



## BRIEFING

### Draft Cabinet legislation paper: Regulation changes to enable the IVL and ETA

<b>Date:</b>	10 May 2019	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2518 18-19

Action sought		
	Action sought	Deadline
Hon Kelvin Davis <b>Minister of Tourism</b>	<b>Consult</b> with your Ministerial colleagues on the attached Cabinet Legislation Paper and draft Amendment Regulations	17 May 2019
Hon Iain Lees-Galloway <b>Minister of Immigration</b>	<b>Consult</b> with your Ministerial colleagues on the attached Cabinet Legislation Paper and draft Amendment Regulations	17 May 2019

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Danielle McKenzie	Acting Manager, Tourism Policy	04 896 5113	Section 9(2)(a)	✓ Tourism
Siân Roguski	Manager, Immigration Policy	04 901 3855		✓ Immigration
Charlotte Woolhouse	Senior Policy Advisor, Tourism Policy	04 896 5867		
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The following departments/agencies have been consulted
New Zealand Customs Service, Treasury, Department of Conservation, Inland Revenue, Ministry of Transport, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Ministry for Primary Industries, New Zealand Defence Force, and Ministry for Pacific Peoples. The Department of the Prime Minister and Cabinet was informed.

**Minister's office to complete:**

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

**Comments**



## BRIEFING

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#### Purpose

This paper provides you with a draft Cabinet Legislation paper for the *Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019 (the Amendment Regulations)*. It follows a briefing received on 3 May with the draft Cabinet Legislation paper for the *Immigration (International Visitor Conservation and Tourism Levy) Amendment Bill (the Bill)* [MBIE briefing 3143 18-19].

We recommend you consult with your Ministerial colleagues on the draft Cabinet Legislation paper and regulations between now and 17 May.

#### Recommended action

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

- a **Note** that in September 2018 Cabinet agreed to introduce an international visitor conservation and tourism levy (IVL) [DEV-18-MIN-0194]  

*Noted*

*Noted*
- b **Note** that the Minister of Tourism has approved some minor policy decisions in relation to the IVL, and that now all applicants for temporary entry class visas will be liable to pay the IVL (a change from visitor visas or short term entry visas) [MBIE briefing 2654 18-19]  

*Noted*

*Noted*
- c **Note** that officials assessed each temporary entry class visa against Cabinet's initial decisions about exemptions, and that the relevant visas are exempted in the Amendment Regulations  

*Noted*

*Noted*
- d **Note** that in September 2018 Cabinet agreed to introduce an electronic travel authority (ETA), and in February 2019 agreed to further detailed policy decision [DEV-18-MIN-0191 and DEV-19-MIN-0023]  

*Noted*

*Noted*
- e **Note** the Minister of Immigration has taken a number of minor policy decisions in relation to the ETA arising out of the IT build and drafting process, and that the attached draft Cabinet paper asks Cabinet to note these decisions  

*Noted*

*Noted*

f **Forward** this paper including the draft Cabinet paper at Annex One and draft Amendment Regulations at Annex Two to your colleagues for consultation, requesting feedback by Friday 17 May

*Forward / Not forward*

*Forward / Not forward*

g **Discuss** any questions you may have about this paper with officials

*Discuss / Not discuss*

*Discuss / Not discuss*



Danielle McKenzie  
**Acting Manager, Tourism Policy**  
Labour, Science and Enterprise, MBIE

..... / ..... / .....



Siân Roguski  
**Manager, Immigration Policy**  
Labour, Science and Enterprise, MBIE

10 / 05 / 2019

Hon Kelvin Davis  
**Minister of Tourism**

..... / ..... / .....



Hon Iain Lees-Galloway  
**Minister Immigration**

13 / 05 / 19

## Background

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### *Cabinet approved the introduction of the ETA and IVL in September 2018*

1. In September 2018 Cabinet agreed to the collection mechanism for the International Visitor Conservation and Tourism Levy (IVL), and invited the Minister of Tourism to issue drafting instructions to Parliamentary Counsel Office (PCO) [DEV-18-MIN-0194]. Cabinet also authorised him to approve changes consistent with the policy proposals and on any issues that arose during the drafting process. In April 2019 the Minister of Tourism agreed to a number of minor changes to enable the drafting of the Bill and regulations [MBIE briefing 2654 18-19].
2. At the same time Cabinet also agreed to the introduction of the electronic travel authority (ETA) [DEV-18-MIN-0191] and in February 2019 to further detailed policy decisions on the ETA and invited the Minister of Immigration to issue drafting instructions to PCO [DEV-19-MIN-0023]. Cabinet also authorised him to approve changes consistent with the policy proposals and on any issues that arose during the drafting process. The Minister of Immigration has subsequently agreed to a number of minor changes to enable the ETA [MBIE briefing 3278 18-19].

### *Legislation and regulations are required to deliver the IVL and ETA*

3. On 3 May MBIE provided you with the draft Bill to enable the collection of the IVL and automated decision making for the ETA [MBIE briefings 3143 18-19]. The Bill is due for passage on 30 May 2019 under urgency.
4. This paper provides the draft Amendment Regulations to give effect to the IVL and ETA. The Amendment Regulations are required to be in place by 1 July 2019.

## About the draft Amendment Regulations

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5. To introduce both the IVL and the ETA the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (the principal Regulations)* need to be amended. In order to avoid amending the newly-created ETA regulations with the IVL regulations (or vice versa), MBIE and PCO have agreed to combine the regulations into one package, the *Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019 (the Amendment Regulations)*.
6. Some parts of the Amendment Regulations are subject to the passage of the *Immigration (International Visitor Conservation and Tourism Levy) Amendment Bill (the Bill)*.

### *International Visitor Conservation and Tourism Levy*

7. The Bill adds a new section to the *Immigration Act (the Act)* that allows for regulations to be made to charge the IVL; and that these regulations may specify who is required to pay the IVL (and who is exempt), set the levy amount, and provide for the manner of collection of the levy.
8. The draft Amendment Regulations impose an IVL of \$35 on people who apply for a temporary entry class visa to travel to New Zealand, or who request a traveller ETA. The Amendment Regulations specify the IVL is payable at the same time as a visa fee or ETA fee.
9. When Cabinet agreed to the introduction of the IVL it also agreed to exempt certain people from the requirement to pay the IVL. These exemptions are provided for in the draft Amendment Regulations.

10. The Minister of Tourism has approved some minor and technical changes that have arisen during drafting [MBIE briefing 2654 18-19]. This includes a change to the original proposal to charge visitors to New Zealand staying for 12 months or less as it cannot be operationalised. Instead all applicants for a temporary entry class visa are liable, with some visas exempted where they are either generally granted for more than 12 months, and/or are for work purposes (such as the essential skills visa).
11. These visas are listed as exempt in the Amendment Regulations. We have grouped where possible, but sometimes need to list individual visa names.
12. To avoid duplication within the principal Regulations we have cross-referenced to existing provisions as much as possible. While this is best practice it has meant the Amendment Regulations are detailed and complex. The draft LEG paper includes an annexed table that explains how each of the exemptions Cabinet agreed to is reflected in the draft Amendment Regulations.

#### *Electronic Travel Authority*

13. The ETA will be a condition of the visa waiver programme (and some deemed visas). The ETA is being introduced to enable:
  - a. Faster and better facilitation for an increasing number of travellers:
    - i. a better experience (including reducing the chance of being prevented from boarding at check in or turned around at the border); and
    - ii. an increasing ability to interact with authorities digitally and receive personalised and modern services
  - b. More secure borders to:
    - i. provide assurance to New Zealand about the purposes and characteristics of intending foreign travellers; and
    - ii. close gaps in New Zealand border settings relating to the marine cruise pathway.
14. People who are required to hold an ETA before travel will be able to request an ETA through a website or an application on a mobile device.
15. The Amendment Regulations give effect to the ETA by imposing a condition on a waiver of the requirement to hold a visa permitting travel to New Zealand (ie to hold an ETA before travel). The Amendment Regulations insert a new Part (Part 4A Electronic Travel Authorities (ETA)) into the principal Regulations. This new part sets out the requirements to hold an ETA, ETA requests, issuance or refusal of ETA, and validity of ETAs.
16. The other amendments related to the ETA are:
  - a. Additional persons are categorised as people to whom a visa waiver to travel to New Zealand applies
  - b. Amendments to the categories of persons who are deemed to hold a temporary entry class visa and who are deemed to have been granted entry permission
  - c. That certain requirements in relation to an application for a temporary entry class visa do not apply to cruise passengers
  - d. That a citizen or permanent resident of Australia may apply for a residence class visa at a port (in addition to at an immigration control area).

