



9 June 2020

Immigration New Zealand Operational Manual: Amendment Circular No. 2020-20

To: All Manual Holders

AMENDMENTS TO THE IMMIGRATION NEW ZEALAND OPERATIONAL MANUAL

Introduction

This circular outlines changes to the Immigration New Zealand Operational Manual. A copy of the changes is attached.

All immigration officers dealing with immigration applications should read the amendments and operate in accordance with the amended instructions on and after their effective dates.

Note

The amendments described in this circular will be published in the Immigration New Zealand Operational Manual in due course.

Information about these changes is available on our website www.immigration.govt.nz.

Summary of contents

This amendment circular details changes to Immigration New Zealand's Operational Manual, and contains the following:

- The description of changes section contains a summary of the changes to immigration instructions.
- Appendix 1 contains amended *Restricted Temporary Entry instructions* effective on and after 2 June 2020.

Additions to the instructions are highlighted for ease of reference. Deletions have not been highlighted.

Description of changes

Implementing the New Zealand Government response to the novel coronavirus (COVID-19) outbreak

E3.27 Restricted temporary entry instructions: Varying the condition of a temporary entry class visa for a critical purpose

H5: COVID-19 Support Restricted Temporary Entry Instructions

Changes have been made to immigration instructions to clarify the existing rules and requirements for the revised approach to border restrictions and the associated exceptions process (introduced on 30 March 2020 – see Amendment Circular 2020-13 for details).

These instructions are effective on and after 2 June 2020.

Appendix 1 - Amendments to Restricted Temporary Entry instructions effective on and after 2 June 2020

E3.27 Restricted temporary entry instructions: Varying the condition of a temporary entry class visa for a critical purpose

- a. A person with a condition on their temporary visa that the holder carries out a critical purpose while in New Zealand may be granted entry permission despite the border restrictions related to COVID-19 (see [Y4.50](#)). This supports government objectives, as set out in H5.1.
- b. A person may express interest in applying for a variation of conditions for a critical purpose by using the form provided for the purpose on the Immigration New Zealand website.
- c. An immigration officer must invite a person to apply for a variation of conditions for a critical purpose before that person can make an application (H5.10).
- d. A variation of conditions application is made by submitting the following to an immigration officer within 1 month of the date of the invitation to apply:
 - i. the completed online or paper form,
 - ii. the appropriate fee,
 - iii. the documentation and evidence requested in the invitation to apply, including evidence of the applicant's critical purpose in New Zealand.
- e. A variation of conditions can be granted where an immigration officer is satisfied:
 - i. the applicant has a critical purpose for travelling to and being in New Zealand as set out at E3.27.1 below; and
 - ii. all the other requirements of the visa the person currently holds continue to be met.

Note: The instructions in this section are restricted temporary entry instructions. In accordance with section 76(2) of the Immigration Act 2009, Immigration officers may not grant a temporary visa as an exception to restricted temporary entry instructions. Restricted temporary entry instructions are defined in section 4 of the Immigration Act 2009:

Restricted temporary entry instructions are temporary entry instructions that require, in relation to the type of visa to which the instructions relate, that any decision made on an application for that type of visa, or on an application for entry permission in relation to that type of visa, must be made in terms of the temporary entry instructions applicable at the time the application for the visa was made, and any discretion exercised must be in terms of those instructions

E3.27.1 Critical purposes for being in New Zealand

The following people are considered to have a critical purpose to be in New Zealand under these instructions:

- a. Essential health workers, as confirmed by the Ministry of Health, and their partners and dependent children (see [H5.25.1](#))
- b. Essential workers and their partner and any dependent children (see [H5.25.5](#))
- c. Citizens of Samoa and Tonga making essential travel to New Zealand where this travel has been officially requested by the Government of Samoa or Tonga, and this request has been formally approved by the New Zealand Ministry of Foreign Affairs and Trade.
- d. People coming to New Zealand for humanitarian reasons (see [H5.25.10](#))
- e. The partner, dependent child or legal guardian of a New Zealand citizen or permanent resident visa holder who is travelling with that New Zealand citizen or permanent resident.
- f. The partner, dependent child or legal guardian of the holder or a New Zealand resident visa that was granted in New Zealand and who is travelling with that New Zealand resident visa holder.
- g. The partner, dependent child or legal guardian of the holder of a New Zealand resident visa holder where that resident visa holder is arriving in New Zealand for a second or subsequent time as the holder of that visa, and who is travelling with that New Zealand resident visa holder.
- h. People who hold a visitor, work or student visa and:
 - i. are ordinarily resident in New Zealand; and
 - ii. are the partner or dependent child of a work or student visa holder who is in New Zealand.

E3.27.5 Conditions on visas varied for a critical purpose

- a. Any visa varied under these instructions will have the condition that the holder carries out the critical purpose while they are in New Zealand.
- b. A person whose visa is varied under these instructions and who meets the requirements for either an essential health worker (E3.27.1 (a)) or an essential worker (E3.27.1 (b)) may, at the discretion of an immigration officer, also be granted conditions allowing them to work in any occupation for any employer in any location in New Zealand.

