



## COVERSHEET

<b>Minister</b>	Hon Kris Faafoi	<b>Portfolio</b>	Immigration
<b>Title of Cabinet paper</b>	Extending the Re-Entry Border Exception for Nationally Significant Travel	<b>Date to be published</b>	25 January

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
September 2021	<i>Extending the Re-Entry Border Exception for Nationally Significant Travel</i>	<i>Office of the Minister of Immigration</i>
29 September 2021	<i>Cabinet Economic Development Committee Minute of Decision [DEV-21-MIN-0195]</i>	<i>Cabinet Office</i>

### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld to protect the privacy of natural persons.

**[In Confidence]**

Office of the Minister of Immigration

Chair, Cabinet Economic Development Committee

**Extending the re-entry border exception for nationally significant travel**

**Proposal**

- 1 This paper seeks Cabinet's agreement to extend the ability for temporary visa holders to re-enter New Zealand, if travelling for reasons of national significance, beyond 31 August 2021.

**Background**

- 2 Border restrictions prevent most temporary visa holders from entering New Zealand unless they have a critical purpose for travelling to New Zealand. In April 2021, Cabinet agreed to a border exception that allows temporary visa holders to re-enter New Zealand if travelling overseas for reasons of national significance as per the Ministry of Health's early access to the COVID-19 vaccine framework [CAB-21-MIN-0105 refers].
- 3 The re-entry border exception applies to travel before 31 August 2021, the date on which the early access to the vaccine framework was originally due to expire. Cabinet noted that I would report back with further advice should it be appropriate to continue a re-entry exception beyond 31 August.
- 4 I recently provided an update via an oral item to the COVID-19 Ministerial Group (CMG) on Tuesday 31 August. I noted that the re-entry border exception was due to expire and proposed an interim process for urgent cases arising from 1 September, using my special direction powers.

**I consider it appropriate to extend the re-entry border exception for nationally significant travel**

- 5 The re-entry border exception has been used by **Privacy of natural persons** individuals to date to attend events **Privacy of natural persons**. I consider that the re-entry border exception remains necessary to support New Zealand's participation in nationally significant events, such as the Winter Olympics and the New Zealand Defence Force (NZDF)'s ability to deploy personnel offshore in the event of a natural disaster. Accordingly, I propose that Cabinet approves extending the re-entry border exception and to leave it open-ended.
- 6 Vaccine Ministers have recently decided to expand the circumstances under which a person travelling overseas can receive early vaccine access, beyond nationally significant travel and humanitarian grounds<sup>1</sup>, and to enable people to self-declare their reason for seeking early access, without having to provide

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<sup>1</sup> The expanded categories include travel that is for business purposes, family reunification, and to attend a school or university.

proof. In addition, everyone over the age of 12 has been able to book a vaccine since 1 September 2021.

- 7 I therefore propose that the re-entry border exception be modified to remove the reference to a person being approved by the Ministry of Health for early access to the vaccine on the basis of nationally significant travel. The proposed replacement criteria would enable a variation of conditions to be granted where:
- 7.1 the person holds a valid temporary visa; and
  - 7.2 the person is nominated for the border exception by a sponsoring government agency under one of the following categories:
    - 7.2.1 to protect the safety and security of New Zealand's right to govern itself
    - 7.2.2 for Government-approved humanitarian efforts as part of New Zealand's commitments to foreign aid, international disaster responses, or supporting Pacific and Realm countries' recovery from the COVID-19 pandemic
    - 7.2.3 to participate in major international events where travel is necessary to represent New Zealand, or
    - 7.2.4 for nationally significant trade negotiations; and
  - 7.3 the person is assessed by Immigration New Zealand (INZ) as being someone who meets one of the above categories; and
  - 7.4 the person requires a variation of conditions in order to return to New Zealand after nationally significant travel is undertaken; and
  - 7.5 the person continues to meet all other conditions of their visa.