### *Additional amendments to implement previous immigration policy decisions*

17. In addition to enabling the IVL and ETA, the Amendment Regulations also give effect to previous Cabinet decisions, specifically:
  - a. A change to a regulation governing the handling of cash by Immigration New Zealand
  - b. A decision arising from the 2018 Immigration Fee and Levy Review, which was inadvertently omitted from a previous amendment to the principal Regulations.

## **Next steps**

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18. We recommend you forward this paper, including the draft Cabinet Legislation paper and draft Amendment Regulations to your Ministerial colleagues, and request their feedback by Friday 17 May.
19. The table below outlines the next steps and timing to ensure all necessary changes to enable the ETA and IVL are in place by 1 July:

<b>Date</b>	<b>Action</b>
10 May-17 May	Consultation on the draft Amendment Regulations and LEG paper with your Ministerial colleagues
20 May-22 May	MBIE and PCO make any final changes to the Amendment Regulations
23 May	Draft regulations and LEG paper lodged with Cabinet office
28 May	Cabinet LEG committee considers Amendment Regulations
4 June	Cabinet considers draft Amendment Regulations
4 June	Governor General signs Amendment Regulations (and Bill) at Executive Council
1 July	Bill and regulations come into force and collection of the IVL starts
1 October	ETA required for visa-waiver travel

## **Annexes**

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Annex One: Draft Cabinet legislation paper

Annex Two: Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019

## **Annex One: Draft Cabinet legislation paper**

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In Confidence

Office of the Minister of Tourism  
Office of the Minister of Immigration  
Chair, Cabinet Legislation Committee

## IMMIGRATION (VISA, ENTRY PERMISSION, AND RELATED MATTERS) AMENDMENT REGULATIONS 2019

### Proposal

- 1 We propose that the Cabinet authorise the submission of the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019 to the Executive Council. These **Amendment Regulations** will enable the collection of the International Visitor Conservation and Tourism Levy (IVL) and introduce the Electronic Travel Authority (ETA) for visa-waiver travel to New Zealand.
- 2 The Amendment Regulations are in part enabled by legislation (*the Immigration (International Visitor Conservation and Tourism Levy) Amendment Bill 2019*), which is expected to be passed under urgency on 30 May 2019.

### Policy

- 3 The Amendment Regulations give effect to Cabinet policy decisions to introduce the IVL [DEV-18-Min-0194] and the ETA [DEV-18-MIN-0191 and DEV-19-MIN-0023], subject to two proposed changes discussed below. They will amend the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (**the principal Regulations**).
- 4 Some parts of the Amendment Regulations require enabling legislation to be passed. This legislation is expected to be passed shortly after the Committee's consideration. We therefore invite Cabinet to approve the submission of the Amendment Regulations to the Executive Council, subject to the passage of the Bill.
- 5 We also recommend Cabinet waive the 28-day rule for the Amendment Regulations, to enable some parts of the regulations to come into force on 1 July 2019. 1 July 2019 has been widely communicated as the commencement date for the ETA and the IVL, and delaying, even if only by one day, would cause confusion.

### *The Amendment Regulations enable collection of the IVL*

- 6 The IVL will ensure international visitors to New Zealand contribute to the infrastructure they use and the environment they enjoy. Recent growth in visitors has put pressure on visitor infrastructure (including on facilities and public conservation lands and waters managed by the Department of Conservation). This visitor infrastructure is necessary to support the tourism experience in New Zealand.
- 7 The Bill adds a new section to the Immigration Act 2009 (**the Act**) that allows for regulations to be made to charge the IVL. It provides that these regulations may



specify who is required to pay the IVL (and who is exempt), set the levy amount, and provide for the manner of collection of the levy.

- 8 The Amendment Regulations impose an IVL of \$35 on people who apply for a temporary entry class visa to travel to New Zealand, or who request a traveller ETA. The Amendment Regulations specify the IVL is payable at the same time as a visa fee or ETA fee.
- 9 When Cabinet agreed to the introduction of the IVL it also agreed to exempt certain people from the requirement to pay the IVL. These exemptions are provided for in the Amendment Regulations.
- 10 To avoid duplication within the principal regulations the Amendment Regulations cross-reference existing provisions as much as possible. A table explaining how each of the exemptions has been provided for in the Amendment Regulations is attached as **Annex One**.
- 11 I, as the Minister of Tourism approved some minor and technical changes that have arisen during drafting. Of those, Cabinet should be aware that the original proposal to charge visitors to New Zealand staying for 12 months or less cannot be operationalised. Instead, I have agreed that all applicants for a temporary entry class visa are liable, with some visas exempted where they are either generally granted for more than 12 months, and/or are for work purposes (such as the essential skills visa).
- 12 Cabinet should also note that the Ministry of Business, Innovation and Employment's (MBIE's) online application systems will automatically assess whether the applicant is required to pay the IVL, and charge or not charge accordingly. Where an applicant is exempt from paying the IVL, either on the basis of the type of visa they are applying for or on the basis of their nationality, the IVL will appear as a zero charge on their invoice.
- 13 Payment of the IVL is required for each eligible visa application and ETA request, meaning that the IVL does not have an independent period of validity. As a result, some people may pay once and travel to New Zealand multiple times, while there are some scenarios where travellers may pay the IVL more than once over a relatively brief period of time. For example:
  - 13.1 a traveller may have a visitor visa or Traveller ETA which is valid for travel for two years, and visit New Zealand twice before the visa or ETA expires;
  - 13.2 a traveller may have requested and been declined a traveller ETA, and subsequently apply for a visitor visa. Both applications will be IVL liable;
  - 13.3 some travellers are generally visa-required, but if they enter New Zealand on a cruise ship they are only required to hold a traveller ETA (which will include paying the IVL). If they subsequently decide to travel to New Zealand by air, they will need to apply for a visitor visa, which will also include the IVL.
- 14 This automated system may also mean that a person with dual nationalities, where one is a nationality that is not required to pay the IVL (Australians and most

Pacific Islanders) and who requests an ETA or applies for a visa using a passport from their other nationality, will pay the IVL even though they are not required to. This is a function of the automated system, and to change it would be an expensive IT build that would only benefit a small number of people. Officials do not consider that it would not be worth pursuing.

*The Amendment Regulations implement the ETA*

- 15 From 1 October 2019 most visa-waiver travellers will have to hold an ETA in order to travel to New Zealand in reliance of that visa waiver.
- 16 The ETA will enable:
  - 16.1 *Faster and better facilitation for an increasing number of travellers over time to meet travellers' and carriers' expectations of:*
    - 16.1.1 a better experience (including reducing the chance of being prevented from boarding at check in or turned around at the border); and
    - 16.1.2 an increasing ability to interact with authorities digitally and receive personalised and modern services.
  - 16.2 *More secure borders to:*
    - 16.2.1 provide assurance to New Zealand about the purposes and characteristics of intending foreign travellers; and
    - 16.2.2 close gaps in New Zealand border settings relating to the marine (cruise) pathway.
- 17 From 1 July 2019 travellers will be able to apply for an ETA, and an ETA will be required from 1 October 2019. Travellers will be able to request an ETA through a website (at a cost of \$12) or an app on a mobile device (at a cost of \$9).
- 18 We note that New Zealand citizens and people who hold a New Zealand visa are outside of the visa waiver and ETA regimes, while Australian citizens will be exempt from the requirement to hold an ETA.
- 19 In September 2018 Cabinet agreed to introduce an ETA [DEV-18-MIN-0191], and agreed:
  - 19.1 the classes of traveller required to hold an ETA before travel;
  - 19.2 the duration of an ETA;
  - 19.3 the information to be collected by an ETA; and
  - 19.4 the information which could be provided to travellers.
- 20 Cabinet also agreed to implementation funding, including a capital injection of \$21.8 million, and consequential changes to operational baselines. Ongoing management of the ETA system will be cost-recovered through the ETA fee.

