



COVERSHEET

Minister	Hon Michael Wood	Portfolio	Immigration
Title of Cabinet paper	<i>Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19 Applications) Regulations (No 2) 2022</i>	Date to be published	18 August 2022

List of documents that have been proactively released

Date	Title	Author
May 2022	<i>Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19 Applications) Regulations (No 2) 2022</i>	<i>Office of the Minister of Immigration</i>
5 May 2022	<i>LEG-22-MIN-0056 Minute</i>	<i>Cabinet Office</i>

Information redacted

YES / NO

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In Confidence

Office of the Minister of Immigration

Cabinet Legislation Committee

Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19 Applications) Regulations (No 2) 2022

Proposal

- 1 This paper asks Cabinet to approve the *Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19 Applications) Regulations (No 2) 2022*, for submission to Executive Council. Those regulations will implement a decision by Cabinet [CAB-22-MIN-0139] to enable people offshore to make applications for work visas from 4 July 2022, and 31 July 2022 for visitor and student visas. They will also enable people in Pacific Island Forum countries (excluding Australia) to apply for visitor visas from 16 May 2022.

Cabinet has agreed to bring forward Step 5 of the Reconnecting New Zealanders Strategy to July

- 2 The *Immigration (COVID-19 Response) Amendment Act 2020* (extended by the *Immigration (COVID-19 Response) Amendment Act 2021*) established the power, through regulations, to suspend the ability of certain people offshore to apply directly for a temporary entry class visa. Regulation 9A of the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010* currently establishes that all offshore applications for all temporary entry class visa categories are suspended, unless applicants fall within a list of excepted persons.
- 3 Following the extensive closure of the New Zealand border in 2020 in response to COVID-19, Cabinet has made a series of decisions to implement the Reconnecting New Zealanders Strategy, which will reopen the border in steps to successive classes of non-citizens. The proposed amendment to Regulation 9A would have the following effect:
 - 3.1 add persons who are applying for a visitor visa, and who are in, or intend to travel from a Pacific Island Forum country (excluding Australia) to the list of excepted persons from 16 May 2022;
 - 3.2 add persons who are applying for a work visa from anywhere in the world to the list of excepted persons, from 4 July 2022; and
 - 3.3 amend existing Regulations 9A(3) and (4), replacing the date on which Regulation 9A self-revokes from 5 August 2022 to 31 July 2022, enabling people anywhere in the world to apply for any temporary visa (and in particular, visitor or student visas).
- 4 For the avoidance of doubt, the Pacific Island Forum countries referred to in paragraph 3.1 are the Federated States of Micronesia, Fiji, French Polynesia, Kiribati, Nauru, New Caledonia, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. The

Cook Islands and Niue are already excepted from the Regulation 9A suspension.

Timing and 28-day rule

- 5 As noted in paragraph 3 above, the amended Regulation 9A will come into force on 16 May 2022 for visitor visas from the Pacific, from 4 July 2022 for work visas and be repealed in full from 31 July 2022. As I indicated to Cabinet on 19 April, I seek a waiver of the 28-day rule on the basis that this change will only confer benefits [CAB-22-MIN-0139]. The proposed amendment benefits people affected (potential applicants) because they will now be able to apply for a visa to come to New Zealand. It also benefits their families and communities in New Zealand.

Compliance

- 6 The Amendment Regulations comply with each of the following:
- 6.1 the principles of the Treaty of Waitangi;
 - 6.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 6.3 relevant international standards and obligations;
 - 6.4 the Legislation Design Advisory Committee's Guidelines on Process and Content of Legislation.

Regulations Review Committee

- 7 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

- 8 The draft regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 9 The Treasury's Regulatory Impact Analysis (RIA) Team had determined that the proposals in this Cabinet paper were exempt from the requirement to provide a Regulatory Impact Statement (RIS) [CAB-22-MIN-0139]. This was on the grounds that the proposals are intended to manage, mitigate or alleviate the direct actions taken to protect the public in response to COVID-19, and implementation of the policies is required urgently to be effective (making a complete, robust and timely RIS unfeasible). The speed with which these proposals were prepared increases the risk of unanticipated consequences and implementation challenges.

Publicity

- 10 These changes are intended to be announced by the Prime Minister during the week beginning 9 May 2022. The changes will also be communicated on

Immigration New Zealand's website, with targeted communications sent to key stakeholders.

Proactive release

- 11 I intend to proactively release this paper and its associated minute with any appropriate redaction where information would have been withheld under the Official Information Act 1982.

Consultation

- 12 The following agencies were also consulted on the policy paper associated with this paper (*Reconnecting New Zealanders – options for Step 5*): the Department of Prime Minister and Cabinet; the Ministries of Ethnic Communities, Foreign Affairs and Trade, Health, Pacific Peoples, Primary Industries, and Transport; Te Arawhiti; the New Zealand Customs Service; and MBIE's Tourism Policy team.

Recommendations

I recommend that the Committee:

- 1 **note** that on 19 April 2022 Cabinet agreed to reopen offshore applications for:
 - 1.1 visitor visas from Pacific Island Forum countries (excluding Australia), from 16 May 2022;
 - 1.2 all work visas from anywhere in the world, from 4 July 2022;
 - 1.3 all visitor and student visas from anywhere in the world, from 31 July 2022

[CAB-22-MIN-0139];
- 2 **note** that the decision in recommendation 1 requires a consequential change to Regulation 9A of the *Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19 Applications) Regulations (No 2) 2022*, which currently precludes most offshore foreign nationals from applying for temporary entry class visas, including work, visitor and student visas;
- 3 **note** that on 19 April 2022, Cabinet noted a waiver of the 28-day rule would be sought for the regulation changes associated with the Cabinet paper *Reconnecting New Zealanders: Options for Step 5*, as they will be only beneficial [CAB-22-MIN-0139];
- 4 **agree** to waive the 28-day rule for this regulation change as it will only be beneficial;
- 5 **note** that the *Immigration (Visa, Entry Permission, and Related Matters) Amendment (COVID-19 Applications) Regulations (No 2) 2022* will give effect to the decision referred to in paragraph 1 above; and
- 6 **authorise** the submission to the Executive Council on 9 May 2022 of the *Immigration (Visa Entry Permission and Related Matters) Amendment (COVID-19 Applications) Regulations (No 2) 2022*.

Authorised for lodgement

Hon Kris Faafoi
Minister of Immigration