



COVERSHEET

Minister	Hon Iain Lees-Galloway	Portfolio	Immigration
Name of package	Electronic Travel Authority – further policy decisions 1	Date of issue	4 March 2019

List of documents that have been proactively released

Date	Title	Author
20 February 2019	Electronic Travel Authority: further policy decisions 1	Office of the Minister of Immigration
12 February 2019	Electronic Travel Authority: Cost Recovery Impact Statement	MBIE
20 February 2019	DEV-18-MIN-0023	Cabinet Office

Information withheld

No information has been withheld.

Section of the Act	Reason for withholding
N/A	

In Confidence

Office of the Minister of Immigration

Chair, Cabinet Economic Development Committee

ELECTRONIC TRAVEL AUTHORITY: FURTHER POLICY DECISIONS 1

Proposal

1. I seek Cabinet's agreement to the details of the Electronic Travel Authority (ETA), including the details which will require regulatory change, in order to draft regulations to support the introduction of the ETA in July 2019. I also seek a small change to regulations to amend a reference to cash payments of prescribed fees.

Summary

2. Cabinet agreed in September 2018 [DEV-18-MIN-0191] to the introduction, scope and associated funding of an ETA, which will be mandatory for certain groups of people who may currently travel to New Zealand without applying first for a visa. The ETA addresses the need to change immigration border settings in order to ensure:
 - 2.1. *Faster and better facilitation for an increasing number of travellers:* to meet travellers' and carriers' expectations of a quicker facilitation experience (including not being turned around at check-in or at the border) and an expectation of an ability to interact with authorities digitally and receive personalised and modern services
 - 2.2. *More secure borders:* to provide assurance to New Zealand about the purposes and characteristics of intending foreign travellers and close gaps in New Zealand border settings relating to the marine (cruise) pathway.
3. Cabinet invited me to seek Cabinet agreement to the outcomes of consequential policy development before the end of March 2019, and to the subsequent regulations changes in April 2019.
4. Officials were also directed to examine transit visa settings with regard to air travel to and from Australia, with a view to either waiving visa requirements for travel in both directions (making it ETA-required) or requiring transit visa-required nationals to hold a visa for both directions.
5. Cabinet is now asked to agree to the following further policy detail, and to invite me to issue drafting instructions for corresponding changes to regulations:
 - 5.1. definitions: of a cruise vessel, and consequentially of a cargo vessel; of the names of the ETAs (Traveller ETA and Crew ETA) and the wording used to describe ETAs (they will be requested and if approved will be held; they may be refused, withdrawn or revoked)
 - 5.2. timing: requests for ETAs will be able to be made from 1 July 2019; holding a Traveller ETA (for cruise and air passengers and crew) will be mandatory from 1 October 2019
 - 5.3. relationships with carriers: Crew ETAs will be applied for by carriers who have agreed Memorandums of Understanding (MoUs) with the Ministry of Business, Innovation and Employment. Those MoUs will set out the responsibilities of both parties with regard to the ETA

- 5.4. visa waiver regime: crew and passengers on cruise vessels are currently deemed to hold a visa to be in New Zealand. They will instead be formally waived the requirement to hold a visa to travel to New Zealand, but will need to hold an ETA
- 5.5. transit passengers: visa-waiver nationality passengers who hold (air) transit Traveller ETAs and who decide that they would like to enter New Zealand as visitors will need to apply for a further Traveller ETA
- 5.6. deemed visa regime:
 - 5.6.1. air crew will be deemed to hold a temporary visa and to have been granted entry permission on arrival at an Immigration Control Area
 - 5.6.2. crew on cruise vessels who hold Crew ETAs will be deemed to hold a temporary visa and to have been granted entry permission upon arrival in New Zealand
 - 5.6.3. passengers on cruise vessels who hold Traveller ETAs or visas will be deemed to hold a temporary visa and have been granted entry permission upon arrival in New Zealand
 - 5.6.4. passengers and crew on cargo vessels will continue to be covered by the existing regime and will therefore be deemed to hold a visa from the point they leave the port immediately prior to New Zealand
- 5.7. a person can hold more than one ETA: individuals will be able to: hold more than one ETA at one time; and register more than one identity document against an ETA (for example, if they are dual nationals – this facility may not be available immediately)
- 5.8. biometric information: requests for Traveller ETAs will require photographs if requestors use channels which enable photographs to be uploaded (this is a change to the previous decision, which enabled an optional photograph)
- 5.9. fee levels: will be differentiated by channel (passenger ETA requests made by a downloaded mobile application will cost \$9 per person and requests made via a web browser will cost \$12 per person; while crew ETA requests will cost \$9 per person)
- 5.10. positioning crew: both visa-waiver and visa-required nationality crew travelling to New Zealand to join their craft will be able to travel on their Crew ETA. (Visa-required nationality crew will therefore become visa waiver for this purpose. This is a change from current policy settings)
- 5.11. transit visa regime: transit visa-waiver nationals will now be Traveller ETA-required. The trans-Tasman air route will become transit visa-waiver, and therefore ETA-required, in both directions.
6. The changes will improve border security, particularly at the marine border. As the ETA and other border security and facilitation initiatives are developed, border agencies will continue to work together to streamline and consolidate passenger and carrier information requirements and to take a collective and principled approach to issues such as the capture and use of information. The information collected by the ETA will be able to be shared, consistent with the provisions of the Immigration Act, the Privacy Act and other enabling legislation.
7. I also seek a small change to regulations to amend a reference to cash payments of prescribed fees. Cabinet is asked to authorise me to make any further minor changes which may be required as the detail of the new regulations is worked through, and the Cabinet Legislation Committee will consider these regulation changes in April. Further regulatory changes, to establish the marine advance passenger processing regime (marine APP) and to authorise any transitional processes, will be sought at the beginning of 2019/20.

