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Minister	Hon Michael Wood	Portfolio	Immigration
Title of Cabinet paper	Immigration visa regulations: fit for a modern border	Date to be published	5 April 2023

List of documents that have been proactively released		
Date	Title	Author
February 2023	Immigration visa regulations: fit for a modern border	Office of the Minister of Immigration
15 February 2023	Immigration visa regulations: fit for a modern border DEV-23-MIN-0002 Minute	Cabinet Office
8 February 2023	Regulatory Impact Statement: Amending the Visa Regulations to enable benefits of New Zealand Traveller Declaration (NZTD)	MBIE

Information redacted

YES / NO

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.



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Office of the Minister of Immigration

Cabinet Economic Development Committee

Immigration visa regulations: fit for a modern border

Proposal

- 1 This paper seeks Cabinet's agreement to immigration regulation changes to support the:
 - 1.1 introduction of the digital declaration of the New Zealand Passenger Arrival Card (via the New Zealand Traveller Declaration) in June 2023, and
 - 1.2 operation of New Zealand's border using digital solutions.

Relation to government priorities

- 2 Ensuring immigration settings allow for the use of digital solutions (such as the New Zealand Traveller Declaration (NZTD), for example), supports the Government's priority of continuing to strengthen our border protections, whilst building the capability to respond as appropriate to border risks, including future health or biosecurity events [CAB-21-MIN-0305].

Executive Summary

- 3 I seek Cabinet's agreement to make changes to the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 (Visa Regulations) that are necessary to:
 - 3.1 enable the digital declaration to be used for immigration purposes, including allowing applications for visas (for visa waiver travellers) and entry permission upon arrival to New Zealand to be made electronically
 - 3.2 ensure immigration settings are not a barrier to the government's objective to deliver a smarter, resilient, fit-for-the future border system, e.g. in future, allowing the digital declaration to be completed in languages other than English.
- 4 Cabinet previously agreed to the scope and funding of the NZTD. The aim of the programme is to modernise our border systems and support a more joined-up border service, to better facilitate travel, trade and more effectively manage risk.¹
- 5 The scope of the NZTD includes, from mid-2023 introducing a digital declaration of the New Zealand Passenger Arrival Card (the Arrival Card),

¹ The first tranche of the NZTD was used by travellers to provide pre-boarding information and health declarations. The NZTD was paused on 20 October 2022 (making it no longer a pre-travel requirement for travellers to New Zealand) while development of the digital declaration continued.

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which is currently an application form for a visa and/or entry permission when applied for in an immigration control area. It also covers biosecurity and goods declarations.

- 6 Until June 2023, the current paper Arrival Card remains in use. A paper format of the digital declaration will be available.
- 7 Officials have been working on the development of the digital declaration and ensuring regulatory settings support its introduction. I have recently been informed that it is not currently possible to use the digital declaration for immigration purposes, as there is no provision in the Visa Regulations to make an electronic application for entry permission. This reflects that border services and immigration processing operations were entirely paper-based when the Visa Regulations were introduced. With digital solutions increasingly available, corresponding amendments to Visa Regulations are required.
- 8 To modernise New Zealand's border system and realise the benefits of the NZTD from mid-2023, I propose that Cabinet agree to amendments to Visa Regulations identified to enable the digital declaration to be used for immigration purposes. I seek Cabinet's agreement to invite me to issue drafting instructions for changes to the Visa Regulations that support modernising New Zealand's border and specifically allow applications for visas (by visa waiver travellers) and entry permission on arrival to New Zealand to be made electronically.
- 9 I also seek Cabinet's agreement to authorise me to make further minor changes, which may be required as the detail of the regulations is worked through. The Cabinet Legislation Committee will consider these regulations in May 2023.

