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# **BREAKING NEWS**

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## Introduction

As you may be aware, the Government has fast-tracked legislation to ensure it can respond appropriately and efficiently to immigration issues arising from the COVID-19 outbreak.

These temporary immigration legislation amendments are intended to support the quick and efficient management of visa changes during COVID-19.

The Minister of Immigration has assured the migrant community in New Zealand that the Government will not use the powers in this Act to take away any existing visa rights.

## Powers of the Bill

The Bill introduces eight time-limited powers:

- to impose, vary or cancel conditions for classes of temporary entry class visa holders
- vary or cancel conditions for classes of resident class visa holders
- extend the expiry dates of visas for classes of people
- grant visas to individuals or classes of people in the absence of an application
- waive any regulatory requirements for certain classes of application (that is, waive any prescribed requirements that people need to fulfil to have their application accepted by INZ for assessment).
- waive the requirement to obtain a transit visa
- suspend the ability to make applications for visas or submit Expressions of Interest in applying for visas by classes of people who are offshore
- revoke the entry permission of people who are deemed to have been granted entry permission.

## Affected visas

Currently there are approximately 350,000 temporary visa holders onshore;

- Over 200,000 have work visas whose visa conditions may need to be varied as we respond to the effects of COVID-19.

- Over 70,000 are student visa holders whose visa conditions may need to be relaxed, to enable them to change their course or work extra hours until education providers are able to reopen.
- Over 56,000 are on visitor visas, who may need to have their expiry date extended if flights out of New Zealand continue to be unavailable.
- Over 20,000 skilled migrant resident visa holders are onshore (where their residence start date was on or after 27 April 2018).

## Purpose of the Bill

The Immigration (COVID-19 Response) Amendment Act 2020 enables the government to amend visa conditions for groups of people, extend visas of groups of people for varying periods of time, for example so that processing of any subsequent visa applications, should people need or want to stay longer, can be staggered.

The Act also allows for one or more of the prescribed requirements to apply for a visa to be waived for groups of people, while stopping groups of people overseas from making visa applications when it would not be possible for them to use the visa to travel to New Zealand in any event due to border restrictions.

Between 3 February (when border restrictions started) and 20 April 2020, Immigration New Zealand received over 63,000 offshore applications for temporary visas. Roughly half of those applications were for visitor visas.

You can find the Immigration (COVID-19 Response) Amendment Bill online

## Frequently Asked Questions

**Q: Does this Act give Government sweeping powers to make changes to visas?**

**A:** This Act gives the Minister the ability to make changes to visas in order to respond to the immediate challenges posed by the COVID-19 outbreak. These changes could include amending visa conditions for groups of people such as what region they can work in, or extending visa expiry dates for groups of people. The new powers cannot be used to change conditions if that change would materially disadvantage the class of visa holders concerned. The Minister is not obliged to use any of the powers.

**Q: How can this Act effectively safeguard migrant welfare?**

A: The Act requires the Minister of Immigration to be satisfied, before making a special direction affecting a class of people, that doing so will not materially disadvantage the class of people concerned. This provides another standard against which the use of the powers must be assessed. It is an effective safeguard because it means that the Minister would not be able to use the powers in a way that materially deprives visa holders of existing visa rights (e.g. work rights).

**Q: Is the Government doing this because it plans to cancel the visas of migrants who have made New Zealand their home and are working/studying lawfully?**

A: There are no such plans. This Act presents a pragmatic solution to practical challenges arising from the COVID-19 Pandemic for migrants in New Zealand and the New Zealand Government. Several hundred thousand people on temporary entry class visas are in New Zealand at present – too many to easily deal with on an individual basis when the system is so disrupted. These powers are to enable the Government to respond appropriately and efficiently by providing additional flexibility in the immigration system.

**Q: The Act gives the Minister the power to impose, vary or cancel conditions for classes of temporary entry class visa holders. Will visas be cancelled?**

A: The Act does not give the power to revoke temporary entry class visas. In addition, the new powers cannot be used to change conditions if that change would materially disadvantage the class of visa holders concerned.

**Q: The Act gives the Minister the power to vary or cancel conditions for classes of resident class visa holders. Will this be used to cancel people's residency?**

A: The Act does not give the power to revoke resident or permanent resident visas. In addition, the new powers cannot be used to change conditions if that change would materially disadvantage the class of visa holders concerned.

**Q: This Act will give Government the power to suspend the ability to make applications for visas or submit Expressions of Interest in applying**

**for visas by classes of people. Does this mean that migrants in New Zealand with family offshore cannot apply to be reunited in New Zealand?**

A: It will be possible for the Minister to recommend that Cabinet agree to a temporary suspension, for up to three months, of certain classes of applications from being made by people overseas while it is not possible to travel to New Zealand due to border restrictions. This amendment is temporary to help manage the impacts of COVID-19, and to not give people false hope that if they are granted a visa they will be able to use it.

**Q: Does this Act have transparency and accountability in the special direction making powers?**

A: The Act has strong limits and safeguards on when the powers can be used. Transparency and accountability is also built in through the requirement that special directions affecting classes of people be published on the Department's website and the New Zealand Gazette, and tabled in the House of Representatives. The House can by resolution disallow these special directions in whole or in part.

**Q: How do you intend to use the powers in the Act? When do you intend to use them?**

A: The Minister will be taking advice on if, how and when to exercise the powers in the Bill over the coming weeks. No decisions have been made.

**Q: How many people could these powers impact?**

A: There were approximately 350,000 temporary visa holders onshore on 27 April 2020.

- Over 200,000 have work visas whose visa conditions may need to be varied as we respond to the effects of COVID-19.
- Over 70,000 are student visa holders whose visa conditions may need to be relaxed, to enable them to change their course or work extra hours until education providers are able to reopen.
- Over 56,000 are on visitor visas, who may need to have their expiry date extended if flights out of New Zealand continue to be unavailable.

As at 27 April 2020, over 20,000 skilled migrant resident visa holders were onshore (where their residence start date was on or after 27 April 2018).

Between 3 February (when border restrictions started) and 20 April 2020, Immigration New Zealand received over 63,000 offshore applications for temporary visas. Roughly half of those applications were for visitor visas. These people will be unable to travel to New Zealand for some time to come.

**Q: Does this mean that the Government is going to let migrants get jobs ahead of New Zealanders?**

A: The Minister will be taking advice on if, how and when to exercise the powers in the Bill over the coming weeks. No decisions have been made. The Government is very aware of the needs of New Zealanders who have been affected by the outbreak, as well as the welfare of migrants.

**Q: What is the Government doing to ensure that INZ is able to cope with an influx of applications?**

A: The powers in the Bill will give the Government the flexibility to deal with some visas in bulk, and will therefore assist with greater administrative efficiency at this time.

## **Can we help?**

Please contact us should you have any questions and queries, initially by email on;

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