8. Cabinet is also asked to note a small change to one question on the arrival card, to enable a statistical series to be reinstated. The question relates to the activity of New Zealand residents who have undertaken a short term trip.

Background

9. The ETA addresses the need to change immigration border settings in order to ensure:
 - 9.1. *Faster and better facilitation for an increasing number of travellers*: to meet travellers' and carriers' expectations of a quicker facilitation experience (including not being turned around at check-in or at the border) and an expectation of an ability to interact with authorities digitally and receive personalised and modern services
 - 9.2. *More secure borders*: to provide assurance to New Zealand about the purposes and characteristics of intending foreign travellers and close gaps in New Zealand border settings relating to the marine (cruise) pathway.
10. On 9 September 2018, and following public consultation, the Cabinet Economic Development Committee (ECDC) considered my paper *Proposal to introduce an Electronic Travel Authority* [DEV-18-SUB-0191]. Cabinet agreed to the introduction of the ETA, which will be an electronic account and will be a condition on a visa waiver.
11. Cabinet agreed to a set of parameters, including who would and would not be required to hold an ETA before travel to New Zealand, the duration of different ETAs, and the information which would be collected and its use. Cabinet considered the proposed implementation dates and phases, and approved funding to enable the ETA to be implemented during the second half of 2019/20.
12. Cabinet also:
 - 12.1. noted that the ETA would require changes to the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010*,
 - 12.2. invited the Minister of Immigration to seek Cabinet agreement to the outcomes of consequential policy development before the end of March 2019, and the subsequent regulations changes in April 2019, and
 - 12.3. noted that amendments to the *Immigration (Carriers' Information Obligations) Regulations 2010* might be required if the advance passenger information to be provided by cruise lines differs from the information currently required to be provided by airlines. At that point it was considered likely that if so, Cabinet decisions would be sought in 2020
 - 12.4. directed officials to examine the transit visa settings with regard to travel to and from Australia, with a view to either waiving visa requirements for travel in both directions (making it ETA-required) or requiring transit visa-required nationals to hold a visa for both directions.
13. The ETA will enable the collection of the International Visitor Conservation and Tourism Levy (IVL) from certain groups of travellers visiting New Zealand. (IVL-liable travellers who must apply for visas will pay the IVL alongside those visa charges.) The Minister of Tourism currently intends to introduce legislation to enable the IVL on Budget night.
14. This paper seeks some additional and consequential policy decisions arising from Cabinet's direction to introduce the ETA and sets out the detail of the regulatory changes required to implement it. If Cabinet agrees, I will seek Cabinet's and Executive Council's approval of amended regulations by the end of April, in order that the ETA can be introduced from 1 July. I intend to take this paper to Cabinet Legislation Committee at the same time as the Minister of Tourism takes the draft IVL Bill.

15. Following this paper, I will propose additional regulatory changes, to establish the marine advance passenger processing regime (marine APP) and to authorise any transitional processes. These will be sought at the beginning of 2019/20.

I seek agreement to further ETA-related details and to associated regulatory change

16. For the purposes of the policy details set out below, “eligible” travellers and crew are people who meet New Zealand’s statutory requirements to travel to New Zealand and be granted a visa on arrival and who are not exempted from the requirement to hold an ETA as a condition on visa-waiver travel, as agreed by Cabinet in September 2018 [DEV-18-MIN-191].

I propose to formally define marine vessels and the wording to be used in relation to ETAs

17. Schedule 3 of the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010* (People deemed to hold visa and have been granted entry permission) does not differentiate between cargo and cruise vessels but describes them both as “a ship carrying passengers, cargo, or both (in the ordinary course of business of the ship) between any foreign port and New Zealand”.
18. As the ETA proposal does make a distinction (passengers and crew on cruise vessels will be ETA-required and have a new deemed visa regime), I propose that Cabinet agree that, for the purpose of these proposals:
 - 18.1. a cruise vessel is a ship primarily carrying passengers (in the ordinary course of business of the ship) between any foreign port and New Zealand; and
 - 18.2. a cargo vessel is a ship primarily carrying cargo (in the ordinary course of business of the ship) between any foreign port and New Zealand. (Cargo crew and passengers are not included in the current ETA proposals but are in scope to be brought in later).
19. I also propose that Cabinet formally agree to the terminology applicable to ETAs, to underline the status of the ETA (which is that it is an authority to travel to (or via) New Zealand visa free, but is not a visa entitling a person to enter and stay in New Zealand). On this basis, people will “request” an ETA; an ETA will be “issued” or “confirmed”, or “refused”, or “withdrawn”, or “revoked” if necessary and will be “held” by visa-waiver passengers and crew.
20. This contrasts with the wording used in the Immigration Act 2009 with regard to visas and entry permission, where people “apply for” and are “granted” or “declined” a visa or entry permission, which they then “hold”. If necessary, a visa can be “cancelled”, while entry permission can be “revoked”.