Immigration settings - applications for a visa and/or entry permission upon arrival in New Zealand

- 10 Under the Immigration Act 2009 (the Act), associated Regulations and certified Immigration Instructions, the New Zealand government sets the conditions under which non-New Zealand citizens can travel to, enter and be in New Zealand.
- 11 The Visa Regulations allow for visa applications to be made or mandated to be made online. Currently, there are online options for all major visa products (work, student, skilled migrant Category). Several applications are online only including all the Accredited Employer Work Visa gateways and Working Holiday Visas. All paper-based visa applications will be eventually phased out.
- 12 All foreign nationals are required to apply for and be granted a visa and entry permission to be in New Zealand. A visa must be held before travel unless a traveller qualifies for visa waiver travel. The nationals of 60 countries are visa

waiver for travel to New Zealand and apply for a visitor visa and entry permission upon arrival (via the Arrival Card).²

- 13 Visa waiver travellers are also required to hold a New Zealand electronic Travel Authority (NZeTA) before travel (a condition on most visa waiver travellers), which must be requested via an electronic online system or a mobile application. Australian citizens and permanent residents may apply for and be granted resident visas and entry permission on arrival in New Zealand.
- 14 The Arrival Card is currently the approved form that travellers must use to make an application for a visa or entry permission on arrival in New Zealand (where required), in the prescribed manner, which includes being completed in English.³ The paper Arrival Card also collects information used to create Tier 1 statistics that are critical for the analysis of the New Zealand economy and tourism sector.

Digital solutions at the border to better manage passenger arrivals

- 15 The NZTD is a joint border initiative that will enable travellers to meet their border requirements in a digital format, leading to travellers moving through our airports more seamlessly and improving risk management. Cabinet has made a number of decisions related to the NZTD's scope, associated funding and timeframes which includes introducing a digital declaration [CBC-21-MIN-0090 and CAB-21-MIN-0366, SWC-22-MIN-0050 and CAB-22-MIN-0104, and SWC-22-MIN-0127].
- 16 The NZTD system combines the:
 - 16.1 information collected for declarations (customs and biosecurity) and applications for a visa and/or entry permission made using the existing Arrival Card; and
 - 16.2 health-related functionality of the previous NZTD traveller pass (which can be used to collect any mandatory health information from travellers).
- 17 From late June 2023, travellers will be able to submit a digital declaration via an electronic system or mobile application. Making declarations (biosecurity, goods, immigration) will not be mandatory until arrival in New Zealand.
- 18 Travellers can (and will be encouraged to), voluntarily provide information prior to travel. It is proposed that information submitted in the digital declaration can be used by border agencies:

² Under Visa Regulations, travellers who arrive via the maritime border (e.g. cruise ship passengers) are deemed to hold a visa and have been granted entry permission. Unless permanently disembarking, travellers are not required to complete the paper Arrival Card.

³ Sections 57, 103 and 381 of the Immigration Act, regulations 7, 8, 11 and 24 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010.

- 18.1 To carry out risk assessments prior to arrival if the traveller completes it ahead of schedule, which can be used to determine if a traveller:
 - 18.1.1 might need to be referred to an immigration officer upon arrival, or
 - 18.1.2 may be ineligible for travel to New Zealand for reasons including character concerns (anticipated to be in limited circumstances as before travel, foreign nationals must either apply for a visa or request an NZeTA)
 - 18.2 To proactively assist travellers to comply with their immigration, customs and biosecurity obligations in advance of arrival, and
 - 18.3 For Tier 1 statistics.
- 19 My officials inform me that the Visa Regulations do not include a provision for an application for a visa or entry permission upon arrival to be made electronically. The introduction of the NZTD, provides a digital solution for entry permission applications to be made.

I seek a policy change to enable immigration regulatory settings to support a modern border and the introduction of the NZTD

- 20 I seek Cabinet's agreement to amend the Visa Regulations to support a border system that is fit-for-the-future and allow the digital declaration to be used for immigration purposes.
- 21 Based on the government's objective to deliver a smarter, resilient and fit-for-the-future border and the Border Executive Board's Border Sector Strategy⁴, the following principles for immigration border settings have been developed to guide the analysis of the preferred option to amend Visa Regulations:
- 21.1 **Improve the traveller experience:** support a more seamless border experience by helping travellers understand their immigration obligations in advance and experience less interaction upon arrival.
 - 21.2 **Improve risk management:** support and enable border agencies to have timely access to information to inform more targeted risk assessments and better manage border risk.
 - 21.3 **Improve data accuracy:** digital collection and storage of information better facilitates data and information sharing (within legal constraints) across border agencies and better management of high volumes of travellers.