- 21 The Minister of Immigration approved some changes to the ETA design arising from the IT build and identified during drafting. These decisions are all consistent with the original policy proposals. Those changes are to:
- 21.1 require all requestors to provide details of their booking references (if applicable) and intended dates of travel (if known), instead of classifying this information as optional;
  - 21.2 expand the number of ETA types from two (Traveller and Crew) to three (Traveller, Transit and Crew), noting that Transit ETAs were previously a subset of Traveller ETAs;
  - 21.3 expand the decision that requests for Traveller ETAs must be accompanied by a photograph if the requestor uses a channel that has the technical capacity to enable one to be captured, to cover requests for all ETA types; and
  - 21.4 expand the definition of positioning crew to include individuals who fly into and out of New Zealand and work on cruise ships within New Zealand waters (previously it only included those who flew into New Zealand and left via a cruise ship).
- 22 Cabinet noted that visa-waiver nationality passengers who intended to transit New Zealand and who, upon arrival in the transit area decide they would like to visit New Zealand, would be required to get a Traveller ETA and pay the IVL. Requiring these people to obtain a further ETA is incompatible with the fact that the ETA is required as a condition of a visa waiver *to travel to* New Zealand. In these cases, the person is already in New Zealand. These passengers will therefore be able to enter New Zealand without requesting a further ETA. They will also be able to visit without paying the IVL because the payment of the IVL is tied to the payment of the ETA. Cabinet is asked to note this change. Officials advise that the numbers are likely to be low.
- 23 There is one additional change that requires Cabinet approval, as it falls outside of the Minister of Immigration's authority to make changes. We recommend that Cabinet agree to rescind the decision that Immigration New Zealand (INZ) will be able to require an individual to travel to New Zealand on their primary identity document, but note that INZ must already be satisfied of the requestor's identity in order for the requestor to travel on a document (including in reliance on an ETA).
- 24 This change reflects the legal status quo, as the Ministry of Business, Innovation and Employment does not have legal authority to require a person to not travel to New Zealand on a lawfully issued and valid passport. The formal rescinding is therefore not a policy decision but a confirmation of the legal status quo.
- 25 Cabinet also invited the Minister of Immigration to report back on the case for and level of an urgent fee. Following consideration of the adequacy of the resourcing model for ETA delivery and operation and the incentive to apply immediately before travel which could be generated by an urgent fee, this option will not be progressed at this time.

- 26 The Amendment Regulations give effect to the decisions made to date, as modified by the changes recommended above.
- 27 We note that Cabinet will be asked to approve a further set of regulatory changes to amend the Immigration (Carriers' Information Obligations) Regulations 2010 before the ETA becomes obligatory on 1 October 2019.

*Implement a change to a regulation governing the handling of cash by Immigration New Zealand*

- 28 Regulation 26AAC of the principal Regulations requires cash payments of prescribed fees in certain offices. In February 2019 Cabinet agreed to remove that requirement, but to retain the ability to accept cash in exceptional circumstances by way of special direction by the Minister of Immigration [CAB-19-MIN-0046].

*Implement a decision arising from the 2018 Immigration Fee and Levy Review*

- 29 The Amendment Regulations also give effect to a prior decision by Cabinet to formally exempt applicants for visas under the Victims of Domestic Violence policies from liability to pay the Immigration Levy [CAB-18-MIN-0434]. This change was inadvertently omitted from prior amendment regulations, but is proposed to be included in this change.
- 30 We note that in the meantime exemptions have been made for these visa applicants using the ministerial power of special direction by appropriately delegated Immigration Officers.

**Timing and 28-day rule**

- 31 We recommend that most parts of the Amendment Regulations come into force on 1 July 2019. A waiver of the 28-day rule is therefore sought. This is necessary as the Amendment Regulations cannot be considered by the Executive Council until 4 June, which is 27 days before 1 July.
- 32 1 July 2019 has been widely communicated as the commencement date for the ETA and the IVL, and delaying, even if only by one day, would cause confusion. Officials have consulted widely throughout the development of the ETA and IVL. This has included a period for public comment on the proposals, and liaison with key stakeholder throughout the process. MBIE officials have also worked closely with carriers on implementation. We consider the objectives of the 28-day rule have been met through this consultation.
- 33 We note that it will not be mandatory for visa-waiver travellers to hold an ETA to travel to New Zealand until 1 October 2019, and for technical reasons relating to this, some parts of the Amendment Regulations will not come into effect until 1 October 2019.

**Compliance**

- 34 The Amendment Regulations comply with each of the following:
- 34.1 the principles of the Treaty of Waitangi;

- 34.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 34.3 relevant international standards and obligations. The Ministry of Foreign Affairs and Trade and border agencies were consulted during the policy development, and on the draft Bill and Amendment Regulations;
  - 34.4 the Legislation Design Advisory Committee's Guidelines on Process and Content of Legislation.
- 35 The Amendment Regulations comply with the principles and guidelines set out in the Privacy Act 1993. A Privacy Impact Analysis was completed and noted the ETA project will result in more personal information being collected from, or on behalf of, many travellers to New Zealand. The collection of personal information for the ETA has a lawful foundation and the impacts on personal privacy are justifiable given the MBIE's role in delivering the Immigration Act 2009 and immigration system for New Zealand. MBIE, through INZ, is also the responsible agency for the identity of non-citizens in New Zealand.

#### **Regulations Review Committee**

- 36 There are no anticipated grounds for the Regulations Review Committee to draw the Amendment Regulations to the attention of the House under Standing Order 315.

#### **Certification by Parliamentary Counsel**

- 37 [TBC]

#### **Impact analysis**

- 38 A Regulatory Impact Assessment was prepared to support Cabinet's policy decisions on the IVL in September 2018.
- 39 A Regulatory Impact Assessment was developed to support the initial policy decision to introduce the ETA. A Cost Recovery Impact Statement was developed to support the fees proposed for the ETA.

#### **Publicity**

- 40 MBIE has developed a global marketing and communications strategy to ensure that future visitors to New Zealand understand there has been a change in the compliance regime for New Zealand's border. The strategy targets three audiences:
- 40.1 the travel sector: MBIE is engaging with airlines, cruise operators and tourism bodies (both overseas and in New Zealand), to ensure they have the information and support they need about the ETA to support their business needs and communicate this change to their customers;
  - 40.2 travellers from the 60 impacted countries: the 20 countries that account for 93 percent of visitors will be targeted with paid marketing activity and unpaid activity (including search engine optimisation, and communication from airlines cruise operators and travel providers). The remaining 7 percent will be reached via unpaid activity;

40.3 New Zealanders: targeting friends and relatives of travellers impacted by the change.

41 An IVL communications strategy is being developed. It will focus on how the revenue raised by the IVL is being spent, and targets both those who have paid the IVL and New Zealanders.

42 In addition to this, we intend to publish a joint press release informing the New Zealand public that the Amendment Regulations are now in place.

### **Proactive release**

43 We intend to release this Cabinet paper and all associated briefings following the passage of legislation and the consideration of the Amendment Regulations by Cabinet (alongside the Cabinet paper recommending the Cabinet approve the introduction of the Bill). Any redactions made will be consistent with the Official Information Act 1982.

### **Consultation**

44 The following agencies were consulted on this paper: the New Zealand Customs Service, Treasury, Department of Conservation, Inland Revenue, Ministry of Transport, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Ministry for Primary Industries, New Zealand Defence Force, Ministry for Pacific Peoples, and the Office of the Privacy Commissioner. The Department of the Prime Minister and Cabinet was informed.

45 Public consultation on the IVL, the ETA and on immigration fee and levy changes was held from 15 June to 22 July 2018. 107 submissions were received on the IVL and 19 on the ETA. The majority of the submissions were supportive of the proposal to introduce the IVL and ETA. Further targeted engagement with the travel sector has also been undertaken.