I propose two formal classes of ETA

21. Cabinet has agreed that ETAs can have a duration of two years, and air and marine crew can have an ETA with a five year duration. I propose that this be reflected through the establishment of two major classes of ETA (Traveller and Crew). I further propose that sub classes of Traveller ETAs will enable different activities, based broadly on whether the holder is visa-waiver and (if visa-waiver) whether the holder intends to enter New Zealand.

I propose that ETAs will be available from 1 July and mandatory from 1 October 2019

22. Cabinet noted in September that “*the initial phase, which will commence with air passengers ... will enable individuals to apply for the ETA from early 2019/20*”. I now propose that the ETA will come into effect on 1 July 2019, for air and cruise passengers and crew. At that point, individuals will be able to request an ETA, and the

IVL, if applicable, will be chargeable. To minimise any confusion, it is also intended that the IVL will also be charged on applicable applications for visas from that date.

23. I propose that holding an ETA be mandatory for applicable air and cruise passengers and crew from 1 October 2019 (around the beginning of the 2019/20 cruise season). The cruise passenger implementation date is earlier than was indicated to Cabinet in September, when implementation in 2020 was proposed. This follows consultation on the global communications strategy, which resulted in the conclusion that different effective dates would create an unacceptable level of confusion in markets.
24. The trade-off for this is that many people who will be required to hold an ETA have already booked their tickets (cruises are booked earlier on average than air travel). Officials advise that they will therefore rely on cruise companies and travel agents using their existing communication channels with intending passengers to advise them of the changes to requirements, and will work with them to support their messaging. The project is planning to make a very high level of support available to carriers and travellers from the point of implementation, to ensure that genuine travellers are facilitated.
25. For air passengers and crew, the existing Advance Passenger Processing system (APP) will require them to hold an ETA to check in to travel to or transit New Zealand. However, automated systems to check whether cruise passengers or crew hold an ETA or other authority do not currently exist, and are unlikely to be implemented across the board by 1 October 2019. This means that electronic checking of passenger status will not be uniformly available at that point. The regulation changes which will be sought later this year will enable a transitional regime (which may be based on the provision of physical documents, which is how Australia requires visas and ETAs to be confirmed).
26. Crew ETAs will be applied for by carriers who have agreed Memorandums of Understanding (MoUs) with the Ministry. Once the Crew ETA is mandatory, APP will require air crew to hold an ETA in order to board an aeroplane bound for New Zealand. Similarly to cruise passengers, automated systems to check that cruise crew hold a Crew ETA will not be available at that point, but transitional provisions will also be put in place and the Ministry will monitor carrier compliance with the obligation. The Ministry will focus on supporting carriers to meet their obligations in the first instance.
27. The Traveller or Crew ETA can be revoked or withdrawn when there are certain changes in circumstances, such as:
 - 27.1. the visa waiver is suspended
 - 27.2. the person becomes statutorily ineligible for a visa or entry permission to enter or be in New Zealand
28. A Crew ETA will be revoked when an individual leaves the carrier's employment (even if they are going to another carrier).

The tables at Appendix one summarise the proposed ETAs and their characteristics

29. Tables one and two in Appendix one set out the characteristics of Traveller ETAs, their proposed relationship to the IVL, and consequential changes to transit visa and deemed visa regimes (reflecting more detail later in the paper). Table three summarises Crew ETAs and the changes to visa regimes. These tables are congruent with the decisions Cabinet made in September 2018, except for the proposals relating to "positioning" crew in Table three, for which I am seeking a specific policy decision (see from paragraph 48 below).

The ETA decisions mean changes to the current visa waiver, transit visa waiver and deemed visa regimes

30. As agreed by Cabinet in September 2018, air passengers and crew to whom a waiver of the requirement for a visa to permit travel to or via New Zealand applies will now be required to obtain an ETA as a condition of that visa-waiver travel. Transit visa-waiver nationality passengers will be required to obtain an ETA as a condition of their transit visa-waiver air travel. (See from paragraph 53 below for the outcomes of a review of transit visa waiver settings with regard to Trans-Tasman travel.)
31. With the exception of New Zealand citizens and people who already hold New Zealand visas, cruise vessel passengers and crew (regardless of nationality) are currently deemed to hold a visa and to have been granted entry permission once they are en route to New Zealand. Those passengers and crew will become people who are waived the requirement to hold a visa permitting travel to New Zealand. They will therefore be required to obtain an ETA as a condition of that visa-waiver travel.
32. Immigration regulations and Instructions currently allow for working commercial air crew (“on an aircraft flying between any other country and New Zealand in the course of a scheduled international service”) to be deemed to hold a work visa, and granted entry permission on arrival, which is valid for seven days following arrival. This is regardless of those individuals’ nationality. Those crew will continue to not require a visa, but their status will be changed to visa waiver and they will all be required to hold a Crew ETA in order to travel to New Zealand.

