

IMMIGRATION (COVID-19 RESPONSE) AMENDMENT BILL 2020 – SUMMARY OF PROPOSED POWERS

Power	Exercisable by	Delegable to an immigration officer	Safeguards and limits				Examples of how the power may be used
			Exercisable only where responding to COVID-19 ¹	Automatically revoked in 12 months	Publication requirement, disallowance and presented to the House ²	Other	
1 To impose, vary or cancel conditions for classes of temporary entry class visa holders	Special direction	✘	✓	✓	✓		To relax employment conditions, e.g. to allow workers to be redeployed to a different employer or location
2 To vary or cancel conditions for classes of resident class visa holders	Special direction	✘	✓	✓	✓		To allow offshore resident visa holders more time to enter NZ
3 To extend the expiry dates of visas for classes of people	Special direction	✘	✓	✓	✓	Expiry dates may only be extended for a period of up to 6 months	To extend visa expiry dates for persons offshore who may not be able to travel to NZ within the validity of their visa
4a To grant visas to individuals in the absence of an application	Special direction	✓	✘ ³	✓	✘		To grant visas to individuals who are unable, e.g. because of sickness, to submit an application
4b To grant visas to classes of people in the absence of an application	Special direction	✘	✓	✓	✓		To grant visas to classes of people who are unable, e.g. because of sickness, to submit an application
5 To waive any regulatory requirements for certain classes of application	Special direction	✘	✓	✓	✓		To waive fees or other application requirements which may be currently impractical to meet
6 To waive the requirement to obtain a transit visa in an individual case	Special direction	✓	✓	✓	✘		To waive transit visa requirements for individuals who have humanitarian reasons for transiting NZ
7 To suspend the ability to make applications for visas or submit Expressions of Interest in applying for visas by classes of people	Order in Council	✘	✓	✓	✘ ⁴	A suspension may be for a period not exceeding 3 months	To suspend new applications for particular visa categories until global border restrictions are loosened and applicants are able to travel to NZ
8 To revoke the entry permission of a person who has been deemed by Regulations to hold a visa and to have been granted entry permission	N/A	N/A ⁵	✓ ⁶	✓	✘		To prevent private aircraft crew with deemed entry permission who are not complying with PPE requirements from entering NZ

¹ Specifically, where it is necessary or desirable to manage the effects, or deal with the consequences of, measures taken under the Immigration Act, or any other enactment or otherwise, to contain or manage the outbreak of COVID-19 or its effects.

² Special directions affecting a class of visa holders or people will, along with an explanation of its effect, be notified in the Gazette and published on MBIE’s website. In addition, these special directions are “disallowable instruments” for the purposes of the Legislation Act 2012, and will be presented to the House of Representatives.

³ This power is not limited to responding to COVID-19, to preserve the Government’s ability to respond to other emergency situations which may occur during the COVID-19 outbreak, such as the recent Whakaari/White Island event, and which may result in individuals being hospitalised and unable to apply for a visa.

⁴ Regulations made exercising this power will be publically available at www.legislation.govt.nz.

⁵ The Government proposes that this power can be exercised directly by an immigration officer, so it is not a delegable power.

⁶ Immigration instructions will set out the limited situations in which an immigration officer can revoke an entry permission.