### **Recommendations**

1 We recommend that the Cabinet Legislation Committee:

- 1 **note** that in September 2018 Cabinet agreed to introduce an electronic travel authority (ETA), and in February 2019 agreed to further detailed policy proposals [DEV-18-MIN-0191 and DEV-19-MIN-0023]
- 2 **note** that in September 2018 Cabinet also agreed to introduce an international visitor conservation and tourism levy (IVL) [DEV-18-MIN-0194];
- 3 **note** that Cabinet also agreed to remove the requirement to require cash payments of prescribed fees in certain offices, but to retain the ability to accept cash in exceptional circumstances by way of special direction by the Minister of Immigration [CAB-19-MIN-0046];
- 4 **note** that Cabinet agreed to exempt applicants for visas under the Victims of Domestic Violence policies from liability to pay the Immigration Levy, but that this was inadvertently omitted from prior amendments to regulations [CAB-18-MIN-0434];

- 5 **note** the Minister of Tourism has approved some minor policy decisions in relation to the IVL, and now all applicants for temporary entry class visas will be liable to pay the IVL (a change from visitor visas or short term entry visas);
- 6 **note** the Minister of Immigration has taken a number of minor policy decisions in relation to the ETA arising out of the IT build and drafting process, namely to:
  - 6.1 require all requestors to provide details of their booking references (if applicable) and intended dates of travel (if known);
  - 6.2 expand the number of ETA types from two (Traveller and Crew) to three (Traveller, Transit and Crew);
  - 6.3 expand the decision that requests for Traveller ETAs must be accompanied by a photograph if the requestor uses a channel that has the technical capacity to enable one to be captured, to cover requests for all ETA types; and
  - 6.4 to expand the definition of positioning cruise crew to include individuals who fly into and out of New Zealand and work on cruise ships within New Zealand waters;
- 7 **note** that the ETA fees will apply to requests made in advance of 1 October 2019 (when it becomes mandatory to hold an ETA to travel visa waiver);
- 8 **note** that Cabinet previously noted that visa-waiver nationality passengers who intend to transit New Zealand and who, upon arrival in the transit area decide they would like to visit New Zealand would be required to get a Traveller ETA and pay the IVL;
- 9 **note** that the people referred to in recommendation 8 will instead be able to enter New Zealand without requesting a Traveller ETA or paying the IVL;
- 10 **agree** to rescind the decision that Immigration New Zealand (INZ) will be able to require an individual to travel to New Zealand on their primary identity document noting that INZ must be satisfied of the requestor's identity in order for the requestor to travel on a document (including in reliance on an ETA);
- 11 **note** that on 12 February 2019 [DEV-19-MIN-0023] Cabinet invited the Minister of Immigration to report back on the case for and level of an urgent fee;
- 12 **note** that, following consideration of both the adequacy of the resourcing model for ETA delivery and operation, and the incentive to apply immediately before travel which could be generated by an urgent fee, this option will not be progressed at this time;
- 13 **note** that the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019 will give effect to the decisions referred to in recommendations 1, 2, 3 and 4;

- 14 **authorise** the submission to the Executive Council of the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019, subject to the passage of the Immigration (International Visitor Conservation and Tourism Levy) Amendment Bill;
- 15 **note** that a waiver of the 28-day rule is sought:
  - 15.1 so that most of the Amendment Regulations can come into force on 1 July 2019;
  - 15.2 on the grounds that 1 July has been widely communicated as the commencement date for the ETA and IVL, and delaying, even if only by one day, would cause confusion; and that we consider the objectives of the 28-day rule have been met by that communication;
  - 15.3 and on the grounds that it will not be mandatory for certain visa-waiver travellers to hold an ETA to travel to New Zealand until 1 October 2019;
- 16 **agree** to waive the 28-day rule so that the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019 can come into force on 1 July 2019.

Authorised for lodgement

Hon Kelvin Davis  
**Minister of Tourism**

Hon Iain Lees-Galloway  
**Minister of Immigration**



## Annex One: Map of exemptions from the International Visitor Conservation and Tourism Levy (IVL)

To avoid duplication within the resulting Regulations, the draft Amendment Regulations are heavily cross-referenced. To assist with understanding the regulations, the following table sets out:

- the specifications of the IVL, as agreed by Cabinet [DEV-18-MIN-0194]
- where required, an explanation of how the IVL regulations give effect to that and/or any subsequent minor or technical changes agreed by the Minister during drafting, and
- the clause of the proposed regulations that gives effect to the specification

Ref.	Cabinet-approved specifications	Explanation and Minor or technical amendments during drafting	Clause
1	The IVL to be collected alongside visa and electronic travel authority application fees by Immigration New Zealand	Requirement to pay the IVL is set out in the first of the new regulations, it has also been added to other parts of the existing regulations (these consequential amendments are listed in the schedule)	26AAD Schedule of consequential amendments
2	The IVL is to be paid by: all people requesting an electronic travel authority (visa waiver travellers)	Applications at an immigration control area or a port (as defined in immigration regulations) have been exempted as immigration fees are specifically waived in these instances (refer specification 14 below)	26AAD(1)(b)
3	The IVL is to be paid by: all people applying for visitor visas or short term entry visas (12 months or less)	The system used by Immigration New Zealand (INZ) does not know the intended length of stay for all applicants at the point of application. We have therefore used temporary entry class visas and exemptions to give effect to this specification (exemptions also correlate with specification (6) below)	26AAD(1)(a)
		Specific exemptions for longer term work visas	26AAE(5)(e) (as listed)
		Skilled Migrant Category Job Search (referred to in immigration regulations 26AAB(3))	26AAE(1)(b)(iii)
4	Agree the IVL is to be charged at a rate of \$35 per person	-	26AAD(1)
5	Subject to the legislative process, the IVL should come into effect as soon as possible in the 2019/20 fiscal year, and no later than 1 October 2019	Confirmed for 1 July 2019	Commencement clause

<b>Exemptions for:</b>			
6	Exemptions will be set in order to align the IVL with New Zealand's international interests and obligations, and/or where the Minister is satisfied that the group does not substantially add cost to tourism infrastructure	Dependent partner or child visas have been added, as most of these rely on work visas, (the remainder rely on student visas). As well as supporting families of work visa holders, this exemption works with the INZ system, which does not distinguish between dependent visas based on the parent visa at point of application	26AAE(3) 26AAE(4)
		Children travelling for the purpose of being adopted are exempted	26AAE(3)
		A number of exemptions have been included on the basis that the visas were created as part of trade deals, and are often granted for longer than 12 months	26AAE(5)(e)
		This specification has also guided some of the exemptions not specifically agreed by Cabinet that are noted below	
7	Diplomatic visas	Diplomats and their families are listed in Schedule 5, (regulation 26AAB(1)(b) refers to Schedule 5))	26AAE(1)(b)(ii)
		Guests of Government are also exempted, as they are deemed to hold a visa under Schedule 3 of the immigration regulations, and will not be required to hold an ETA. They are therefore out of scope of the IVL	26AAD(1)
		UN travellers are specifically added	26AAE(2)(b)
		Domestic staff of diplomats have been added (refer specification (6))	26AAE(2)(c)
8	Military visas	Most military personnel are deemed to hold a visa under Schedule 3 of the immigration regulations, and will not be required to hold an ETA. They are therefore out of scope of the IVL	26AAD(1)
		We have added additional clauses to cover those not entering on a military craft	26AAE(2)(e) 26AAE(2)(f)
9	Medical visas	Included medical escort visas (refer specification (6))	26AAE(5)
10	Humanitarian visas	Persons entering on humanitarian grounds are listed in Schedule 5 (regulation 26AAB(1)(b) refers to Schedule 5)) Victims of human trafficking are listed in 26AAB(1)(c)	26AAE(1)(b)iii
11	Transit passengers	Transit visas and Transit ETA are out of scope of the IVL as they are neither a temporary entry class visa, nor a traveller ETA	26AAD(1)

Ref.	Cabinet-approved specifications	Explanation and Minor or technical amendments during drafting	Clause
12	Antarctic Traveller Transit Visa	Members of, or persons associated with, contracting parties under the Antarctic Treaty are deemed to hold a visa under Schedule 3 of the Immigration Regulations, and will not be required to hold an ETA. They are therefore out of scope of the IVL. Additional clause for those who choose to apply for a visa in advance of travel	26AAD(1) 26AAE(d)
13	Australian citizens and permanent residents	Australians entering NZ receive a residence visa, and these are outside the scope of the IVL	26AAD(1)
14	The following Pacific Island countries: <ul style="list-style-type: none"> <li>• American Samoa</li> <li>• Cook Islands</li> <li>• Fiji</li> <li>• Kiribati</li> <li>• Republic of Marshall Islands</li> <li>• Federated States of Micronesia</li> <li>• Nauru</li> <li>• Niue</li> <li>• Palau</li> <li>• Papua New Guinea</li> <li>• Pitcairn Islands</li> <li>• Samoa</li> <li>• Solomon Islands</li> <li>• Tonga</li> <li>• Tuvalu</li> <li>• Vanuatu</li> </ul>	This list of countries is set out in regulation 4A(3)(b), which sets out countries eligible for the Pacific Fee Band. For the avoidance of doubt, 4A(3)(b) also includes citizens of Cook Islands or Niue who are not travelling on a New Zealand passport. Citizens of Tokelau are exempt as they are New Zealand citizens who travel on New Zealand passports	26AAE(2)(a)
15	Recognised Seasonal Employer workers	Added Supplementary Seasonal Employer	26AAE(5)(d)(x) 26AAE(5)(d)(xi)
14	Business Visitor Visas (including APEC business travel cards)	Business visas are specifically exempt, in addition, the IVL is only triggered by an application for a visa or ETA, which is not required for APEC business travel cards	26AAE(5)(b)
15	Ship and airline crew	Crew ETA (airlines and cruise ships) are out of scope of the IVL as they are neither a temporary entry class visa, nor a traveller ETA	26AAD(1)