Cruise passengers and crew will continue to be deemed to hold visas and entry permission but this will be on arrival in New Zealand

33. All cruise and cargo vessel passengers and crew, regardless of nationality, are currently deemed to hold a visa from the time their ship has left the previous port to travel to New Zealand and to have been granted entry permission on arrival in New Zealand. Under the proposals, eligible cruise passengers and crew will be people for whom the requirement to hold a visa permitting travel to New Zealand is formally waived. They will be required to obtain an ETA as a condition of that visa-waiver travel.
34. I propose that we continue to deem those cruise passengers and crew to hold visas and entry permission, although this will move to taking place when they arrive in New Zealand’s internal waters. The duration of their temporary visas will continue to be for a maximum of 28 days, calculated from the day they first disembark in New Zealand on that voyage, which will also be when they are deemed to hold entry permission. Tables two and three at Appendix one set out the proposed regime.
35. The maintenance of “deeming” reflects that it would not be feasible to replicate the current arrangements at international airports at the many seaports where cruise vessels can arrive. At airports, individuals make applications via their arrival cards, and can be refused entry. Applications are processed by immigration officers or eGates, and visas and entry permission granted in error can be revoked when the individual is in the arrival hall.
36. Using the existing provisions of the Immigration Act, appropriately delegated immigration officers can suspend a visa waiver before an individual arrives in New Zealand. Under the new regime, a passenger or crew member whose visa waiver had been suspended would then not be deemed to hold a visa or entry permission on arrival.
37. Passengers who disembark and do not intend to depart New Zealand on the same vessel will, as per the current process, be processed manually by Customs.

People transiting New Zealand by air will not be required to pay the IVL

38. Cabinet agreed in September 2018 to the introduction of the International Visitor Conservation and Tourism Levy (IVL) [DEV-18-MIN-0194]. Enabling legislation will be introduced by the Minister of Tourism during 2019. The IVL will be collected alongside ETA (and Visa) fees. The IVL will be payable by international visitors and will fund investment in conservation and tourism-related infrastructure and initiatives.
39. An ETA will be required for transit visa-waived travel. People who are transiting New Zealand by air (that is, who are staying on the craft or who do not leave the Customs and Immigration Control Areas at the airport) will not be liable to pay the IVL. Visa-waiver nationality passengers who hold Traveller ETAs with the intention of transiting New Zealand by air and who decide that they would like to enter New Zealand as visitors will need to apply for a further Traveller ETA and pay the IVL.

I propose Cabinet approve certain design details, including mandatory capture of a photograph when the application channel enables it

40. I propose that Cabinet agree that individuals be able to hold more than one ETA at one time (for example, a Crew ETA and a Traveller ETA). This is in contrast with the legal status of a visa: under the Immigration Act 2009, only one visa can be held at a time. I note that individuals will also be able to register more than one identity document against an ETA (for example, if they are dual nationals), although this measure may not be available immediately. Immigration New Zealand will however be able to require an individual to travel to New Zealand on their primary identity document.
41. I propose that requests for Traveller ETAs will require the provision of a photograph if the requestor uses a channel which has the technical capacity to enable one to be captured (such as a mobile phone which reads the chip on an ePassport and which enables the applicant to take a personal photograph). This is a change from the earlier Cabinet decision, which agreed to an optional photograph.
42. A Privacy Impact Assessment (PIA) has been developed alongside the project, and addresses this and other matters of privacy concern. The PIA comments that biometric algorithms are more secure than some other personal information.
43. Photographs will therefore be mandatory for requests for ETAs made to the web browser platform at the point that it is both technically feasible and will not be a barrier to making an ETA request for bona fide travellers.
44. Finally, I propose that requestors will be able to request an ETA on their own behalf, while people who have permission from the requestor will be able to request an ETA on the requestor's behalf but in that case will have to provide information about themselves.

Fees will be established to cover the cost of the ETA application and associated decision making and traveller facilitation

45. Cabinet noted in September that the operating costs of the ETA can be recovered from applicants and the current estimate of the final cost-recovery fee was between \$9 and \$12.50. I propose that two fees are set for Traveller ETA requests, reflecting the relative costs of the two channels: \$9 per person for requests made through a downloaded mobile application, and \$12 per person for requests made using a web browser (such as via a PC or laptop). The lower fee for the mobile channel reflects the better data entry (people will scan their passports rather than typing in their details) and more secure identity management (through the use of photographs). I propose that crew ETA requests will also cost \$9 per person.

46. Work is currently underway on a potential urgent fee. I will bring further advice on this topic to Cabinet when I seek further policy decisions (see paragraph 61 below).
47. Immigration fee and levy rates are reviewed periodically to ensure that they continue to recover, but do not over-recover, their costs. ETA charges will be reviewed in future as part of this process.

I seek a policy change to enable positioning crew to enter New Zealand on a Crew ETA regardless of nationality

48. At present Immigration regulations and Instructions require visa-required nationality air crew or cruise crew who enter New Zealand on a commercial flight as passengers prior to joining their craft here ("positioning crew") to apply for a visitor visa before travel. They may be granted a visitor visa allowing a maximum stay of 28 days.
49. More than 3,000 individuals were granted visitor visas in 2017/18 to enable them join craft in New Zealand. More than half of those individuals were Filipino, reflecting the numbers of Filipino nationals employed in the cruise industry. Overall positioning crew visa approval rates are high, at almost 100% over the past three years.
50. Given the protections offered by both the existing high rate of visa approvals and the formal MoUs which the Ministry will enter into with carriers, I propose that Cabinet agree that, regardless of nationality, air crew and cruise vessel crew travelling to New Zealand by air to join a vessel or aircraft that will then depart for another country will be able to travel on their Crew ETA.
51. This change however means that the changes envisaged to advance passenger processing, including marine APP, will have to be introduced at the point (1 October 2019) that the ETA becomes mandatory. I signalled in September 2018 that changes to Carrier Information Obligations would likely be made in 2020, but I will instead be bringing proposals to Cabinet in mid-2019.

