister of Immigration

Hon Iain Lees-Galloway
Minister of Immigration