**I propose to remove the requirement that temporary visa holders must be able to show that they have been approved for early vaccine access to be eligible for the re-entry border exception**

- 8 As approval for early vaccine access will no longer be required, I propose to remove the requirement that temporary visa holders seeking re-entry for nationally significant travel will need to show they have received such approval, or have been vaccinated against COVID-19, in order to travel.
- 9 As all people in New Zealand aged over 12 are now eligible for vaccination, early approval is no longer relevant. Requiring proof of vaccination before travel is also problematic because it would be difficult to verify at the current time, and some applicants may not have received a Pfizer vaccine administered in New Zealand (e.g. have been vaccinated overseas, have received a vaccine that was not Pfizer, or have a precluding medical condition).

- 10 The Minister for COVID-19 Response is currently considering proposals to require all non-citizens to be fully vaccinated against COVID-19 in order to enter Managed Isolation and Quarantine (MIQ). In light of this, I consider that it is not appropriate to require this group alone to demonstrate proof of vaccination in order to qualify for a border exception. It is best to wait until a comprehensive policy is in place for all non-citizens entering MIQ. Otherwise, this group may have stricter requirements imposed on them than other non-citizens entering MIQ, and INZ would need to temporarily stand up vaccine verification procedures.
- 11 However, strong positive messaging about the importance of being vaccinated will be provided to those who apply for this border exception to travel overseas and return to New Zealand. The message will be that not only does vaccination confer protection against COVID-19, there is a significant risk that people who are not vaccinated may not be able to re-enter should Cabinet decide that non-citizens are required to be vaccinated in order to enter MIQ.
- 12 Other work underway, including on the development of a Traveller Health Declaration System, which would allow travellers to create a digital record of their vaccination status, will enable New Zealand to have confidence in the vaccination status of most travellers.

**Due to significant pressure on MIQ capacity, I do not propose expanding the scope of the re-entry border exception**

- 13 I propose maintaining the current scope of the re-entry border exception. This means restricting it to those who are travelling for reasons of national significance.
- 14 MIQ is currently under significant pressure due to many factors, most notably the current community outbreak of COVID-19 and the resettlement of eligible people from Afghanistan. Extending re-entry to, for example, those who meet the other critical worker criteria (allowing them to reunite with family and increasing New Zealand's chances of retaining highly-skilled migrants), would add to further demand for MIQ space.
- 15 In the longer-term, a gradual loosening of border restrictions in line with the Reconnecting New Zealand phased approach will allow many more people, regardless of visa status, to travel overseas and re-enter New Zealand. Until then, a narrow exception for travel that is in New Zealand's national interest provides an avenue for a limited number of temporary visa holders to exit and re-enter New Zealand while travellers continue to be required to stay in managed isolation upon arrival in New Zealand.

**Clarifying the eligibility of Australians**

- 16 I also propose that Cabinet allows Australians who are not ordinarily resident to re-enter New Zealand if they travel overseas for reasons of national significance. Currently, a person must have a temporary visa to be eligible for the re-entry border exception. However, Australians are generally granted

residence visas on arrival in New Zealand (which then expire on departure) and are therefore ineligible.

### **Implementation**

- 17 Subject to Cabinet approval of the proposal in this paper, I will extend the re-entry border exception with minor modifications by certifying changes to immigration instructions.

### **Financial Implications**

- 18 Financial implications, if any, are expected to be minor. The proposal in this paper does not appreciably expand the scope of people who are eligible to re-enter New Zealand (other than to Australians who are not ordinarily resident).
- 19 INZ will need to make minor ICT changes to give effect to the proposal in this paper. These costs will be met by reprioritising within existing workloads.

### **Legislative Implications**

- 20 No changes to law or regulations are proposed. I will certify changes to immigration instructions in order to implement Cabinet's decisions.

### **Impact Analysis**

### **Regulatory Impact Statement**

- 21 Changes to immigration instructions do not require a Regulatory Impact Statement (RIS).

### **Climate Implications of Policy Assessment**

- 22 A Climate Implications of Policy Assessment is not required.