I recommend that trans-Tasman travel be made visa-waiver and therefore ETA-required in both directions

52. The objective of Transit Visa Policy is to ensure that only people with genuine and lawful intentions pass through New Zealand en route to other destinations, by scrutinising the intentions of certain foreign nationals who plan to transit New Zealand. In principle all people who are required to apply for a visitor visa before travel to New Zealand are also transit visa-required, unless they are travelling on exemption list travel documents or to Australia. Cabinet last reviewed settings in 2009 [DOM Min (09) 21/4].
53. Australian law requires all people travelling to Australia by air to hold a valid Australia visa. New Zealand exempts everyone in this situation from the requirement to hold a visa to transit New Zealand, as they have already been screened and approved by Australia. This concession does not apply to people travelling from Australia: passengers who belong to one of the approximately 110 transit visa-required nationalities must apply for and be granted a New Zealand transit visa before travel.
54. This requirement exists to manage any risk that the traveller leaving Australia could be, for example, a failed asylum seeker who might make a further non-genuine claim in New Zealand. This difference in treatment however often causes issues and confusion for transit visa-required nationals travelling on a round trip to Australia from the Pacific or the Americas.
55. During consultation on the ETA proposal it was identified that, if no changes were made, transit visa-required people who were transiting New Zealand for Australia and returning by the same route would be required to hold an ETA to travel to Australia and

a visa to return from Australia. Cabinet therefore directed officials to examine the transit visa waiver for transit visa-required people who are transiting New Zealand for Australia, with a view to either waiving visa requirements for travel in both directions (thus requiring an ETA for both directions) or requiring a visa for both directions.

56. Officials reported to me in December on the outcomes of that review, which involved the examination of statistics and limited consultation. Following the review, I propose that Cabinet agree to change transit settings such that both trans-Tasman legs are made transit visa-waiver, meaning that ETAs can be used for transit travel both to and from Australia, regardless of the traveller's nationality. This means that such travellers would be required to hold a Traveller ETA.
57. The review considered the risks on that route which are currently managed by transit visa settings. Officials are comfortable at this stage that the advance notice of intention to travel which is provided through the ETA request process will adequately manage identified risks (which are considered to relate to travel by failed asylum seekers) and that the risks will be outweighed by the facilitation benefits. The proposal is likely to be of most benefit to nationals of Fiji.
58. Officials will monitor this use of the ETA. If the change leads to unacceptable outcomes, future options could include requiring people leaving Australia transit visa-waiver to hold one of a range of valid Australian visas at the time. This is not recommended at this time, as it would catch bona fide tourists leaving on the last day of their travel, if their aircraft flew out after midnight.

Marine border security will be enhanced by the changes

59. The changes will improve border security, particularly at the marine border. While the marine border will not exactly replicate the powers available at the air border (where officers can revoke visas and entry permission and turn travellers around up to the exit doors of the arrival hall), information flows about intending travel to New Zealand will be created. Subject to the implementation of marine APP, it will be possible to prevent unauthorised passengers from boarding vessels, and it will be possible to suspend visa waivers while passengers are en route to New Zealand. Under s.101(3) of the Immigration Act, passengers who are not New Zealand citizens can also be prevented from disembarking vessels in New Zealand.
60. These changes contrast with the current situation, whereby people who arrive and depart on the same vessel are not recorded in any immigration systems, which significantly limits officials' ability to interact with people who might not be admitted if they travelled by air.
61. Details of the marine border management regime, including the details of marine advance passenger information and processing, are being developed at present and I will bring proposals for associated policy and regulation changes to Cabinet in June 2019. They will include provision for transitional arrangements, to enable the ETA to be required of travellers and crew and boarding to take place before carriers are signed up to MoUs or connected to electronic systems.

I also propose to amend a regulation prescribing certain cash payments

62. Regulation 26AAC of the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010* establishes that "a prescribed fee may be paid in cash only at the offices of the Department situated in Beijing, Dubai, Jakarta, Moscow, and Shanghai". The regulation came into effect in November 2010, when Immigration New Zealand was phasing out cash as a mechanism for payment. Immigration New Zealand does not now accept cash for any transactions and I propose to amend the regulation to reflect this. I propose to retain the power to accept cash in exceptional situations.

Agencies will work together to reduce information provision burdens and will ensure privacy is protected

63. As the ETA and other border security and facilitation initiatives are developed, border agencies will continue to work together to streamline and consolidate passenger and carrier information requirements and to take a collective approach to issues such as the use of information (to the extent permitted in law and with regard to all agencies' obligations to protect personal information and individuals' right to personal privacy).
64. The information collected by the ETA will be able to be shared consistently with the provisions of the Immigration Act, Privacy Act and other enabling legislation. De-identified information can be more widely shared, including for statistical purposes.