Ref.	Cabinet-approved specifications	Explanation and Minor or technical amendments during drafting	Clause
		Specific provision included for fishing crew	26AAE(5)(d)(iv)
		Crew on certain ships (including international cargo and coastal shipping) are deemed to hold visas under Schedule 3 of the immigration regulations, and will not be required to hold an ETA. They are therefore out of scope of the IVL	26AAD(1)
16	Travellers whose visa or ETA requirements have been waived by Immigration New Zealand	All fee waivers applied by INZ are replicated for the IVL in 26AAE (1) b, except for bilateral fee waiver agreements (referred to in 26AAB(1)(a) of the Immigration Regulations)	26AAE(1)(b)i 26AAE(1)(b)ii 26AAE(1)(b)iii

**Annex Two: Immigration (Visa, Entry Permission, and Related Matters)  
Amendment Regulations 2019**

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# IN CONFIDENCE

## Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019

Governor-General

### Order in Council

At Wellington this                      day of                      2019

Present:  
in Council

These regulations are made under sections 400 to 402 of the Immigration Act 2009—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Immigration made under section 403A(1) of that Act.

### Contents

	Page
1 Title	3
2 Commencement	4
3 Principal regulations	4
<b>Part 1</b>	
<b>Interpretation</b>	
4 Regulation 4 amended (Interpretation)	4
<b>Part 2</b>	
<b>Electronic travel authorities (ETAs)</b>	
Subpart 1—Principal ETA provisions	
5 New Part 4A inserted	5

**Immigration (Visa, Entry Permission, and Related  
Matters) Amendment Regulations 2019**

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**Part 4A  
Electronic travel authorities (ETAs)**

*Requirements to hold ETA*

23B	Requirement for visa waiver transit passengers to hold transit ETA or traveller ETA	5
23C	Requirement for certain visa waiver crew to hold crew ETA	5
23D	Requirement for other visa waiver travellers to hold traveller ETA	5
23E	Exceptions to requirement to hold ETA	5
23F	Same ETA valid for more than 1 trip	6
23G	More than 1 ETA may be held at a time	6

*ETA requests*

23H	ETA request must be made electronically	6
23I	Requirements for ETA request	6
23J	Crew ETA requests made by carrier or carrier's representative	7

*Issue or refusal of ETAs*

23K	ETAs issued by immigration officer	8
23L	When immigration officer must refuse to issue ETA	8

*Validity of ETA*

23M	Period of validity of ETA	9
23N	When ETA ceases to be valid	9

Subpart 2—Other amendments relating to ETA

6	Regulation 16 replaced (People to whom waiver of requirement for transit visa applies)	9
16	People to whom waiver of requirement for transit visa applies	9
7	Regulation 18 amended (People to whom waiver of requirement for visa permitting travel to New Zealand applies)	10
8	New regulation 19A inserted (Period of stay for certain persons described in both Schedule 2 and Schedule 3)	10
19A	Period of stay for person to whom visa waiver and deemed visa applies	10
9	Regulation 26AAB amended (Exemptions from prescribed fees)	10
10	Regulation 34 amended (Minister may waive regulation requirements by special direction)	10
11	Schedule 1AA amended	10
12	New Schedule 1 inserted	11
13	Schedule 2 amended	11
14	Schedule 3 amended	11
15	Schedule 4 amended	12

**Part 3**

**International visitor conservation and tourism levy (IVL)**

Subpart 1—Principal IVL provisions

16	New regulations 26AAD and 26AAE inserted	13
	26AAD International visitor conservation and tourism levy (IVL)	13
	26AAE Exemptions from IVL	13

Subpart 2—Other amendments relating to IVL

17	Regulation 10 amended (Application requirements other than at immigration control area)	15
18	Regulation 21 amended (Applications made without using approved form)	15
19	Regulation 22 amended (Immigration officer may refuse to consider or continue considering application made under regulation 21)	15
20	Regulation 23AA amended (Chief executive may require certain visa applications to be made online)	16
21	Regulation 23A amended (Applications that may be made online)	16
22	Regulation 26 amended (Prescribed fees and immigration levy inclusive of GST)	16

**Part 4**

**Miscellaneous amendments**

23	Regulation 4C amended (Certain applicants exempt from paying immigration levy)	16
24	Regulation 5 amended (Application requirements)	16
25	Regulation 8 amended (Applications at immigration control area by Australian citizens and permanent residents for resident visa)	16
26	Regulation 10 amended (Application requirements other than at immigration control area)	16
27	Regulation 26AAC replaced (Cash payments of prescribed fees)	17
	26AAC No cash payment of prescribed fees	17
28	Schedule 5 amended	17

**Schedule 1**

**New Part 2 inserted into Schedule 1AA**

**Schedule 2**

**New Schedule 1 inserted**

**Regulations**

**1 Title**

These regulations are the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019.



## 2 Commencement

- (1) In Part 2, regulations 5 to 10 and 12 to 15 come into force on 1 October 2019.
- (2) The rest of these regulations come into force on 1 July 2019.

## 3 Principal regulations

These regulations amend the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (the **principal regulations**).

## Part 1 Interpretation

### 4 Regulation 4 amended (Interpretation)

In regulation 4(1), insert in their appropriate alphabetical order:

**cargo ship** means a ship that is a commercial craft and that is carrying primarily cargo between any foreign port and New Zealand

**crew ETA** means an electronic travel authority that is required to be held by a person under regulation 23C

**cruise ship** means a ship that is a commercial craft and that is carrying primarily passengers between any foreign port and New Zealand

**ETA** means an electronic travel authority that is required to be held by a person under Part 4A

**IVL** means the international visitor conservation and tourism levy imposed under regulation 26AAD

**positioning aircraft crew** means a person who is travelling to New Zealand as a passenger (other than a transit passenger) on a commercial aircraft for the purpose of leaving New Zealand as aircraft crew in the course of a scheduled international service

**positioning crew** means positioning aircraft crew or positioning cruise ship crew

**positioning cruise ship crew** means a person who is travelling to New Zealand as a passenger (other than a transit passenger) on a commercial aircraft for the purpose of—

- (a) leaving New Zealand as cruise ship crew in the ordinary course of business of the ship; or
- (b) staying in New Zealand as cruise ship crew in the ordinary course of business of the ship, and then leaving New Zealand as a passenger on a commercial aircraft

**temporary entry class visa waiver** has the meaning given in regulation 26AAD(3)

**transit ETA** means an electronic travel authority that is required to be held by a transit passenger under regulation 23B

**traveller ETA** means an electronic travel authority that is required to be held by a person under regulation 23D

## Part 2

### Electronic travel authorities (ETAs)

#### Subpart 1—Principal ETA provisions

#### 5 New Part 4A inserted

After regulation 23A, insert:

### Part 4A

#### Electronic travel authorities (ETAs)

##### *Requirements to hold ETA*

#### 23B Requirement for visa waiver transit passengers to hold transit ETA or traveller ETA

It is a condition of a transit visa waiver under regulation 16 that the person hold a transit ETA or traveller ETA before travelling to New Zealand.

#### 23C Requirement for certain visa waiver crew to hold crew ETA

It is a condition of a visa waiver under regulation 18 that the following persons hold a crew ETA before travelling to New Zealand:

- (a) cruise ship crew travelling in the ordinary course of business of the ship;
- (b) aircraft crew of an aircraft on a flight between any other country or territory and New Zealand in the course of a scheduled international service;
- (c) positioning cruise ship crew;
- (d) positioning aircraft crew.

#### 23D Requirement for other visa waiver travellers to hold traveller ETA

Unless regulation 23C applies, it is a condition of a visa waiver under regulation 18 that the person hold a traveller ETA before travelling to New Zealand.

#### 23E Exceptions to requirement to hold ETA

Regulations 23B to 23D do not apply to—

- (a) citizens of Australia; or
- (b) a person described in item 3 or 4 of Schedule 2.

**23F Same ETA valid for more than 1 trip**

A person may travel to New Zealand more than once under the same valid ETA.

**23G More than 1 ETA may be held at a time**

To avoid doubt, a person may hold more than 1 type of ETA, or more than 1 of the same type of ETA, that are valid for different or overlapping periods.