⁴ The Border Executive Board provides collective leadership and accountability for New Zealand's border to enable the prosperity and security of New Zealand through a smart and safe border.

- 21.4 **Be future focused:** the immigration border settings are resilient and flexible to meet today's needs and adapt to the changing requirements of the government. This includes supporting preparedness/readiness for a future emergency.
- 21.5 **Support an integrated border system:** regulatory settings and operational processes enable border agencies to be joined-up and deliver smarter, more efficient border processing services and provide a consistent traveller experience.
- 22 Some of the benefits of amending the Visa Regulations include:
- 22.1 Travellers would be able to use the digital declaration to apply for a visa and/or entry permission upon arrival to New Zealand, which aligns with major visa products and the NZeTA being online.
- 22.2 The immigration border process would be aligned with other border agencies, supporting a joined-up border system, more targeted risk assessments and a consistent traveller experience.
- 22.3 Immigration information would be collected in a digital format, increasing data accuracy and efficiency of information sharing.
- 22.4 In future, enabling applications to be completed in languages other than in English. This would only be enabled for digital applications made at the border, provided that predominantly closed questions are asked which can be digitally translated for officials to make border decisions.
- 22.5 Providing the Chief Executive of MBIE the authority to mandate applications for entry permission to be made electronically so that, when in future this is an appropriate setting, it can be required. Currently this power exists for visa applications and is used for some visas, such as applications for Working Holiday Visas.
- 23 Maintaining the status quo immigration Visa Regulations settings would mean that Applications for a visa and/or entry permission made upon arrival to New Zealand could only be made using the paper version of the digital declaration. Separately, some travellers would complete the digital declaration to meet customs and biosecurity purposes border requirements. It is likely there would be traveller confusion leading to increases to processing time, and negatively impacting the traveller experience.
- 24 The ability of the immigration border system to be future focused and responsive would also be limited. Immigration information would not be available in a digital format, making it more difficult to share information or easily analyse for trends.

Implementation

- 25 The digital declaration is proposed to go-live in June 2023, which is when an amendment to the Customs and Excise Act 2018 is intended to take effect.

Amended Visa Regulations will need to be in place by 21 June 2023 to allow the NZTD to be used for immigration purposes.

- 26 The NZTD Programme (led by Customs in conjunction with other border agencies including MBIE for Immigration New Zealand) is leading the implementation of the NZTD. The implementation approach includes the following:
- 26.1 Incorporating lessons learned from when the NZTD was a requirement in 2022 to mitigate usability issues experienced such as by developing both web and mobile application formats and conducting three pilots in advance of go-live.
 - 26.2 Implementing a responsive and agile Customs, MPI and Immigration processing approach for travellers to deliver an improved arrival experience.
 - 26.3 Developing and delivering a significant promotions campaign to support the implementation of the NZTD.
 - 26.4 Providing assistance to travellers who face barriers on-arrival, such as completing the declaration or using their mobile device; including:
 - 26.4.1 ensuring Wi-Fi is available at airports;
 - 26.4.2 having the option of a paper version of the digital declaration; and
 - 26.4.3 in future, establishing kiosks in airport arrival halls to enable travellers to complete the digital declaration upon arrival.
- 27 To improve the traveller experience, and further support accessibility, inclusion and usability needs, in future there will be the option to allow the digital declaration to be completed in an agreed range of languages other than English.

Financial Implications

- 28 Cabinet has previously agreed to funding for the implementation of NZTD [CAB-22-MIN-0104]. Cabinet also agreed that the first full introductory year (2023/24) of NZTD operations would be met by the Crown, with the ongoing operating costs of NZTD met by fee paying travellers (from 1 July 2024) [DEV-22-MIN-0301].

