



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:	17 March 2020	Priority:	Urgent
Security classification:	Sensitive	Tracking number:	BR 2750 19-20

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Agree to the recommendations	17 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
Kathy Tait	Team Leader, 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☐ Withdrawn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

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Purpose

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

Recommended action

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

- a **Note** that the proposed immigration instructions add a condition to temporary entry class visas¹ that a visa holder must comply with any instruction from a Medical Officer of Health which relates to a notifiable or quarantinable disease
- Noted*
- b **Note** that the proposed changes to immigration instructions go into effect from midnight tonight and will apply to all visas granted after this time, including people arriving as visa-waiver travellers
- Noted*
- c **Note** that further advice will be provided on extending the condition to resident visa holders, including Australians.
- Noted*
- d **Note** that the Temporary Entry instruction in Appendix 1 has been initialled by the General Manager, Enablement
- Noted*

¹ Temporary entry class visas include any temporary visa such as visitor, student and work visas as well as limited visas and interim visas.

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

Agree / Disagree

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

17 / 3 / 20
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Hon Iain Lees-Galloway
Minister of Immigration

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Background

1. On 16 March 2020, Cabinet agreed that a condition be added to temporary entry class visas which requires all visa holders to comply with instructions from a Medical Officer of Health which relate to a notifiable or quarantinable disease [CAB-20-MIN-0112]. The new visa condition is not specifically a condition on the visa holder to self-isolate.
2. While the new visa condition does not specifically require a person to self-isolate, people arriving in New Zealand are being asked to self-isolate. If they choose to not self-isolate, a Medical Officer of Health may then require the person to isolate or quarantine themselves under the Health Act 1956. If they refuse they will be in breach of the new visa condition.
3. The new visa condition will apply from 18 March 2020 and will be imposed on all new temporary entry class visas granted and include people who arrive in New Zealand as visa-waiver travellers.
4. While the new visa condition will apply from 18 March, existing visas holders in New Zealand may still be made liable for deportation under section 157 of the Act using the process as referenced below (paragraph 9 onwards).

Extending the conditions to resident visa applicants, including Australians

5. Officials are considering the implications of adding a condition to resident visas requiring the holder to comply with instructions from a Medical Officer of Health which relate to a notifiable or quarantinable disease, and will report back to the Minister of Immigration within the next few days.
6. Residents with conditions on their visas cannot apply for citizenship and may not sponsor some family members. Officials note that new conditions for resident visas also apply only to resident visas applied for after the new condition was added to immigration instructions. Additionally, the Act does not allow a condition to be added to a permanent resident visa.
7. Australian citizens and permanent residents of Australia generally apply for and are granted a resident visa on arrival in New Zealand, regardless of their intended length of stay.
8. Australian citizens and permanent residents of Australia who are not normally resident in New Zealand may have more difficulty in meeting a self-isolation requirement than those who do have a home here.

Deportation liability if a person breaches the new visa condition

9. A temporary entry class visa holder may be made liable for deportation for cause under section 157 of the Act, if the Minister or an immigration officer determines that there is sufficient reason to deport them.
10. A sufficient reason includes, but is not limited to a breach of the person's visa conditions, in this case not complying with an instruction from a Medical Officer of Health.
11. If a person is made liable for deportation under section 157, the person then has 14 days from the date of the service of a deportation liability notice to give good reason why any deportation should not proceed.
12. They do not have the right to the 14-day period to give good reason if they are an excluded person, under section 15 or 16 of the Act.

13. A person also has the right to appeal within 28 days of the service of a deportation liability notice, on humanitarian grounds only, to the Immigration and Protection Tribunal against deportation.
14. The advice to be provided to the Minister of Immigration will also address the deportation liability of residents.

Arrest and detention

15. A person who is made liable for deportation (as described above) may be arrested and detained under Part 9 of the Act (see section 309) for the purpose of:
 - detaining the person pending the making of a deportation order, including during the completion of any appeal brought by the person against his or her liability for deportation; or
 - deporting the person following the making of a deportation order by placing him or her on the first available craft leaving New Zealand (section 310(b) refers).
16. A constable may, if requested by an immigration officer, arrest and detain a person who may be arrested and detained under Part 9 for up to 96 hours without warrant (section 313 refers).
17. If further detention is necessary to achieve the purpose of detention, then a warrant of commitment for up to 28 days must be obtained from the District Court.

Amendments to Temporary Entry instructions

Proposed new immigration instructions

18. The following proposed changes to immigration instructions make it a condition for the holder of any temporary entry class visa to comply with any instruction from a Medical Officer of Health which relates to a notifiable or quarantinable disease.
19. 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

20. For visa required nationals, updates are being made to their eVisa and visa approval letter to advise of the new condition.
21. For visa-waiver travellers, they will be advised by Customs on arrival in New Zealand of the condition and information will be made available in the airports.
22. Updates will be made to the Immigration New Zealand website.
23. Changes have been made to the Arrival Card which will be approved today.
24. 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.
25. Specific communications will be sent to key stakeholders and the Immigration New Zealand website will be updated to reflect the updated policy.

Appendix 1 - Proposed amendments to Temporary Entry instructions effective on and after 18 March 2020

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E3.15 Conditions to which holders of temporary entry class visas are subject

See also Immigration Act 2009 ss 48, 49, 52, 77

- a. The holder of a temporary entry class visa may:
- i. visit New Zealand consistent with the conditions of the visa, for any lawful purpose; or
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- Examples:** Holidaying, sightseeing, family and social visits, amateur sport, business consultations, undergoing medical treatment.
- ii. work in New Zealand, or within the exclusive economic zone of New Zealand, only if the conditions of the visa allow, and only consistently with those conditions; or
 - iii. study in New Zealand, only if the conditions of the visa allow, and only consistently with those conditions; or
 - iv. undertake the express purpose for which they were approved to travel to New Zealand, and only consistently with the express purpose conditions, if granted a limited visa.
- b. An interim visa holder may work, study or visit only as authorised by the terms or conditions of their interim visa.
- c. Subject to any special direction to the contrary, every visitor, work and interim and limited visa that is not an interim or limited visa granted for the purpose of study, is subject to the following conditions:
- i. at all times during the currency of the visa to be in New Zealand, the holder has sufficient funds available for the holder's maintenance in New Zealand, or a current approved sponsorship undertaking (see E6); and
 - ii. at all times during the currency of the visa to be in New Zealand, the holder has the means to travel to a country to which the holder has a right of entry, such means to be in the form of:
 - o a fully paid travel ticket to any such country; or
 - o sufficient funds held in New Zealand by or on behalf of or in trust for the holder to purchase any such ticket; or
 - o a current approved sponsorship (see E6).
- d. The holder of any temporary entry class visa is subject to the condition that they comply with any instruction from a Medical Officer of Health which relates to a notifiable or quarantinable disease.
- e. Despite E7.10(a)(ii), (d) above applies to all visas granted (including in an immigration control area) on and after 18 March 2020.

Note: A notifiable or quarantinable disease is any disease referred to in Part 1 and Part 3, respectively, of Schedule 1 of the Health Act 1956.

**TEMPORARY 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 17 March 2020 are part of Temporary Entry instructions on and after 18 March 2020.

Hon Iain Lees-Galloway
Minister of Immigration

(day)

(month)

(year)

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