- c. Any visa varied under these instructions must also have a condition imposed that the holder complies with any instruction from a Medical Officer of Health which relates to a notifiable or quarantinable disease.
- d. Any visa varied under these instructions for a person who meets the requirements for either a partner or dependent child of a New Zealand citizen or residence class visa holder (E3.27.1 (e – g)), may be granted conditions requiring them to travel to New Zealand with their New Zealand partner or parent.

H5: COVID-19 Support Restricted-Temporary Entry Instructions

H5.1 Objective

- a. The objective of these instructions is to minimise risks to New Zealand posed by the COVID-19 virus. In order to achieve this objective the New Zealand Government has put in place measures to prevent and prohibit the travel to New Zealand of all persons except:
 - i. New Zealand citizens (including those of the Realm of New Zealand countries); and
 - ii. permanent resident visa holders; and
 - iii. resident visa holders who have entered New Zealand as the holder of a resident visa, or were granted a resident visa in New Zealand; and
 - iv. Australian citizens and permanent residents who are ordinarily resident in New Zealand;
 - v. Diplomats accredited to New Zealand and currently resident in New Zealand;
 - vi. Australian citizens and holders of permanent resident visas issued by the Government of Australia transiting New Zealand and whose final destination is Australia;
 - vii. The spouse, legal guardian and minor dependents of Australian citizens and holders of permanent resident visas issued by the Government of Australia who are transiting New Zealand and whose final destination is Australia;
 - viii. People described in [Regulation 25](#) of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010.
- b. The five main considerations to achieving this objective are the:
 - i. risk to the health of New Zealanders; and
 - ii. risk to the health of Pacific Island Countries; and
 - iii. readiness of Government agencies to operationalise any measures required; and
 - iv. risks to foreign relations; and
 - v. risk of significant adverse economic impacts.
- c. The New Zealand Government acknowledges that there may be extremely limited circumstances where it is appropriate for a person who is not a New Zealand citizen, permanent resident or person returning to New Zealand as a resident, to travel to New Zealand. The COVID-19 restricted immigration instructions aim to achieve this objective by providing certainty about the limited situations where travel to New Zealand for non-New Zealand citizens and residents is allowed while COVID-19 poses a significant threat to New Zealand by granting a:
 - i. special visitor visa to persons who do not currently hold a visa; or
 - ii. variation of conditions to persons who already hold a temporary entry class visa (E3.27).
- d. People who do not have a critical purpose for travel to New Zealand will not be invited to apply for a visitor visa or a variation of conditions under these instructions.

Note:

The instructions in this chapter are restricted temporary entry instructions. In accordance with section 76(2) of the Immigration Act 2009, Immigration officers may not grant a temporary visa as an exception to restricted temporary entry instructions. Restricted temporary entry instructions are defined in section 4 of the Immigration Act 2009:

Restricted temporary entry instructions are temporary entry instructions that require, in relation to the type of visa to which the instructions relate, that any decision made on an application for that type of visa, or on an application for entry permission in relation to that type of visa, must be made in terms of the temporary entry instructions applicable at the time the application for the visa was made, and any discretion exercised must be in terms of those instructions.

H5.5 Overview

- a. These instructions provide for the grant of a visitor visa or variation of conditions to people who wish to travel to New Zealand while the New Zealand border is effectively closed to all but essential travel.
- b. Only a person who has been invited to apply for a visitor visa or variation of conditions may make an application under these instructions.
- c. An immigration officer may invite a person to apply if they are satisfied based on the information available that the person meets the requirements to be granted a visitor visa or variation of conditions (see H5.20).
- d. Applications must be made in the prescribed manner within 1 month of an invitation to apply.
- e. A visitor visa or variation of conditions will be approved if an immigration officer is satisfied that the requirements set out at H5.20 for health, character, bona fides, having sufficient funds or sponsorship, and having a critical purpose for travel are met.
- f. If an applicant applying under these instructions is required to work in New Zealand to assist the Government's COVID-19 response, an immigration officer, in their discretion, may grant the applicant a work visa for an appropriate duration and with appropriate conditions.

H5.10 Expression of interest and Invitation to Apply

- a. A person may express interest in applying under these instructions for a visitor visa or variation of conditions by using the form provided for the purpose on the Immigration New Zealand website.
- b. An immigration officer may invite a person to apply for a visitor visa or variation of conditions if they are satisfied that:
 - i. the information available does not indicate any health, character or bona fide issues that would prevent any person who will be included in the application to be granted a visitor visa; and
 - ii. the people who will be included in the application are likely to meet funds or sponsorship and onwards travel requirements; and
 - iii. the principal applicant has a critical purpose for travelling to New Zealand.

H5.15 Making an application for a visa or variation of conditions

- a. A person may only apply for a visitor visa or variation of conditions under these instructions if they are invited to do so.
- b. An application must be made within 1 month of the date of the invitation to apply.
- c. Applications for a visitor visa must be made in the prescribed manner.