*ETA requests***23H ETA request must be made electronically**

- (1) A request for an ETA must be made—
  - (a) by means of one of the following that is made available and maintained by or on behalf of the Department for that purpose:
    - (i) an Internet site; or
    - (ii) a software application that is designed to be used on a mobile device.
  - (b) using an electronic form provided on the Internet site or the software application that allows a person to submit the information required under regulation 23I.
- (2) However, if a request for a crew ETA is made on behalf of a person by a carrier or a carrier's representative, the request—
  - (a) is not required to be made on the Internet site or the software application; but
  - (b) must be made in accordance with the process described in the memorandum of understanding required under regulation 23J; and
  - (c) must meet the requirements of regulation 23I.

**23I Requirements for ETA request**

- (1) A request for an ETA must—
  - (a) be completed in English; and
  - (b) contain the following information about the person who is required to hold the ETA, if required by the electronic form:
    - (i) their full name as shown in their passport or United Nations laissez-passer;
    - (ii) any previous name and any other name that they may be, or may have been, known by;
    - (iii) their date and place of birth;
    - (iv) their gender;
    - (v) their nationality;

- (vi) the details of their passport or United Nations laissez-passer, including the passport or laissez-passer number, the issuing country (if applicable), the issue date, and the expiry date:
  - (vii) their national identity number (if applicable):
  - (viii) whether they hold a current permanent residence visa (including a resident return visa) issued by the Government of Australia:
  - (ix) their address, phone number, and email address (if any):
  - (x) any intended dates of arrival in and departure from New Zealand (if known):
  - (xi) whether they are planning to transit through New Zealand:
  - (xii) their mode of transport to New Zealand (if known):
  - (xiii) any booking references related to the intended travel (if applicable):
  - (xiv) declarations about their criminal conviction history and any removals, exclusions, or deportations from any country:
  - (xv) a declaration about whether the purpose of the travel is to seek medical consultation or treatment:
  - (xvi) a photograph of their head:
  - (xvii) if the request is made by the person's agent (which may include a carrier or a carrier's representative), the full name, date of birth (if applicable), passport or United Nations laissez-passer details (if applicable), industry identifiers (if applicable), and contact details of that agent:
  - (xviii) a declaration that the information provided in relation to the request is true and correct to the best of the person's or their agent's knowledge; and
  - (c) be accompanied by the prescribed fee (if applicable); and
  - (d) in the case of a request for a traveller ETA, be accompanied by the IVL (if applicable).
- (2) If the person to whom the ETA request relates holds more than 1 passport, or holds a passport as well as a United Nations laissez-passer, they may provide the details referred to in subclause (1)(vi) for—
- (a) each additional passport; or
  - (b) the passport as well as the United Nations laissez-passer.

**23J Crew ETA requests made by carrier or carrier's representative**

- (1) This regulation applies if a request for a crew ETA is made on a person's behalf by—

- (a) a carrier in respect of which the person is employed or engaged in working or providing a service in or on the craft; or
  - (b) that carrier's representative.
- (2) The request may be made by the carrier or the representative only if,—
- (a) a memorandum of understanding in respect of ETA requests made on behalf of crew or positioning crew is in place between the carrier or the representative and the Department; and
  - (b) the request is made in accordance with the process described in that memorandum.

*Issue or refusal of ETAs*

**23K ETAs issued by immigration officer**

- (1) After receiving an ETA request that complies with regulation 23I, an immigration officer may issue a traveller ETA, a transit ETA, or a crew ETA, in accordance with regulations 23B to 23D.
- (2) For the purposes of this regulation, the immigration officer may disregard—
- (a) an immaterial mistake that is made with respect to the information provided for an ETA request; and
  - (b) a change in circumstances of the person who is required to hold the ETA that would result in an immaterial change to the information provided for their ETA request.

**23L When immigration officer must refuse to issue ETA**

An immigration officer must refuse to issue an ETA if—

- (a) the person who is the subject of the ETA request—
  - (i) is an excluded person; or
  - (ii) declares that the purpose of their visit includes medical consultation or treatment; or
  - (iii) in the case of a transit ETA, is not a person described in Schedule 1; or
  - (iv) in the case of a traveller ETA or a crew ETA, is not a person described in Schedule 2; or
- (b) the passport of the person who is the subject of the ETA request is invalid; or
- (c) in the case of a crew ETA request that is made on a person's behalf by a carrier or a carrier's representative, the request does not comply with the requirement of regulation 23J.

*Validity of ETA*

**23M Period of validity of ETA**

- (1) An ETA is valid for the following period beginning on the day on which it is issued:
- (a) in the case of a traveller ETA or a transit ETA, 2 years;
  - (b) in the case of a crew ETA, 5 years.
- (2) Subclause (1) is subject to regulation 23N.

**23N When ETA ceases to be valid**

An ETA ceases to be valid if—

- (a) the period of validity has expired; or
- (b) the person to whom the ETA was issued,—
  - (i) is or becomes an excluded person; or
  - (ii) is a person whose purpose of their visit includes medical consultation or treatment; or
  - (iii) in the case of a transit ETA, is not, or is no longer, a person described in Schedule 1; or
  - (iv) in the case of a traveller ETA, is not, or is no longer, a person described in Schedule 2; or
  - (v) in the case of a crew ETA,—
    - (A) is not, or ceases to be, crew or positioning crew; or
    - (B) if the request for the crew ETA was made in accordance with regulation 23J, is not, or ceases to be, employed by, or engaged in working or providing a service in or on the craft of, the carrier or representative who made the request on the person's behalf.

**Subpart 2—Other amendments relating to ETA**

**6 Regulation 16 replaced (People to whom waiver of requirement for transit visa applies)**

Replace regulation 16 with:

**16 People to whom waiver of requirement for transit visa applies**

The people described in Schedule 1 are not required to apply for or obtain a transit visa before travelling to and being in New Zealand as a transit passenger if—

- (a) they meet the condition of holding a valid ETA in accordance with Part 4A; or

(b) that condition does not apply.

**7 Regulation 18 amended (People to whom waiver of requirement for visa permitting travel to New Zealand applies)**

Replace regulation 18(1) with:

- (1) The requirement to hold a visa permitting travel to New Zealand is waived for the people described in Schedule 2, if—
- (a) they meet the condition of holding a valid ETA in accordance with Part 4A; or
- (b) that condition does not apply.

**8 New regulation 19A inserted (Period of stay for certain persons described in both Schedule 2 and Schedule 3)**

After regulation 19, insert:

**19A Period of stay for person to whom visa waiver and deemed visa applies**

- (1) This regulation applies to the following persons (to whom both Schedules 2 and 3 apply) who hold an ETA:
- (a) cruise ship passengers;
- (b) cruise ship crew;
- (c) aircraft crew of an aircraft on a flight between any other country or territory and New Zealand in the course of a scheduled international service.
- (2) The period of stay permitted in New Zealand that applies to that person is,—
- (a) if they are a person described in items 1 to 7 or item 8 of Schedule 2, the period that applies to them under that Schedule; or
- (b) if they are not a person described in items 1 to 7 or item 8 of Schedule 2, the applicable period set out in the third column of Schedule 3.

**9 Regulation 26AAB amended (Exemptions from prescribed fees)**

After regulation 26AAB(1), insert:

- (1A) The exemption in subclause (1)(a) does not apply to the prescribed fees for ETA requests.

**10 Regulation 34 amended (Minister may waive regulation requirements by special direction)**

After regulation 34(1)(d), insert:

(da) 1 or more of the requirements for requesting or holding a ETA:

**11 Schedule 1AA amended**

In Schedule 1AA, after Part 1, insert the Part 2 set out in Schedule 1 of these regulations.

**12 New Schedule 1 inserted**

After Schedule 1AA, insert the Schedule 1 set out in Schedule 2 of these regulations.

**13 Schedule 2 amended**

(1) In the Schedule 2 heading, replace “rr 16(d)(viii), 18(1)” with “r 18(1), item 13(y) of Schedule 1”.

(2) In Schedule 2, after item 7, insert:

7A Cruise ship passengers.

7B Cruise ship crew travelling in the ordinary course of business of the ship.

7C Positioning cruise ship crew.

7D Aircraft crew of an aircraft on a flight between any other country or territory and New Zealand in the course of a scheduled international service.

7E Positioning aircraft crew.

