

In Confidence

Ministers with Powers to Act

From Ministry of Foreign Affairs and Trade

22/03/2020

COVID-19: Border Closure: Seeking Approval for Repatriation Transits through Auckland for Third Country Nationals

Proposal

1. This paper seeks agreement of Ministers with Powers to Act to open a time-limited window for transit from the Pacific through Auckland for the purpose of enabling the repatriation of third country nationals to their home country.

Relation to Government Priorities

2. This proposal supports the Government's response to Covid-19.

Background

3. Following Cabinet Decision (CAB-20-Min-0122), effective 19 March 2020, all foreign nationals who do not meet the travel exemptions and were not boarded before 2359 NZT will not be allowed to enter New Zealand. All exempt travellers will still be required to self-isolate for 14 days from the time of arrival in New Zealand. This effectively stopped all transits of passengers via New Zealand, other than to Australia for Australian citizens and permanent residents.

Problem Definition and Proposal

Problem definition

4. Subsequent to this decision, the issue of third country nationals who were expected to transit Auckland International Airport to depart to their home countries has become increasingly complex and pressing. We have received numerous requests for the transit issue to be revisited and from partner governments – including Pacific Island countries – and airlines (especially Air NZ and LATAM). The matter was the subject of a demarche by European diplomatic missions on 21 March. It is also of high interest to the Australian government which is seeking to facilitate return home of third country nationals including some via Auckland. All are requesting that consideration be given to allow airside transits via Auckland.

5. New Zealand is asking a number of governments to carry a risk through allowing transits of our nationals through their airports, but under current settings may be accused of not offering similar facilities to their nationals seeking to repatriate.

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6. In the Pacific for example, we estimate there are approximately 700 foreign nationals looking to utilise Air NZ services to return to their home countries. We are also aware that Air New Zealand are due to carry s6(b), s9(2)(b)(ii) US citizens currently in Australia to the United States via Auckland over the next week and s6(b), s9(2)(b)(ii) Canadian citizens from Australia to Canada.

7. Currently, Realm Countries and Polynesia represent a low health risk for COVID-2019 infection/transmission. s6(a)

it is preferable that foreign nationals do not pose an additional burden on these countries and are allowed to leave via transit in New Zealand while commercial options remain available.

8. s6(a)

Proposal

9. Following an intervention from Prime Minister Morrison, the Australian Government announced a 72-hour transit window for third country nationals in New Zealand to fly via Australian airports to their home countries. This is an airside-only exemption which commenced at 1200 AEST on 21 March 2020. With this decision, New Zealand's approach to transits is out of step with Australia.

10. Officials therefore propose that Ministers with Power to Act agree to open the following windows to enable nationals in those regions to return to their home country:.

- (i) a window up to 1500 Tuesday 23 March (NZT) to enable transit via New Zealand to Australia for onward connection:
 - a. from the Pacific (approximately 300 individuals)
 - b. from South America (approximately 400 individuals);
- (ii) a window of up to one week (Sunday 29 March) to enable transit via New Zealand:
 - c. from Australia to the United States for US nationals s9(2)(b)(ii)
 - and to Canada for Canadian nationals s9(2)(b)(ii)
 - d. from the Pacific for other nationals not transiting Australia to their home countries s9(2)(b)(ii)

11. This window set in 10(i) above matches that set by Australia. This change would allow for airside transits only at Auckland International Airport to enable repatriation – i.e. not allowing entry into New Zealand. MFAT is seeking similar support from a number of countries for the movement of New Zealand citizens and residents to return home and based on reciprocity we should attempt to be forward-leaning in terms of supporting these requests.

12. Allowing transits for repatriation purposes may have the added benefit of keeping open fragile air-links (Los Angeles/Pacific Islands) for a few more days, allowing New Zealanders to utilise commercial options to return home. It also is in New Zealand's interests to keep open air linkages to reduce number of foreign nationals remaining in New Zealand.