I also note a small change to a question on the arrival card

65. Cabinet agreed in August 2018 to the removal of the departure card by November 2018 [DEV-18-MIN-0168]. At that point Cabinet noted that some information collected by the departure card could not be readily replaced and that this would impact some tourism and labour market research. I now am now drawing to Cabinet's attention a proposal that one question on the current arrival card (2a) be amended, to improve tourism statistics to support policy development and to assist in the measurement of New Zealand's international connectivity. The Ministry of Business, Innovation and Employment (MBIE) is the owner of the policy areas informed by these questions.
66. The question is addressed to New Zealand residents and currently reads "*What was the MAIN reason for your trip?*" The choices given are "*Business*", "*Education*" and "*Other*". The change would expand them to mirror the questions asked of non-residents about their intentions in New Zealand, and would therefore add "*Visiting friends / relatives*", "*holiday / vacation*" and "*conference / convention*". Separate changes to statistical collection mean it may be possible to reduce other information requested to make more space for this information. Officials will make the change during 2019.

Consultation

67. The following government agencies have been consulted during the development of this proposal and their views are reflected: the New Zealand Customs Service; the Ministries of Foreign Affairs and Trade, Primary Industries and Transport; Stats NZ; the Department of Internal Affairs; the Treasury; and the Department of Prime Minister and Cabinet. The relationship between the ETA and the IVL outlined in this paper has been developed with support from the Tourism Branch inside MBIE.

Financial implications

68. Cabinet appropriated funding to implement the ETA and approved the consequential changes to third party revenue and operational expenditure appropriations as part of the decisions made in September 2018. The decisions sought in this paper do not have separate financial implications.

Legislative implications

69. The ETA proposal requires regulatory change via amendments to the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010* to give effect to Cabinet's decisions. Subject to Cabinet's agreement, I will issue drafting instructions to Parliamentary Counsel to give effect to the proposals in this paper and the decisions made in September. Any changes consistent with intent of the policy proposals, or with regard to issues that arise during the drafting process, will be dealt with through standard processes.

70. I intend to return to Cabinet Legislation Committee to seek approval of the amendment regulations in April 2019, to come into effect at the beginning of July 2019. I understand the Minister of Tourism also intends for the legislation enabling the collection of the IVL to be considered at this same meeting. At that point the regulation prescribing cash payment of certain immigration charges will also be amended.
71. I anticipate future amendments to these Regulations as the classes of people required to hold an ETA are extended in the future.
72. I will bring further policy proposals to Cabinet in June 2019, to make changes to the *Immigration (Carriers' Information Obligations) Regulations 2010*, to come into effect in October 2019.

Impact analysis

73. A Regulatory Impact Summary was prepared to accompany the submission under DEV-18-SUB-0191, and has been published. MBIE's Regulatory Impact Analysis Panel has reviewed the attached Stage 2 Cost Recovery Impact Statement prepared by MBIE. The Panel considers that the information and analysis summarised in the Cost Recovery Impact Statement meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

Human rights

74. The proposals in this paper are consistent with the *New Zealand Bill of Rights Act 1990* and the *Human Rights Act 1993*, and with New Zealand's international commitments to enabling movement of people. The *Immigration Act 2009* recognises that immigration matters inherently involve different treatment on the basis of personal characteristics, but immigration policy development seeks to ensure that any changes are necessary and proportionate.

Proactive release

75. I intend to proactively release this paper in full within 30 business days of Cabinet's consideration.

Publicity

76. An extensive communications and engagement strategy has been developed for domestic and international stakeholders, in order that as many passengers as possible are aware of their obligations before the 1 October implementation date. The ETA implementation project team is working with stakeholders to co-design elements of the ETA. It will therefore inform stakeholders of the proposed changes arising from decisions made in this paper prior to the formal approval of regulation changes in April 2019.

Recommendations

77. The Minister of Immigration recommends that the Committee:
1. **note** that the Cabinet Economic Development Committee:
 - 1.1. agreed in September 2018 to the introduction, scope and associated funding of an ETA, which will be mandatory for certain groups of people who may currently travel to New Zealand without applying first for a visa;
 - 1.2. invited the Minister of Immigration to seek Cabinet agreement to the outcomes of consequential policy development before the end of March 2019, and the subsequent regulations changes in April 2019; and

- 1.3. agreed that the International Visitor Conservation and Tourism Levy (IVL) be collected by Immigration New Zealand, alongside visa and ETA fees

[DEV-18-MIN-0191]

2. **note** that, for the purposes of the policy details set out below, “eligible” travellers and crew are people who meet New Zealand’s statutory requirements to travel to New Zealand and be granted a visa on arrival and who are not exempted from the requirement to hold an ETA as a condition on visa-waiver travel;

Detailed regulatory design

3. **agree** to the details set out in the recommendations below, which will be reflected in the design of amendments to the *Immigration (Visas, Entry Permission, and Related Matters) Regulations 2010* and in any consequential changes to the Immigration Operational Manual;

Definitions

- 3.1. a cruise vessel is a ship primarily carrying passengers (in the ordinary course of business of the ship) between any foreign port and New Zealand;
- 3.2. a cargo vessel is a ship primarily carrying cargo (in the ordinary course of business of the ship) between any foreign port and New Zealand;
- 3.3. the two ETA types are:
 - 3.3.1. Traveller ETA (up to two year duration);
 - 3.3.2. Crew ETA (up to five year duration) ;
- 3.4. as the ETA is not a visa, but a condition on a visa waiver enabling travel to (or via) New Zealand, people will “request” an ETA; an ETA will be “issued” or “confirmed”, or “refused” or “withdrawn” or “revoked” if necessary, and will be “held” by visa-waiver passengers and crew;
- 3.5. a Traveller or Crew ETA can be revoked or withdrawn when there are certain changes in circumstances, such as:
 - 3.5.1. the visa waiver is suspended;
 - 3.5.2. the person becomes statutorily ineligible for a visa or entry permission to enter or be in New Zealand;
- 3.6. a Crew ETA will be revoked when an individual leaves the carrier’s employment (even if they are going to another carrier);