Legislative Implications

- 29 As noted above, it is proposed that the policy recommendations in this paper are given effect by amending the Visa Regulations. Amendments are specifically required to allow applications for a visa and/or entry permission upon arrival in New Zealand to be made electronically.

- 30 I also propose that Cabinet delegate to me the authority to make decisions on technical, administrative, and other changes that are necessary for the proposals contained in this paper.
- 31 I intend to return to Cabinet Legislation Committee to seek approval of the amendments to the Visa Regulations to come into effect by 21 June 2023.

Impact Analysis

Regulatory Impact Statement

- 32 MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Impact Statement prepared by MBIE. The panel considers that the information and analysis in the Regulatory Impact Statement meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

Climate Implications of Policy Assessment

- 33 There are no direct climate implications of these proposals.

Population Implications

- 34 Some population groups and visitors that could face barriers using an electronic NZTD system include; age, people from non-English speaking countries, people with disabilities, Māori, Pasifika peoples, seniors and those from low-socio-economic backgrounds who have low levels of access to technology. These barriers could lead to indirect discrimination on one or more of the grounds of prohibited discrimination.
- 35 The Accessibility, Usability and Inclusion Strategy being developed by the NZTD Programme is intended to mitigate against these risks and support these groups to access and use the digital declaration, including by:
- 35.1 Meeting the New Zealand Government Web Accessibility Standard; and,
- 35.2 Allowing a parent, guardian or support person to complete the NZTD on behalf of a minor a traveller requiring assistance.

Human Rights

- 36 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.

Te Tiriti o Waitangi obligations

- 37 The NZTD programme has developed a partnership engagement plan, and work as part of the Accessibility, Usability and Inclusion Strategy will support the Programme to meet Te Tiriti o Waitangi obligations.

Consultation

- 38 This paper was prepared by MBIE. The following agencies were consulted; Department of Internal Affairs, Ministry for Primary Industries, Ministries of Business, Innovation and Employment (Tourism Policy), Health/Public Health Agency, Justice, Pacific Peoples, Transport, Te Arawhiti, New Zealand Customs Service. The following agencies were informed: Parliamentary Counsel Office, StatsNZ, Ministry of Social Development, Inland Revenue, The Treasury, Department of Prime Minister and Cabinet.

Communications

- 39 The NZTD Programme is preparing an extensive communications and engagement strategy (informed by the NZeTA launch in 2019) to support the implementation, promote the uptake of the digital declaration and ensure travellers are informed of the digital declaration prior to travel.

Proactive Release

- 40 The paper will be proactively released, subject to any redactions consistent with the Official Information Act 1982.

Recommendations

The Minister of Immigration recommends that the Committee:

1. Note that Cabinet has agreed to the introduction, scope and associated funding of the New Zealand Traveller Declaration (NZTD) to support *Reconnecting New Zealand* and modernise the border system;
2. Note that the reintroduction of the NZTD from June 2023 will enable travellers to complete their digital declaration (for immigration, customs and biosecurity purposes) electronically, removing the need for the paper New Zealand Passenger Arrival Card;
3. Note that the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010 (Visa Regulations) do not fully enable the immigration system to utilise digital solutions (such as the NZTD) and to be fit-for-the-future;
4. Agree to amend the Visa Regulations to enable digital solutions to be used for immigration purposes, specifically to allow applications for a visa and/or entry permission upon arrival in New Zealand to be made electronically (i.e. using the NZTD) and the ability to allow it to be completed in languages other than English;
5. Invite the Minister of Immigration to issue drafting instructions to the Parliamentary Counsel Office in accordance with the decision in recommendation 4;
6. Authorise the Minister of Immigration to make decisions on any minor or technical matters, consistent with the policy proposals in this paper, that may arise during the drafting process; and

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7. Note that the NZTD programme is developing an extensive communications strategy to inform travellers of the introduction of the digital declaration.

Authorised for lodgement

Hon Michael Wood

Minister of Immigration

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