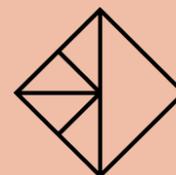


# Main covid-19 policy announcements as at 1.30pm, 9 April 2020



Many of you will be aware that there have been numerous policy changes/announcements since the country has gone into lockdown, so many of course it is hard to keep up with the various changes. We thought it would therefore be useful to draft an article providing a snapshot of the main policy announcements/changes made, and our thoughts around those so readers are across where things are at leading into the Easter weekend.

We will start with the most recent announcements (yesterday) and work our way backwards on the basis that you may well be across some of the more historical changes.

## Deferral of Selections from the Skilled Migrant Category Pool

No invitations will be made to invite applicants to apply for residence under the Skilled Migrant Category (SMC) until further notice. This is a sensible change given Immigration New Zealand (INZ) cannot process these applications at present, it is difficult securing the required documents to apply, together with general employment uncertainty (some people in the Pool will lose their jobs and may no longer qualify).

Note however INZ have emphasised this is a deferral only. It is clear that there is no intention to cancel the policy, just place it on hold for now as other applications take priority – those in New Zealand can extend their work visas and those offshore are locked out at present anyway (refer below).

## Deferral of Selections from the Parent Category Pool

The scheduled first draw from the new Parent Category Pool that was scheduled to take place in late May has been deferred too. Similar reasons provided by INZ to support the SMC selection deferral.

The issue to be aware of here is the potential for sponsoring children to lose employment and therefore possibly encounter financial sponsorship issues. The length of the deferral here will be critical (depending on each particular case). Those who do not have legal representation should engage with a lawyer when an announcement to make a selection is announced as the policy is very time sensitive on the financial sponsorship requirement. In some instances the difference between meeting the policy and not may well be a matter of a few days.



**Mark Williams**

Partner

D +64 3 353 1063

M +64 21 222 2363

E [mark.williams@laneneave.co.nz](mailto:mark.williams@laneneave.co.nz)



**Rachael Mason**

Partner

D +64 3 372 6323

M +64 21 1306 540

E [rachael.mason@laneneave.co.nz](mailto:rachael.mason@laneneave.co.nz)



**Daniel Kruger**

Partner

D +64 9 300 6262

M +64 27 517 4828

E [daniel.kruger@laneneave.co.nz](mailto:daniel.kruger@laneneave.co.nz)



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## **Suspension of Working Holiday Schemes, Samoan Quota and Pacific Access Category**

These policies have also been placed on hold. While the length of the suspension is uncertain the Working Holiday Schemes that were due to open in the next six months have been closed, so it appears it will be at least until the end of the year until these categories are assessed again.

## **Recognised Seasonal Employer Scheme (Employee Movements)**

A welcome announcement here for those operating in the horticulture/viticulture industries that were facing financial ruin if no migrant labour could be supplied to assist with operational requirements.

Employees undertaking work for the horticultural/viticultural industry have been identified by the Ministry for Primary Industries as essential workers associated with food production. This includes picking and packaging horticultural/viticultural produce for local and export markets.

Many of these businesses rely heavily on Recognised Seasonal Employer (RSE) contracted workers as well as tourists here on visitor visas who could be legally employed (on a seasonal basis) to assist. The latter have more or less disappeared or are no longer able to engage in employment activity that requires extensive movement.

RSE employee movement (for example, between crops) is being permitted as long as that is strictly controlled by RSE Employers in conjunction with INZ and the Labour Inspectorate.

## **Transiting and Departing from New Zealand**

New Zealand is entering into agreements with a range of countries to make it easier for citizens of those countries to return home. At present this is limited to citizens and permanent residents of New Zealand and Australia being able to transit through New Zealand or Australia on the way to another country. The real message here is what they are looking to achieve for non-New Zealand/Australian citizens/residents over the next few weeks (probably aimed to be in place before the 12-week employment subsidy concludes), being the ability for people to leave New Zealand.

There is a positive and negative side to this. On the positive side they are looking to assist those who have been “trapped” here to return home (such as tourists), but also facilitate the return of non New Zealand or Australian citizens/residents who have lost employment. Those individuals are already being directed to their Consulates/Embassies for assistance as they are not entitled to financial assistance from the New Zealand Government, so they need a way to depart the country.



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## **Industry Specific Variation of Visa Conditions – Healthcare and Supermarkets**

There have been two (main) variation announcements at this stage. We expect more to follow soon.

In the healthcare sector some lower skilled temporary healthcare workers currently in New Zealand will be able to work for an additional 12 months before they are subject to their 12 month mandatory offshore stand down (i.e. work a total of four years in New Zealand not three years). A full article on this change will follow from us next week.

In addition, student visa holders working in the healthcare sector as at 03 April will be able to work more than the 20 hours normally permitted from 03 April to 03 July.

For supermarkets, up until 25 April work visa holders working for supermarkets are not restricted to the employment activity (their role) specified on their work visa, and student visa holders who work in supermarkets (part time – maximum of 20 hours per week) that were employed as at 23 March are permitted to exceed this 20-hour per week maximum limit.

## **Main Border Closure**

This remains in place and will not change for some time to come.

Entry permission is being refused to residence class visa holders (where the visa was granted offshore and the person has not travelled to New Zealand on that visa previously) and also those travellers who hold temporary entry class visas (including visa-waiver travellers).

There are a number of exemptions and our understanding of some of the discretionary decision making on some of them is growing.