Timing of implementation and ETA requirements

- 3.7. the regulations enabling the ETA will come into effect on 1 July 2019 (requests for ETAs will be able to be made);
- 3.8. eligible passengers checking in for a flight which terminates in or transits New Zealand will be required to hold a valid Traveller ETA from 1 October 2019;
- 3.9. eligible passengers boarding a cruise ship which will travel to New Zealand will be required to hold a valid Traveller ETA at the port immediately before New Zealand from 1 October 2019;
- 3.10. eligible crew seeking uplift for a flight which terminates in or transits New Zealand or boarding a cruise ship which will travel to New Zealand will be required to hold a valid Crew ETA at the port immediately before New Zealand from 1 October 2019;

Carrier relationships and positioning crew

- 3.11. the Ministry of Business, Innovation and Employment may enter into relationships and establish memorandums of understanding (MoUs) with carriers in order to permit carriers to request Crew ETAs on behalf of crew members;
- 3.12. regulations will set out transitional provisions which will establish processes which must be used by carriers to check the eligibility of travellers before embarkation, if electronic systems are not available or MoUs are not in place;
- 3.13. air crew and cruise vessel crew travelling to New Zealand by air to join a vessel or aircraft that will then depart for another country ("positioning crew") will be able to travel on their Crew ETA;

Visa waiver regime and transit visa waiver visa regime

- 3.14. where eligible, the following classes of eligible people will be waived the requirement to hold a visa to travel to New Zealand and will be required to hold an ETA as a condition of their visa-waiver travel;
 - 3.14.1. visa-waiver nationality and visa-required nationality air crew travelling to New Zealand by air in the course of their employment, including as positioning crew;
 - 3.14.2. visitor visa-waiver nationality passengers (including holders of Australian permanent resident visas) travelling to New Zealand by air or transiting New Zealand by air;
 - 3.14.3. transit visa-waiver nationality passengers transiting New Zealand by air;
 - 3.14.4. visa-waiver nationality and visa-required nationality cruise vessel passengers and crew travelling to New Zealand on cruise vessels;
 - 3.14.5. visa-waiver nationality and visa-required nationality cruise vessel crew travelling to New Zealand by air as positioning crew;

Deemed visa regime

- 3.15. air crew will be deemed to hold a temporary visa and to have been granted entry permission on arrival at an Immigration Control Area;
- 3.16. crew on cruise vessels will be deemed to hold a temporary visa from the point that the vessel arrives in New Zealand's internal waters;
- 3.17. passengers on cruise vessels will be deemed to hold a temporary visa from the point that the vessel arrives in New Zealand's internal waters;
- 3.18. only cruise passengers and crew who are able to travel visa waiver will be deemed to hold a temporary visa;
- 3.19. crew and passengers on cruise vessels will be deemed to have been granted entry permission and a visa enabling 28 days stay, calculated from arrival in New Zealand's internal waters;
- 3.20. until Cabinet is asked to make further decisions about them with regard to the ETA regime, the existing regulatory regimes will continue for passengers and crew on cargo vessels and passengers and crew of private aircraft and private marine craft;

Detailed design and fees

- 3.21. individuals will be able to hold more than one ETA at one time (for example, a Crew ETA and a Traveller ETA);
- 3.22. individuals will be able to register more than one identity document against an ETA if they hold more than one passport (this facility may not be available immediately);

- 3.23. Immigration New Zealand will be able to require an individual to travel to New Zealand on their primary identity document;
- 3.24. requests for Traveller ETAs will require the provision of a photograph if the requestor uses a channel which has the technical capacity to enable one to be captured, noting that photographs will be mandatory for requests for ETAs made to the web browser platform when it is technically feasible and will not be a barrier to making an ETA request for bona fide travellers;
- 3.25. cruise passengers arriving at seaports and disembarking the cruise vessel prior to leaving New Zealand on a different craft will not be required to provide photos or other evidence of their eligibility to be granted a visa, or pay a visa fee or immigration levy;
- 3.26. the fees payable for an ETA, which will come into effect on 1 July 2019, will be:
 - 3.26.1. Traveller ETA, where a request is made through a downloaded mobile application: \$9;
 - 3.26.2. Traveller ETA, where a request is made through the internet site: \$12;
 - 3.26.3. Crew ETA: \$9
4. **invite** the Minister of Immigration to consider the case for and level of an urgent fee and to provide advice to Cabinet in the context of further policy decisions;

Transit visa regime

5. **note** that Cabinet directed officials to examine transit visa settings with regard to travel to and from Australia, with a view to either waiving visa requirements for travel in both directions (making it ETA-required) or requiring transit visa-required individuals to hold a visa for both directions;
6. **agree** that passengers who transit New Zealand by air, to or from Australia, will require an ETA as a condition of travelling transit waiver free, unless they are Australian or New Zealand citizens or hold a New Zealand visa;
7. **note** that visa-waiver nationality passengers who hold transit Traveller ETAs and who decide that they would like to enter New Zealand as visitors will in the first instance need to apply for a further Traveller ETA and pay the applicable International Visitor Conservation and Tourism Levy;

