

COVID-19 Guidance Note – Immigration measures in response to the COVID-19 pandemic

Last reviewed: 26 May 2020

This note considers the changes implemented by the New Zealand government to Immigration rules and legislation in response to the current COVID-19 pandemic.

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Travel to New Zealand

The New Zealand border is currently closed to almost all travellers to help stop the spread of COVID-19. The travel ban applies to all arrivals into New Zealand whether by air or sea. This includes superyachts arriving in New Zealand.

New Zealand citizens and residents returning to New Zealand are exempt from the travel ban and may travel to New Zealand without formal exemption. For all other travellers there are a [limited number of exceptions](#).

Limited exceptions to the travel ban

The following categories of individuals are advised to seek approval from Immigration New Zealand before travelling to New Zealand, as they may be approved for entry under the limited exceptions provisions:

- Partners, dependent children (aged 24 years and under) and legal guardians of New Zealand citizens and residents who are travelling with their New Zealand family member to New Zealand.
- Australian citizens and permanent residents who normally live in New Zealand.
- People with one of the following critical purposes in New Zealand:
 - Essential health workers.
 - Other essential workers who are specifically agreed to by the New Zealand Government.
 - Samoan and Tongan citizens making essential travel.
 - New Zealand-based partners and dependent children (aged 19 years and under) of a work or student visa holder who is in New Zealand.
 - Critical humanitarian travel.

Further information on the limited exceptions categories and how to apply for approval under one of these categories can be found [here](#).

Isolation measures

Isolation measures are currently in place for all passengers arriving in New Zealand. This includes New Zealand citizens and residents.

Any passenger arriving in New Zealand who is assessed as being at high risk of COVID-19 will be placed in a quarantine facility. All other arrivals will be placed in managed isolation facilities.

These measures will remain in place until the Director-General of Health is satisfied that the risk of imported cases from overseas has reduced significantly.

Impact of the Epidemic Management Notice on Visas

The New Zealand Government's [Epidemic Management Notice](#) relating to immigration matters took effect on Thursday 2 April 2020. [Section 78 of the Immigration Act 2009](#) covers what happens to the visas of temporary visa holders which expire during the period that starts on commencement of the Epidemic Management Notice (in this case 2 April 2020) and before the date that is 14 days after the Epidemic Management Notice expiry date. Under the [Epidemic Preparedness Act 2006](#) the Epidemic Management Notice will expire, unless renewed, on the earliest of the day that is three months after the Epidemic Management Notice's commencement, or as notified by the Prime Minister.

References:

[“Epidemic Preparedness \(Epidemic Management—COVID-19\) Notice 2020” \(24 March 2020\) New Zealand Gazette No 2020-go1369](#)
[Immigration Act 2009, s78](#)
[Epidemic Preparedness Act 2006](#)

Visas duration extension

Holders of a work, student, visitor, limited or interim visa with an expiry date of 2 April to 9 July 2020 inclusive who are in New Zealand on 2 April 2020 will have their visas automatically extended to 25 September 2020. Immigration New Zealand will e-mail confirmation of extensions to all visa holders.

Anyone holding a work, student, visitor, limited or interim visa with an expiry date of 1 April 2020 or earlier, and who has not applied for another visa, is now unlawfully in New Zealand. These individuals have two options:

1. Leave the country immediately if possible; or
2. Make a request for a special temporary or resident visa under [s 61 of the Immigration Act 2009](#).

References:

[Immigration Act 2009, s61](#)
[“Epidemic Preparedness \(Epidemic Management—COVID-19\) Notice 2020” \(24 March 2020\) New Zealand Gazette No 2020-go1369](#)

See also:

The Immigration New Zealand [website](#).

Short-term variation of conditions for essential services

The Government has relaxed visa conditions for a short period to allow temporary migrant workers and international students to assist with essential services during the COVID-19 response. This will help essential business to keep operating at Alert Level 3 and 2.

New Zealand employers who were operating during Alert Level 4 as an essential business can apply for a short-term change in work conditions on behalf of their employees. This short-term Variation of

Conditions process applies while New Zealand is at Alert Level 3 and for six weeks after that. Currently this will end on 24 June 2020.

Following the end of the six-week period, on 24 June 2020, the original visa conditions will apply. This means that employees will need to return to their substantive role, employer, hours of work, and/or study. Temporary visa holders wanting to change employers, jobs or regions permanently will need to apply for a new visa or Variation of Conditions.

Work visa holders with employer-specific work visas already employed in essential services can be redeployed to do other roles within their current workplace. They can also perform their current role in a different workplace in the same region to help essential businesses keep operating while New Zealand remains at Alert Level 3 and for six weeks after that, until 24 June 2020. Visa conditions for international students, who are already employed in an essential services role, can be varied to enable them to work longer hours for their current employer while New Zealand remains at Alert Level 3 and for six weeks after that, ending on 24 June 2020. Students who are employed in an essential services role and wish to work more than 20 hours must still meet their study requirements and should discuss their plans with their education provider.

Students who have been working in essential health care roles since 3 April are exempt from the need to apply for a variation until 3 July 2020.

