

ISSUED Thursday, 21 May 2020

BREAKING NEWS

Terra Nova Consultancy Ltd

JP Hendrikx - LIA 200800214

14 Glanworth Place
Dannemora 2016
Auckland

PO Box 58385
Botany 2163
Auckland

P +64 (0)275 706 540

E jpeter@terranovaconsultancy.co.nz

W www.terranovaconsultancy.co.nz

Update EOI's	3
Status of New Zealand's border	3
PPI letters print Lockdown level 4	4
PPI sent prior to 25 March 2020	4
New PPI sent on or after 14 May 2020	5
Request for Information (RFI) sent on or after 14 May 2020	5
Change in circumstances	5
Communication	5
Humanitarian exceptions to border closure	6
Employment Visa Escalations (EVE) process	6
Extended ITA due dates	7
FAQs	8
Residence applications	9
Can we help?	9

Update EOI's

Immigration New Zealand has now received 9,446 expressions of interest (EOI) from people who believe they meet exceptions to the border closure.

Of the 9,210 EOIs decided so far, 1,879 meet the criteria and have been invited to apply for a visa.

Status of New Zealand's border

The New Zealand border remains closed to all but New Zealand citizens and residents. It is important to note that the COVID-19 Alert Level System has no bearing on the border restrictions.

INZ understands there are a number of people who have been caught on the wrong side of the border restrictions. They may hold valid visas for New Zealand but do not meet the criteria for an exception to the Border restrictions. We acknowledge this is a difficult and challenging situation for these individuals, their families and their employers.

The bar for being granted an exception to the border restrictions is set high to help stop the spread of COVID-19 and protect the health of people already in New Zealand.

Individuals who believe they meet the exceptions criteria need to submit a request for an exception to the border restrictions. The availability of flights to New Zealand and any travel restrictions for any transiting country needs to be considered before a request is submitted. If the circumstances are considered exceptional and justify travel to New Zealand for a critical purpose, individuals will be invited to apply for a visitor visa, or to vary their existing visa to allow them to travel.

Since the border exceptions process was put in place, Immigration New Zealand (INZ) has received 9,446 requests for a border exception. Most requests for a border exception have been made by individuals from India, followed by Australia and South Africa.

Around half of the people making requests have done so under the 'family of a New Zealand citizen or resident' or 'New Zealand based family of a temporary visa holder in New Zealand' category.

Most of the remaining people making requests have done so under ‘critical humanitarian travel’, followed by the ‘other essential worker’ and ‘essential health worker’ categories.

PPI letters print Lockdown level 4

Due dates on PPI letters issued prior to New Zealand entering Alert Level 4 Lockdown, those issued from 14 May 2020 and requests for information

This provides offices with guidance around due dates on Potentially Prejudicial Information (PPI) letters that were sent to applicants prior to New Zealand entering Alert Level 4 Lockdown. It also provides guidance on due dates for any new PPI letters issued from the start of Alert Level 2 and for any new requests for information.

As a result of COVID-19, New Zealand entered Alert Level 4 lockdown at 11:59pm on 25 March 2020, followed by a period at Alert Level 3. Alert Level 2 commenced on 14 May 2020.

PPI sent prior to 25 March 2020

For applications where a PPI letter was sent prior to 25 March 2020, please extend the due date until Friday 12 June 2020 (4 weeks after New Zealand entered Alert Level 2, allowing for the statutory holiday on 1 June 2020).

The purpose for this extension is to allow applicants sufficient time to obtain any required information, seek immigration advice where necessary and respond accordingly. Although some applicants may have been able to respond, or should be able to without further delay, allowing a consistent extension is fair, given many may have been affected in various ways by the lockdown (including difficulty accessing advice or support). Further extensions beyond this time can be considered on a case by case basis. Case officers should be reasonable when considering requests for further extensions, and should discuss this with their Technical Advisor if they are unsure.

While due dates will be extended, it is important to note that if an applicant is able to provide a full response before their due date is reached, case officers can look to make a decision on the application earlier upon agreement from the applicant or their representative.

New PPI sent on or after 14 May 2020

For applications where a PPI is sent on or after the commencement of Level 2 (i.e. 14 May 2020), please give the applicant 4 weeks to respond. Note this is longer than usual but it is to ensure that applicants are given a generous timeframe in light of unprecedented recent events to ensure they can obtain further information and seek immigration advice where necessary. If an applicant is able to provide a full response before their due date is reached, case officers can look to make a decision earlier upon agreement from the applicant or their representative.

Request for Information (RFI) sent on or after 14 May 2020

Please give a minimum of 10 working days for an applicant to respond to an RFI. Please also note 1 June 2020 is a public holiday when setting your response date.

Change in circumstances

Applicants, whether they are represented or not, remain obligated to inform INZ of any relevant fact, including any material change in circumstances that occurs after the application is made, if it may affect the decision on the application.

Communication

The new due date extension will be communicated to all Licenced Immigration Advisers (LIA) and lawyers via proactive communications from National Office. However, with individual cases that are not represented by an LIA or lawyer, case officers are to make contact via email with these applicants to advise of the new due date and invite them to provide updated information if their circumstances have changed materially since the PPI was first sent. Information around new PPI due dates will also be included in the Frequently Asked Questions section available on the INZ website. Please note this is not a long term change to INZ's PPI process and that PPI timeframes will return to normal in due course.