**14 Schedule 3 amended**

(1) In Schedule 3, replace the first 2 items, which relate to crew on a ship and passengers on a ship, with:

1	Cruise ship passengers who hold an ETA	Temporary visa	Until the earlier of— (a) the day and time the ship is given clearance to leave its last port of entry in New Zealand for that voyage; and (b) the expiry of 28 days (calculated on and from the day the ship arrives at its first port of entry in New Zealand on that voyage)
2	Cruise ship crew travelling in the ordinary course of business of the ship who hold an ETA	Temporary visa	Until the earlier of— (a) the day and time the ship is given clearance to leave its last port of entry in New Zealand for that voyage; and (b) the expiry of 28 days (calculated on and from the day the ship arrives at its first port of entry in New Zealand on that voyage)
3	Cargo ship passengers	Temporary visa	Until the earlier of— (a) the day and time the ship is given clearance to leave its last port of entry in New Zealand for that voyage; and



			(b)	the expiry of 28 days (calculated on and from the day the ship arrives at its first port of entry in New Zealand on that voyage)
4	Cargo ship crew travelling in the ordinary course of business of the ship	Temporary visa	Until the earlier of—	
			(a)	the day and time the ship is given clearance to leave its last port of entry in New Zealand for that voyage; and
			(b)	the expiry of 28 days (calculated on and from the day the ship arrives at its first port of entry in New Zealand on that voyage)
5	Passengers or crew on a ship that is carrying passengers, cargo, or both (travelling in the ordinary course of business of the ship), between any foreign port and New Zealand, other than passengers or crew on another ship or vessel described in this Schedule	Temporary visa	Until the earlier of—	
			(a)	the day and time the ship is given clearance to leave its last port of entry in New Zealand for that voyage; and
			(b)	the expiry of 28 days (calculated on and from the day the ship arrives at its first port of entry in New Zealand on that voyage)

- (2) In Schedule 3, replace the text in the first column of the item relating to aircraft crew of an aircraft on a flight between any other country and New Zealand in the course of a scheduled international service with:

7 Aircraft crew of an aircraft on a flight between any other country or territory and New Zealand in the course of a scheduled international service who hold an ETA

- (3) In Schedule 3,—
- (a) insert item number 6 in the item relating to crew on a foreign ship authorised by the Minister of Transport; and
- (b) number the remaining items in numerical order, beginning with the number 8 assigned to the item relating to aircraft crew of a private or commercial aircraft on a flight between any other country and New Zealand that is not in the course of a scheduled international service.

#### 15 Schedule 4 amended

In Schedule 4, after the item relating to a transit visa application—group Chinese nationals per person, insert:

<i>Electronic travel authority (ETA)</i>				
23I(1)(c)	Request for traveller ETA or transit ETA made on an Internet site	12	12	12

23I(1)(c)	Request for traveller ETA or transit ETA made using a software application on a mobile device	9	9	9
23I(1)(c)	Request for crew ETA	9	9	9

### Part 3

## International visitor conservation and tourism levy (IVL)

### Subpart 1—Principal IVL provisions

#### 16 New regulations 26AAD and 26AAE inserted

After regulation 26AAC, insert:

##### 26AAD International visitor conservation and tourism levy (IVL)

- (1) An international visitor conservation and tourism levy of \$35 is imposed on a person who—
  - (a) applies for a temporary entry class visa, other than at an immigration control area or a port; or
  - (b) requests a traveller ETA as a condition of a temporary entry class visa waiver.
- (2) The IVL is in addition to all other amounts payable in respect of the visa application or ETA request.
- (3) In this regulation, **temporary entry class visa waiver** means a waiver, under section 69 of the Act, of the requirement to hold a temporary entry class visa permitting travel to New Zealand.

##### 26AAE Exemptions from IVL

- (1) A person is exempt from paying the IVL if—
  - (a) the person is exempt from paying the prescribed fee for the visa application or ETA request referred to in regulation 26AAD(1); and
  - (b) the exemption from paying the prescribed fee is provided for by—
    - (i) a special direction under section 395(2) of the Act; or
    - (ii) regulation 26AAB(1)(b) or (c) or (3); or
    - (iii) any other regulation, except regulation 26AAB(1)(a), that is made under section 400(f) of the Act for a matter provided for in section 395 of the Act.
- (2) A person is exempt from paying the IVL if 1 or more of the following apply:
  - (a) the person is a citizen of a country or territory listed in regulation 4A(3)(b);
  - (b) the person is travelling on a United Nations laissez-passer that was issued by the Secretariat of the United Nations under the—

- (i) United Nations Convention on the Privileges and Immunities of the United Nations, done at New York on 13 February 1946; or
  - (ii) United Nations Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, done at New York on 21 November 1947:
- (c) the person is a domestic staff member of a person described in any of items 1 to 7 of Schedule 5:
  - (d) the person is a member of, or a person associated with, a scientific programme or expedition under the auspices of a Contracting Party to the Antarctic Treaty (within the meaning of the Antarctica Act 1960) or a person to whom section 5 of that Act applies:
  - (e) the person is a member of a visiting force (including a member of the civilian component of the visiting force) who is travelling to and arriving in New Zealand in the ordinary course of the person's duty or employment:
  - (f) the person is a crew member of a military craft who, in the ordinary course of the person's duty or employment, is transporting members of a visiting force (including members of the civilian component of the visiting force) to New Zealand:
  - (g) the person is positioning crew.
- (3) A person is exempt from paying the IVL under regulation 26AAD(1)(a) if the visa application is made on the basis that the person is a dependent child, spouse, or partner of, or a child travelling to New Zealand for the purpose of being adopted by,—
- (a) a New Zealand citizen; or
  - (b) a person who holds a visa; or
  - (c) an applicant for a visa.
- (4) For the purposes of subclause (3)(c), a visa application is not regarded as made on the basis that a person (A) is a dependent child, spouse, or partner of another person (B) by reason only of the fact that, instead of making a separate application, A is included in the same application as B under regulation 20(1) or 21(6).
- (5) A person is exempt from paying the IVL under regulation 26AAD(1)(a) if the visa application is for—
- (a) a visa to travel to New Zealand for the purpose of—
    - (i) medical consultation or treatment; or
    - (ii) escorting a person who is visiting New Zealand for the purpose of medical consultation or treatment; or
  - (b) a business visitor visa under immigration instructions; or

- (c) a student visa under immigration instructions if the person is supported by a scholarship administered by the Ministry of Foreign Affairs and Trade; or
- (d) a Pathway Student Visas Pilot visa under immigration instructions; or
- (e) any of the following work or limited visas under immigration instructions:
  - (i) a work visa on the basis of which its holder may subsequently apply for a residence class visa:
  - (ii) China Special Work:
  - (iii) China Skilled Worker:
  - (iv) Philippines Special Work:
  - (v) Vietnam Special Work:
  - (vi) Indonesia Special Work:
  - (vii) Interpreter from Japan:
  - (viii) Thai Chef:
  - (ix) Essential Skills:
  - (x) Supplementary Seasonal Employer:
  - (xi) Recognised Seasonal Employer:
  - (xii) Silver Fern Practical Experience:
  - (xiii) Post Study:
  - (xiv) Foreign Crew of Fishing Vessel.

#### Subpart 2—Other amendments relating to IVL

**17 Regulation 10 amended (Application requirements other than at immigration control area)**

After regulation 10(2)(f)(ii), insert:

- (iii) the IVL payable by the applicant (if any).

**18 Regulation 21 amended (Applications made without using approved form)**

After regulation 21(3)(bb), insert:

- (bc) paying the IVL that is payable by the applicant (if any), or arranging for its payment in a manner acceptable to the immigration officer processing the application; and

**19 Regulation 22 amended (Immigration officer may refuse to consider or continue considering application made under regulation 21)**

After regulation 22(2)(d), insert:

- (e) any IVL paid by the applicant in relation to the application under regulation 21 must be refunded or applied towards any application made in accordance with paragraph (b).
- 20 Regulation 23AA amended (Chief executive may require certain visa applications to be made online)**  
After regulation 23AA(5)(f), insert:
- (g) pay the IVL that is payable (if any), or arrange for its payment in a manner acceptable to the immigration officer processing the application.
- 21 Regulation 23A amended (Applications that may be made online)**  
After regulation 23A(4)(j), insert:
- (k) pay the IVL that is payable by the applicant (if any), or arrange for its payment in a manner acceptable to the immigration officer processing the application.
- 22 Regulation 26 amended (Prescribed fees and immigration levy inclusive of GST)**
- (1) In the heading to regulation 26, replace “and immigration levy” with “, immigration levy, and IVL”.
- (2) In regulation 26, replace “and immigration levy” with “, immigration levy, and IVL”.