The policy also applies to work and student visa holders working in supermarkets. Changes to immigration instructions to relax visa restrictions for these two groups were made in March 2020 for a period of 30 days up until 25 April 2020 to help manage labour supply issues. These changes have now ended, but employers can apply online for a short-term Variation of Conditions if needed.

This short-term Variation of Conditions policy does not apply to workers who hold a limited visa under the Recognised Seasonal Employer (RSE) scheme.

There are no fees or levies payable for a short-term Variation of Conditions under this special category.

These changes came into effect on Thursday 16 April 2020. Employers or an immigration adviser acting on their behalf must submit a request using the [request for short term variations to visa conditions of workers in essential services form](#).

Healthcare Sector

The Government has also changed temporary work visa conditions to allow some lower skilled temporary healthcare workers that are currently in New Zealand to work here for an additional 12 months before they are subject to the stand down period. This will allow those health workers with lower skilled Essential Skills visas who have worked in New Zealand for three years an additional 12 months before they must leave New Zealand.

Student visa holders that were employed in an essential health worker role on 3 April 2020, will be able to work more than 20 hours for the period 3 April 2020 to 3 July 2020 in order to support the public health response to COVID-19. This includes aged residential care and applies to interim visa holders who immediately prior held a student visa.

Visa processing information

With the move to Alert level 2, Immigration New Zealand expects visa processing capacity to increase significantly as more staff can access immigration offices.

Immigration New Zealand has resumed the processing of residence class visa applications from Thursday 14 May 2020 and will prioritise both residence class and temporary entry class visa applications.

Residence applications

Applications where the applicant is in New Zealand will be prioritised over applications where the applicant is overseas.

Temporary visa applications

Priority will be given to applications for critical workers to support the Government response to COVID-19 and for other temporary visa applicants that are in New Zealand.

For Essential Skills work visa applications, Immigration instructions require Immigration New Zealand to consider a range of factors, including the need to help New Zealand businesses provide their services, while protecting the employment opportunities for New Zealanders.

For an Essential Skills work visa to be granted, Immigration New Zealand must be satisfied that at the time the application is assessed there are no New Zealanders available to do the work being offered.

Applicants are strongly encouraged to apply online for eligible visas. Immigration New Zealand advise that paper applications will take longer to process because of the reduced capacity of staff in onshore offices. There will also be an increase in the time and effort required in processing some visa application types due to additional requests for information or comment being required.

Visa programmes on hold

The Government has suspended:

- Selections for Expressions of Interest (EOI) in the Skilled Migrant Category (SMC) and the Parent Category;
- Ballot registrations for the Samoan Quota (SQ) and Pacific Access Category (PAC); and
- 19 capped Working Holiday schemes due to open in the next 6 months.

This is a temporary measure. Immigration New Zealand will continue to reassess and determine when these programmes can resume.

Potential issues with interim immigration measures

On 7 April 2020 the New Zealand Law Society wrote to Immigration New Zealand seeking clarification on a number of immigration issues which could present access to justice in the current situation.

A copy of the letter providing further detail on these issues can be found [here](#).

Immigration New Zealand provided a response to Mark Williams, the New Zealand Law Society Immigration and Refugee Law Convenor on 17 April 2020, a copy of which can be found [here](#).

Further assistance with immigration issues

For further assistance with immigration issues you may wish to consult a specialist Immigration lawyer or a Licensed Immigration Adviser. Further details on where to locate a specialist practitioner can be found [here](#).

Immigration (COVID-19 Response) Act 2020

[The Immigration \(COVID-19 Response\) Act 2020](#) received Royal Assent on 15 May 2020 and came into force on 16 May 2020.

The Act temporarily amends immigration legislation to support the quick and efficient management of visa changes during COVID-19.

The Act has been introduced to enable the Government to respond more flexibly to the current situation, for example by making changes to large numbers of visas at the same time. The Immigration Act 2009 was originally drafted to allow for individual applications to be managed on an individual basis and, therefore, provides limited powers to deal with applicants as a class or group of individuals.

The Act introduces eight time-limited powers:

- to impose, vary or cancel conditions for classes of temporary entry class visa holders;
- to vary or cancel conditions for classes of resident class visa holders;
- to extend the expiry dates of visas for classes of people;
- to grant visas to individuals and classes of people in the absence of an application;
- to waive any regulatory requirements for certain classes of application;
- to waive the requirement to obtain a transit visa;
- to suspend the ability to make applications for visas or submit Expressions of Interest in applying for visas by classes of people; and
- to revoke the entry permission of people who arrive either on private aircraft or marine vessels (to align them with people who arrive on commercial flights, who can already be refused entry).

Safeguards

Since the powers are far-reaching and could impact a large number of people, they are subject to a range of safeguards.

Many of the powers need to be exercised by special direction, and the ability to suspend applications requires an Order in Council.

The majority of powers can only be used to manage the effects or consequences of:

- measures taken under the Immigration Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or
- any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.

Some powers can only be exercised by the Minister of Immigration. All the powers are also time-limited and will be automatically repealed one year after entering into force.