This advice will be reviewed at the end of June 2020 and further advice may be issued.

Humanitarian exceptions to border closure

We have received a number of questions about the criteria for applicants seeking an exception to the border closure under humanitarian reasons.

One of the small number of limited exceptions to the ban on travelling to and entering New Zealand is 'critical humanitarian travel'. This only applies to extreme humanitarian cases, usually regarding urgent matters of life and death.

Humanitarian reasons are exceptional circumstances of a humanitarian nature that make it strongly desirable for the applicant to travel and enter New Zealand.

The bar for these applications is exceptionally high. When considering whether a person has humanitarian reasons for travelling to New Zealand, immigration officers must consider the purpose of these instructions and the strong public interest in protecting the health of New Zealanders and supporting Government agencies' response to the risks posed by the COVID-19 situation.

Relevant factors when we consider if humanitarian reasons justify the grant of a visa under these instructions include:

- The applicant's connection to New Zealand
- the applicant's connection to the place they are currently located
- whether New Zealand is their primary place of residence, and their period of absence from New Zealand
- whether the applicant has any alternative options
- the impact of not granting a visa and entry permission to the applicant,
- whether the Ministry of Health or a District Health Board supports the provision of any medical treatment that may be required by an applicant.

Employment Visa Escalations (EVE) process

Immigration New Zealand (INZ) has a process to respond to escalation requests for urgent allocation for employment related visas.

The Employment Visa Escalations (EVE) mailbox process has been updated due to the impacts of COVID-19. This is to both ensure that INZ is cognisant of the changes to the New Zealand labour market and be attuned

to needs of New Zealand businesses in critical need. Additional criteria has been added to the allocation escalation process to reflect this.

A mailbox will be monitored and actioned by a team of dedicated Immigration Managers who will assess these requests for escalation. A request for escalation will be considered against the following criteria:

- compelling personal circumstances,
- humanitarian factors, and
- matters of national interest.

INZ will respond to all requests within two working days to confirm if the application will be prioritised for urgent allocation or not. The EVE Immigration Manager's determination of any request for escalation is final and they will not respond to further communication about the request and justification around the decision.

All requests for priority allocation of employment related visa applications should be forwarded to the EVE mailbox:

EmploymentVisaEscalations@mbie.govt.nz

Extended ITA due dates

Extending the deadline for applying for residence following an ITA Immigration New Zealand understands that as a result of COVID-19, it has been difficult for individuals who have been invited to apply through the Skilled Migrant or Investor 2 categories to submit their applications within the required timeframe.

Normally, applicants have four months from when they are invited to apply to submit their application with all the required documents. However, during the COVID-19 lockdown some applicants found it hard to obtain all the documents necessary for their application or were otherwise unable to submit their application.

As a result, the Government has decided to extend the timeframe that applicants have to submit their application.

Individuals who were issued an Invitation to Apply between 1 November 2019 and 15 April 2020 will now have an additional six months to submit their application.

This provides applicants with 10 months in total from the date they were invited to apply to submit their application. INZ believe this is sufficient time for individuals to obtain the necessary documents for their applications.

FAQs

Q: What obligations do employers have for migrants who were employed by them before and during the epidemic notice period?

A: Employers must continue to comply with New Zealand employment law. More information on employment obligations can be found here: <https://www.employment.govt.nz/leave-and-holidays/other-types-of-leave/coronavirus-workplace/>

Q: My employee has had their work visa extended. Do I now have to extend their employment as well?

A: Employers are not required to extend fixed-term employment because an employee's visa has been extended, unless they wish to continue employing the individual

Q: As an employer, what will be the impact on my ability to employ staff on work visas in the future if we have to declare we have previously made workers redundant?

A: Employers must still demonstrate that they have attempted to hire New Zealand citizens or residents before being permitted to supplement their New Zealand workforce with any migrant labour. They may also need to demonstrate that the business is in the financial position to take on any additional employees they wish to hire.

Q: Can the first entry date on my visa be extended so that it doesn't expire while border restrictions are in place? What about for resident visas?

A: INZ is considering the situation of those currently outside of NZ whose visas have either expired or will expire. More information on this will be provided when it is available. INZ can only permit the entry of people who meet the exception criteria set by the New Zealand Government which can be found on our website: <https://www.immigration.govt.nz/about-us/covid-19/border-closures-and-exceptions>

Q: What should migrants do if they have lost their job and are facing financial hardship?

A: INZ understands that many migrants may have lost their job or had their hours of work and/or wages reduced as a result of COVID-19 and New Zealand's Alert level system, which means they are not meeting their visa requirements.

Migrants who are experiencing financial hardship should contact their Embassy or Consulate for assistance. Migrants who are unable to support themselves or secure employment should make steps to leave the country.

Residence applications

Potential residence applicants who wish to apply under the Skilled Migrant or Investor 2 Categories are provided four months to do so after being invited to apply.

Due to the novel coronavirus (COVID-19) crisis, potential applicants are facing challenges in meeting the normal four month deadline. Changes have therefore been made to immigration instructions to provide for a six month extension to the normal deadline, for a limited cohort of potential applicants.

These instructions are effective on and after 18 May 2020.

Can we help?

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

jpeter@terranovaconsultancy.co.nz
info@terranovaconsultancy.co.nz