### **1. General Exemption**

The general exemptions are:

- New Zealand citizens;
- New Zealand resident and permanent resident visa holders;
- The partner, dependent children (aged 24 years and under) or legal guardian travelling with a New Zealand citizen, resident or permanent resident visa holder;
- Australian citizens and permanent resident visa holders whose primary place of residence is New Zealand; and
- Aircraft crew and marine crew

Note there are some important requirements that need to be met in terms of the entry of partners and their dependent children. Not only must they be



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accompanied by their New Zealand citizen/resident partner (travelling with them), INZ also needs to be satisfied that the partner is a “bona fide” partner, meaning that:

- The partner already holds a partnership based visa; or
- They have a track record of coming into New Zealand with that New Zealand citizen/resident partner; or
- There is other information (good evidence held) which is compelling and convinces INZ that the partnership is a genuine partnership.

We can assist by advising those partners relying on the third point above. Those partners will be scrutinised heavily pre clearance for travel.

## **2. Critical Humanitarian Travel Exemption**

INZ have discretion to only make humanitarian exemptions in extremely limited cases. The cases are defined as truly exceptional on the basis that the cases will be isolated.

This position is echoed by the number of requests and approvals. There have been a total of 2,406 requests for exemptions (all categories) and only 369 have been approvals to date.

We have a number of humanitarian exemption requests in process that are yet to be determined. We recently secured an approval for a mother who:

- Held an Essential Skills Work visa and departed New Zealand for an intend very short term timeframe;
- Was outside New Zealand when the lockdown was announced; and
- She left her partner in New Zealand, and importantly, a very young baby that was being breast fed where the time outside New Zealand started to create care challenges for her partner and also meaning her young child was not receiving the desired nutritional needs and direct care required by her.

This request was approved in less than 48 hours of applying and provides a useful example of the threshold required, together with the other example INZ have released, being an 18 month old baby’s grandmother who was given an exemption to travel so that she could travel with the baby (a New Zealand citizen) to enable the baby to be reunited with its mother and father in New Zealand.

It is clear that only the most compelling humanitarian circumstances will be considered in granting an exemption. Our team is able to assist in advising on whether a particular request may be granted.



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### 3. Essential Health Worker Exemption

There has been a bit of confusion about this exemption because the lists provided by INZ and the Ministry of Health (MOH) differ. However, it is apparent that from a visa perspective only essential health workers are exempt, not non-clinical essential roles that the MOH has listed (that relate to domestic staff).

An essential health worker, with appropriate qualifications and registration (where applicable), is a current or new (start date March to June 2020) employee who holds a key position working in:

- a District Health Board;
- the New Zealand Blood Service;
- hospice or palliative care;
- a primary care practice such as urgent care or a medical or healthcare centre; or
- aged residential care (respite or continuing care facility).

The eligible occupations are:

- medical doctors
- nurses
- midwives
- psychologists
- physiotherapists
- psychiatrists
- technical and support staff working in:
  - Theatre
  - Laboratory
  - Radiology
  - Cardiology Blood service
  - Nuclear medicine
  - Oncology
  - Haematology
  - Pathology
  - Hyperbaric medicine
  - Mortuary
  - Research Staff
- Support staff working in:
  - Aged care (including rest homes)
  - Palliative/hospice care
  - Mental health
  - Child health
  - Forensic care



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#### **4. Other Essential Workers (defined by New Zealand Government)**

##### **Exemption**

The unknown category that is provided as a catch-all and decided on a case by case basis. A “COVID-19 All of Government Officials Group” will be identifying and considering exceptions for essential workers. This will be limited to workers in occupations which are critical to delivering the response to COVID-19 and/or maintaining critical infrastructure. Exceptions will be decided by the Government following advice from officials.

#### **5. Citizens of Samoa and Tonga (for essential travel to New Zealand)**

##### **Exemption**

Determined on a case by case basis, but the reasoning required is at a very high threshold, being essential travel.

#### **6. Partners and dependants of temporary work or student visa holders who normally live in New Zealand where the temporary work or student visa holder is currently in New Zealand Exemption**

This category is fairly simple. Essentially this is to avoid the unnecessary long-term separation of partners.

In order to qualify the applicant:

- needs to hold the relevant visa first (based on partnership grounds tied with their partner); and
- their partner is currently in New Zealand.

#### **Looking forward**

It is apparent to us that INZ seem to have the direct COVID-19 visa response under control, both in terms of developing policies and now processing exemption requests associated with the limited number of visas being processed.

We expect therefore that over the next week or two there will be further policy announcements on some of the practical issues associated with the lockdown such as reduced hours/remuneration (in the form of visa variations). The difficulty here is the balance, and that is why it is taking so long for these to be decided.

Although it may be harsh, some temporary work visa holders are unfortunately going to understand why those visas are called “temporary”. That’s because they are. While there will be a number of migrants facing employment issues and with that an expectation from them and their employers for some dispensations and assistance, the willingness and the ability of the Government to do so will be coloured by a growing realisation of a significant increase in unemployment, where saving a role for a migrant



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will be considered less important than creating a new employment opportunity for an unemployed Kiwi. We expect there may be some leniency shown for short term measures, where migrant workers are quickly able to be restored to their former positions. However, for those migrants that lose their jobs and/or for those where the temporary lockdown changes to their roles are not able to be restored to previous settings very quickly, it is likely that they will be expected to depart New Zealand if they cannot demonstrate they meet the relevant immigration policy. It is a hard balance to find, but, the Government operates a New Zealanders first policy, so we expect to see that approach.

For further information or assistance with visa and immigration matters please contact us on + 64 3 379 3720 or email [liveinnewzealand@laneneave.co.nz](mailto:liveinnewzealand@laneneave.co.nz)