### **Population Implications**

- 23 The health impact of COVID-19 on priority groups such as the elderly, Māori, Pasifika and ethnic communities is clear. We know that some groups are more at risk of severe illness from COVID-19 due to age or underlying health conditions. The ongoing border restrictions (and associated managed isolation requirements) support the ability of our healthcare systems to meet the ongoing health and disability needs of priority communities, especially in Māori and rural communities.
- 24 The very small cohort offered border entry will support New Zealand's ability to participate in nationally significant events and aid flexibility in responding nationally significant events quickly, including events in the Pacific, which could have disproportionate impacts on Pacific communities.

## Consultation

- 25 This paper was prepared by the Ministry of Business, Innovation and Employment. The following agencies were consulted on this paper: INZ, Ministry of Health, Ministry of Foreign Affairs and Trade, Sport New Zealand, New Zealand Defence Force and the Ministry for Culture and Heritage. The Department of the Prime Minister and Cabinet was informed.

## Communications

- 26 The new criteria will be published online by INZ and communicated to immigration stakeholders.
- 27 Agencies will be provided with material to assist them in developing communication material for temporary visa holders who may need to apply for re-entry permission.

## Proactive Release

- 28 This paper will be proactively released following Cabinet consideration and once the amended re-entry border exception is in place, subject to necessary redactions.

## Recommendations

The Minister of Immigration recommends that Cabinet:

- 1 **Note** that in April 2021, Cabinet agreed to a border exception that allows temporary visa holders to vary the conditions of their visa to exit and re-enter New Zealand if travelling overseas for reasons of national significance before 31 August 2021 [CAB-21-MIN-0105 refers];
- 2 **Note** that eligibility is determined by meeting the Ministry of Health's 'travelling for reasons of national significance' categories for early access to the COVID-19 vaccine;
- 3 **Note** that Cabinet asked me to report back with further advice should it be appropriate to continue a re-entry exception beyond 31 August [CAB-21-MIN-0105 refers];
- 4 **Note** that Vaccine Ministers have recently decided to expand the circumstances under which a person travelling overseas can receive early vaccine access;
- 5 **Note** that the expansion of early vaccine access has implications for the re-entry border exception, as people applying for early vaccine access will no longer be required to show proof that their reason for travelling is nationally significant;
- 6 **Note** that there is still likely to be a need for temporary visa holders to travel overseas for reasons of national significance;

I N C O N F I D E N C E

- 7 **Agree** to extend the ability for temporary visa holders to re-enter New Zealand if travelling for reasons of national significance beyond 31 August;
- 8 **Agree** that for travel after 31 August 2021, Immigration New Zealand will assess whether a person meets the national significance criteria by requiring a sponsoring agency to request re-entry permission;
- 9 **Agree** that the replacement criteria would enable a variation of conditions to be granted where:
  - 9.1 the person holds a valid temporary visa; and
  - 9.2 the person is nominated for the border exception by a sponsoring government agency under one of the following categories:
    - 9.2.1 to protect the safety and security of New Zealand's right to govern itself
    - 9.2.2 for Government-approved humanitarian efforts as part of New Zealand's commitments to foreign aid, international disaster responses, or supporting Pacific and Realm countries' recovery from the COVID-19 pandemic
    - 9.2.3 to participate in major international events where travel is necessary to represent New Zealand, or
    - 9.2.4 for nationally significant trade negotiations; and
  - 9.3 the person is assessed by Immigration New Zealand (INZ) as being someone who meets one of the above categories; and
  - 9.4 the person requires a variation of conditions in order to return to New Zealand after nationally significant travel is undertaken; and
  - 9.5 the person continues to meet all other conditions of their visa
- 10 **Note** that the current settings require an applicant to hold a temporary visa; however, many applicants are expected to be Australians, who are generally granted residence visas on arrival in New Zealand (which then expire on departure);

- 11 **Agree** to clarify that Australians not ordinarily resident in New Zealand are eligible to re-enter New Zealand under the re-entry border exception.

Authorised for lodgement

Hon Kris Faafoi

Minister of Immigration