Cash payment of certain immigration charges

8. **agree** to amend the regulation which prescribes cash payment of certain immigration fees, as Immigration New Zealand offices no longer generally accept payment in cash, but retain the ability to accept cash in exceptional circumstances by way of special direction by the Minister of Immigration;

Regulatory implications

9. **invite** the Minister of Immigration to issue drafting instructions to Parliamentary Counsel to give effect to the above proposals;
10. **authorise** the Minister of Immigration to approve changes consistent with the policy proposals in this paper or the paper under DEV-18-SUB-0191, or on any issues that arise during the drafting process;
11. **note** that Minister of Immigration intends to return to Cabinet Legislation Committee to seek approval of the amendment regulations in April 2019;

Further regulatory amendments

12. **direct** officials to develop the details of marine advance passenger information and processing, including the timing and content of information about passengers and crew to New Zealand border agencies;
13. **direct** officials to establish transitional provisions to support the operation of the ETA where electronic systems or agreements with carriers are not in place;
14. **invite** the Minister of Immigration to seek Cabinet agreement to the outcomes of this policy development and to seek amendments to the *Immigration (Carriers' Information Obligations) Regulations 2010* in mid-2019;

Arrival card change

15. **note** that the removal of the departure card in 2018 resulted in the loss of some statistical information;
16. **note** that question 2(a) on the arrival card, addressed to New Zealand residents, will be amended in 2019 to improve both tourism statistics and the measurement of New Zealand's international connectivity;

Communications

17. **note** that an extensive communications and engagement strategy has been developed for domestic and international stakeholders, in order that as many passengers as possible are aware of their obligations before the 1 October 2019 implementation date; and
18. **note** that the ETA implementation project team is working with stakeholders to co-design elements of the ETA and therefore will inform stakeholders of the proposed changes arising from decisions made in this paper prior to the formal approval of regulation changes in April 2019.

Authorised for lodgement

Hon Iain Lees-Galloway
Minister of Immigration

Appendix one: Summary tables

Table one: Characteristics of Traveller ETAs and relationship with IVL

<i>Type of passenger</i>	Traveller Electronic Travel Authority		
	<i>Visitor Visa-waiver Nationals and Australian PRV Holders</i>	<i>Transit Visa-waiver Nationals</i>	<i>Visa-required Nationals</i>
Duration: up to	Two years	Two years	Two years
Visitor ETA Enables holder to: (note: will be charged the IVL)	<p>travel to New Zealand by air and apply for a temporary visa and entry permission on arrival</p> <hr/> <p>travel to New Zealand by cruise vessel and be deemed to hold a temporary visa and entry permission on arrival</p>	Not applicable	travel to New Zealand by cruise vessel and be deemed to hold a temporary visa and entry permission on arrival
Transit ETA Enables holder to: (note: will not be charged the IVL)	transit New Zealand by air on any route	transit New Zealand by air on any route	transit New Zealand by air from or to Australia only

Table two: Requests for Traveller ETAs, entry permission and visas

<i>Type of travel</i>	Traveller Electronic Travel Authority		
	<i>Air</i>		<i>Cruise</i>
<i>Purpose of travel</i>	<i>Visit</i>	<i>Transit</i>	<i>Visit</i>
Request mechanism is:	By self or by another individual on behalf, via web or mobile app	By self or by another individual on behalf, via web or mobile app	By self or by another individual on behalf, via web or mobile app
Visa and entry permission on arrival is	applied for through standard processes (via Customs or an eGate)	Not applicable	deemed on arrival in New Zealand (so no need for photo, form etc) Note that if passenger is disembarking and not re-embarking, the current practice (manually processed by Customs, no need for photo, form etc) will apply

Table three: Classes and characteristics of Crew ETAs (visa-waiver and visa-required nationals)

	Crew Electronic Travel Authority	
	<i>Air</i>	<i>Cruise</i>
Duration: up to	Five years	Five years
Can be issued to	employees of carriers who are party to an agreed MoU with the Ministry	employees of carriers who are party to an agreed MoU with the Ministry
Enables holder to	travel to NZ as crew on a scheduled service and be deemed to hold a visa and entry permission on arrival and leave either as crew on another scheduled service or on a commercial service (Note: this reflects existing practice)	travel to New Zealand on cruise vessel and be deemed to hold a temporary visa and entry permission on arrival (Note: this reflects existing practice)
	(as “positioning crew”) travel to NZ as a passenger on a commercial air service and be granted a visa and entry permission and leave as crew on a scheduled service (Note: this is a proposed change to existing practice, under which visa-required nationals must apply for a visitor visa)	(as “positioning crew”) travel to New Zealand as a passenger on a commercial air service and be granted a visa and entry permission and leave as crew on a cruise ship (Note: this is a proposed change to existing practice, under which visa-required nationals must apply for a visitor visa)
Application mechanism is	by carrier employer as part of an upload mechanism, subject to an agreed MoU	by carrier employer as part of an upload mechanism, subject to an agreed MoU
Visa and entry permission on arrival is	deemed on disembarkation	deemed on arrival in New Zealand’s internal waters (a visa enabling 28 days stay, calculated from arrival at the first port)

Proactively released under the OIA