13. We would therefore propose that airside transits be permitted via Auckland airport to facilitate repatriation for the periods specific in Paragraph 10. There would be no ability for transit passengers to enter New Zealand and travel to another domestic airport for onward travel.

Risks

14. To allow transits for repatriation purposes does carry risk. Paramount among these is the risk that passengers on board are denied boarding once in Auckland to the next leg (either way) and thus stranded here. Any transiting passengers subsequently stranded in New Zealand would add to existing pressures on New Zealand's systems to support self-isolation. With closing air-links this may present a long-term risk. To further mitigate this risk MFAT is seeking assurances from receiving governments that they will accept their nationals and dependents for entry on arrival in home countries. Should this not be forthcoming then transit will not be approved.

15. From a health perspective, the concern would be the potential spread of COVID-19 in Auckland airport. This risk can be mitigated by applying requirements for transit prior to boarding from the country of departure. The following requirements are from the Ministry of Health for passengers wanting to transit any New Zealand international airport:

- no COVID-19 test result that is positive or for which the results have not been received in the previous 14 days
- no close contact with a suspected or confirmed case in the previous 14 days
- no symptoms, especially no fever (temperature check undertaken) in the previous 14 days
- an assurance that airline will permit boarding for the full journey
- an assurance received via MFAT that the destination country will permit arrival
- an assurance that they can meet any entry requirements of destination country (including measures required in transit, such as temperature checking)
- The airline does not allow unwell passengers on board.

Financial Implications

16. No immediate implications arising from the proposal but financial implications attached to risks.

Legislative Implications

17. If Ministers with Power to Act agree to this time-limited change in policy, the Minister of Immigration will sign a Special Direction allowing the transit of these individuals over the specified time period.

Impact Analysis

Regulatory Impact Analysis

18. Not applicable

Climate implications of Policy Assessment

19. Not applicable

Population Implications

20. Not applicable

Human Rights

21. Not applicable

Consultation

22. MFAT has consulted with MBIE, Immigration New Zealand and the Ministry of Health in the preparation of this paper.

Communications

23. If approved, MFAT would immediately advise Australia, third country diplomatic missions and our Post network. MFAT would also issue a public media release.

24. The Ministry of Transport would advise relevant airlines, whilst Immigration New Zealand would confirm the provisions on their website.

Recommendations

The Minister of Foreign Affairs and the Minister of Immigration recommend that Ministers with Powers to Act:

1. Note that under current border settings third country nationals are unable to transit New Zealand airports to be repatriated to home countries. This is currently inconsistent with Australian measures.

2. Note that this presents foreign policy risks and potentially negative implications for New Zealand citizens seeking to transit foreign airports.

3. Note that in the Pacific, including the Realm, there are up to s9(2)(b)(ii) third country nationals seeking to be repatriated via Auckland.

4. Agree to open a time-limited window of

- (i) up to 1500 Tuesday 23 March (NZT) to enable transit via New Zealand to Australia for onward connection:
 - a. from the Pacific
 - b. to and from South America
- (ii) up to one week (Sunday 29 March) to enable transit via New Zealand:
 - c. from Australia to the United States for US and Canadian nationals
 - d. from the Pacific for other nationals not transiting Australia to their home countries

5. Note that transit of passengers will only be allowed if the following conditions met in order to manage the health risks to New Zealand:

- no COVID-19 test result that is positive or for which the results have not been received in the previous 14 days
- no close contact with a suspected or confirmed case in the previous 14 days
- no symptoms, especially no fever (temperature check undertaken) in the previous 14 days
- an assurance that airlines will permit boarding for the full journey
- an assurance received via MFAT that the destination country will permit arrival
- an assurance that they can meet any entry requirements of destination country (including measures required in transit, such as temperature checking)
- The airline does not allow unwell passengers on board

6. Invite the Minister of Immigration to sign a Special Direction to give effect to the decision under recommendation 4.

7. Note that officials will revert to Ministers to seek further guidance on transits should demand continue.

Proactively Released

s9(2)(a)

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