## Part 4

### Miscellaneous amendments

- 23 Regulation 4C amended (Certain applicants exempt from paying immigration levy)**  
Revoke regulation 4C(f)(ii).
- 24 Regulation 5 amended (Application requirements)**  
In regulation 5(1)(b), after “control area”, insert “or at a port”.
- 25 Regulation 8 amended (Applications at immigration control area by Australian citizens and permanent residents for resident visa)**
- (1) In the heading to regulation 8, after “control area”, insert “or port”.
- (2) In regulation 8(1), after “control area”, insert “or at a port”.
- 26 Regulation 10 amended (Application requirements other than at immigration control area)**  
After regulation 10(2), insert:

(2A) The requirements of subclause (2)(e)(ii), (iii), and (iv) and (f) do not apply to an applicant who arrives in New Zealand as a cruise ship passenger.

**27 Regulation 26AAC replaced (Cash payments of prescribed fees)**

Replace regulation 26AAC with:

**26AAC No cash payment of prescribed fees**

No prescribed fee may be paid in cash unless accepted by special direction.

**28 Schedule 5 amended**

(1) In the Schedule 5 heading, replace “**and immigration levy**” with “**, immigration levy, and IVL**”.

(2) In Schedule 5, after item 8, insert:

9 A person who is applying for a visa under the Special Category for Victims of Domestic Violence immigration instructions.

**Schedule 1**

**New Part 2 inserted into Schedule 1AA**

r 11

**Part 2**

**Provisions relating to Immigration (Visa, Entry Permission, and  
Related Matters) Amendment Regulations 2019**

**3 Interpretation**

In clause 4, **amendment regulations** means the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations 2019.

**4 Application of certain provisions respecting ETAs as of 1 July 2019**

A person who is required to hold an ETA on or after 1 October 2019 under regulations 23B to 23D, as inserted by regulation 5 of the amendment regulations, may, beginning on 1 July 2019, request an ETA and, in that case,—

- (a) these regulations apply in relation to the request and the issued ETA; and
- (b) the period of validity of the ETA begins on the date on which it is issued.

**Schedule 2**  
**New Schedule 1 inserted**

r 12

**Schedule 1**  
**People to whom waiver of requirement for transit visa applies**

r 16

- 1 A person who holds a current visa of another class granted under the Act.
- 2 Citizens of Australia and people who hold a current permanent residence visa (including a resident return visa) issued by the Government of Australia.
- 3 A person whose immediate or ultimate destination after transiting through New Zealand is Australia and who holds a current visa issued by the Government of Australia to enter Australia.
- 4 A person travelling from Australia (including a person who began their journey outside Australia).
- 5 British citizens and British passport holders who produce evidence of the right to reside permanently in the United Kingdom.
- 6 Members of, or any person associated with, a scientific programme or expedition under the auspices of a Contracting Party to the Antarctic Treaty (within the meaning of the Antarctica Act 1960) or any person to whom section 5 of that Act applies.
- 7 Members of a visiting force (including members of the civilian component of the visiting force) and crew members of any craft transporting a visiting force.
- 8 Residents of Hong Kong travelling on Hong Kong Special Administrative Region or British National (Overseas) passports.
- 9 Residents of Macau travelling on Macau Special Administrative Region passports.
- 10 Permanent residents of Taiwan travelling on Taiwanese passports.
- 11 People who are travelling on a United Nations laissez-passer that was issued by the Secretariat of the United Nations under the—
  - (a) United Nations Convention on the Privileges and Immunities of the United Nations, done at New York on 13 February 1946; or

- (b) United Nations Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations, done at New York on 21 November 1947.
- 13 A citizen of any of the following countries:
- (a) Bahamas:
  - (b) Bermuda:
  - (c) Bolivia:
  - (d) Colombia:
  - (e) Costa Rica:
  - (f) Ecuador:
  - (g) Federated States of Micronesia:
  - (h) Indonesia:
  - (i) Kiribati:
  - (j) Nauru:
  - (k) Palau:
  - (l) Panama:
  - (m) Papua New Guinea:
  - (n) Paraguay:
  - (o) Peru:
  - (p) Philippines:
  - (q) Republic of the Marshall Islands:
  - (r) Samoa:
  - (s) Solomon Islands:
  - (t) Thailand:
  - (u) Tonga:
  - (v) Tuvalu:
  - (w) Vanuatu:
  - (x) Venezuela:
  - (y) a country specified in item 8(1) to (54) of Schedule 2.

Clerk of the Executive Council.



## Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations amend the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010. The amendments, other than most of those relating to electronic travel authorities, come into force on 1 July 2019. The main regulations relating to electronic travel authorities come into force on 1 October 2019.

### *Electronic travel authorities (ETAs)*

The regulations impose a condition on a waiver of the requirement to hold a visa permitting travel to New Zealand: that a person who is subject of the waiver hold an electronic travel authority (**ETA**) before the travel. There are three categories of ETAs: traveller ETAs, transit ETAs, and crew ETAs. The regulations specify which category of ETA will apply to which persons.

The following persons who fall under a visa waiver category will not be required to hold an ETA before travelling to New Zealand:

- citizens of Australia; or
- specified persons related to a scientific programme or expedition under the auspices of a Contracting Party to the Antarctic Treaty, or any person to whom section 5 of the Antarctica Act 1960 applies; or
- specified members of a visiting force.

The regulations also specify—

- the requirements for an ETA request; and
- the circumstances under which an ETA will be issued or refused; and
- the circumstances under which an ETA will no longer be valid.

The period of validity for an ETA is 5 years for specified crew or 2 years for other visa waiver travellers or visa waiver transit passengers.

An ETA fee is payable at the time that the request for the ETA is made. The applicable fee is either \$9 or \$12, depending on the type of ETA that applies and whether the request is made on an Internet site or using a software application on a mobile device.

### *International visitor conservation and tourism levy (IVL)*

The regulations impose a new international visitor conservation and tourism levy (**IVL**) of \$35 on people who apply for a temporary entry class visa to travel to New Zealand, or who request a traveller ETA for travel to New Zealand under a temporary entry class visa waiver. The IVL is payable at the same time as the visa fee or ETA fee.

The following people fall outside the IVL's scope:

- Australian citizens and permanent residents:

- applicants for residence class visas:
- air passengers transiting through New Zealand:
- ship and airline crew requesting crew ETAs:
- some Antarctic travellers and members of visiting forces.

There is an express exemption from the IVL for people who are exempt from paying a visa or ETA fee (other than under a reciprocal fee-waiver agreement with another country). That exemption covers the following:

- diplomatic and consular officials and their families:
- refugees:
- domestic violence victims:
- people-trafficking victims:
- people in danger of torture, cruel treatment, or arbitrary deprivation of life:
- people exempted by ministerial special direction.

There are also express exemptions from the IVL for the following people:

- citizens of various Pacific region countries and territories:
- people travelling on a United Nations laissez-passer:
- certain people whose visa applications are based on the New Zealand citizenship or immigration status of a parent or partner:
- applicants for particular visa types such as visas for medical treatment, business visitor visas, and some work and limited visas.

#### *Miscellaneous amendments*

The regulations also provide—

- that additional persons are categorised as people to whom a visa waiver to travel to New Zealand applies (and are then also required to hold an ETA), including cruise ship passengers, cruise ship crew, and aircraft crew in the course of a scheduled international flight:
- for amendments to the categories of persons who are deemed to hold a temporary entry class visa and who are deemed to have been granted entry permission:
- that certain requirements for an application for a temporary entry class visa do not apply to cruise passengers:
- that a citizen of Australia or a person who holds an Australian permanent residence visa may apply for a residence class visa at a port (in addition to at an immigration control area):
- that prescribed fees can be paid in cash only if accepted by special direction:

- that an applicant for a visa under the Special Category for Victims of Domestic Violence immigration instructions is exempt from paying the IVL or an ETA fee.

#### **Regulatory impact assessments**

The Ministry of Business, Innovation, and Employment produced regulatory impact assessments on 3 September 2018, 13 February 2019, and 18 October 2018, to help inform the decisions taken by the Government relating to the contents of this instrument.

Copies of these regulatory impact assessments can be found at—

- <https://www.mbie.govt.nz/assets/6050f1c58d/eta-regulatory-impact-summary.pdf>
- <https://www.mbie.govt.nz/assets/c2a21fef19/cabinet-paper-electronic-travel-authority-further-policy-decisions-1-v2.pdf>
- <https://www.mbie.govt.nz/assets/7db3d80117/regulatory-impact-statement-international-visitor-levy-redacted.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

These regulations are administered by the Ministry for Business, Innovation, and Employment.