H5.20 Determining an application

A Visitor Visa may be granted if an immigration officer is satisfied that the all applicants included in the application:

- a. meet health and character requirements for temporary entry (A4 and A5); and
- b. are bona fide (E5) applicants for a temporary entry class visa; and
- c. meet funds or sponsorship requirements for visitors (V2.20); and
- d. meet onward travel requirements for visitors (V2.25); and
- e. have a critical purpose for travel to New Zealand as described in H5.20.1.

H5.20.1 Critical purpose for travelling to New Zealand

The following people are considered to have a critical purpose for travelling to New Zealand under these instructions:

- a. Essential health workers as confirmed by the Ministry of Health, and their partners and dependent children (H5.25.1).
- b. Essential workers, and their partners and dependent children (H5.25.5).
- c. Citizens of Samoa and Tonga making essential travel to New Zealand where this travel has been officially requested by the Government of Samoa or Tonga, and this request has been formally approved by the New Zealand Ministry of Foreign Affairs and Trade.
- d. People who have humanitarian reasons for travel to New Zealand (H5.25.10).
- e. The partner, dependent child or legal guardian of a New Zealand citizen or permanent resident visa holder and who is travelling with that New Zealand citizen or permanent resident.
- f. The partner, dependent child or legal guardian of the holder of a New Zealand resident visa that was granted in New Zealand and who is travelling with that New Zealand resident visa holder.
- g. The partner, dependent child or legal guardian of the holder of a New Zealand resident visa holder where that resident visa holder is arriving in New Zealand for a second or subsequent time as the holder of that visa, and who is travelling with that New Zealand resident visa holder.
- h. People who hold a visitor, work or student visa and:
 - i. are ordinarily resident in New Zealand; and
 - ii. are the partner or dependent child (see E4.1) of a work or student visa holder who is in New Zealand.

H5.20.5 Family relationships

- a. A person will be considered to be the partner of a New Zealand citizen, or permanent resident visa holder, or resident visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, if they meet the requirements for partners specified in E4.1.
- b. A person will be considered to be a dependent child of a New Zealand citizen or permanent resident visa holder, or resident visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, if they meet the requirements for dependent children specified in E4.1.
- c. A person will be considered to be a partner of a visitor, work or student visa holder who is in New Zealand, if they meet the requirements for partners specified in E4.1.
- d. A person will be considered to be a dependent child of a visitor, work or student visa holder who is in New Zealand, if they meet the requirements for dependent children specified in E4.1.
- e. An immigration officer must be satisfied that a person is a partner or dependent child of a New Zealand citizen or visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, before a visa can be granted to a person for a critical purpose based on that relationship.

Note: Where a person is applying as the partner or dependent child of a New Zealand citizen or visa holder, or Australian citizen or permanent resident who is ordinarily resident in New Zealand, evidence of the relationship must be provided if Immigration New Zealand has not established the relationship in a previous visa application.

H5.25 Definitions

H5.25.1 Essential health workers

- a. An essential health worker is a person who will work in New Zealand in a job or occupation described on the Immigration New Zealand website as an essential health worker.
- b. The jobs and occupations considered as essential health workers are agreed to by the Ministry of Health and the Ministry of Business, Innovation and Employment.
- c. Any partners or dependent children (see E4.1) of essential health workers who have been granted a visa or a variation of conditions on the basis of this critical purpose, may be granted a visa to travel to New Zealand together with, or separately from, the essential health worker.

H5.25.5 Essential workers

- a. Essential workers are those workers who the Minister of Economic Development and the relevant portfolio Minister agree are essential workers.
- b. The partner or dependent child (see E4.1) of an essential worker (as set out in (a) above), who are not ordinarily resident in New Zealand and who wish to travel to New Zealand as an exception to border restrictions also require agreement from the Minister of Economic Development and the relevant portfolio Minister.

H5.25.10 Humanitarian reasons

- a. Humanitarian reasons are exceptional circumstances of a humanitarian nature that make it strongly desirable for the applicant to travel and enter New Zealand.
- b. 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.
- c. Relevant factors when considering if humanitarian reasons justify the grant of a visa under these instructions include:
 - i. the applicant's connection to New Zealand
 - ii. the applicant's connection to the place they are currently located
 - iii. whether New Zealand is their primary place of residence, and their period of absence from New Zealand
 - iv. whether the applicant has any alternative options
 - v. the impact of not granting a visa and entry permission to the applicant.

Note: Where a person is applying under the critical purpose of humanitarian reasons and are likely to require medical treatment in New Zealand, that person must have the support of the Ministry of Health or a District Health Board.

H5.30 Currency and conditions

- a. A visitor visa may be granted with sufficient duration to achieve their critical purpose in New Zealand, up to 6 months.
- b. Despite (a) above, where a person is not required by A4.25 to provide Medical or Chest X-ray Certificates, they may be granted a visitor visa for a maximum period of 12 months.
- c. A visitor visa must be granted with the condition that the holder carries out the critical purpose that allowed the grant of this visa while they are in New Zealand.
- d. A person granted a visitor visa who meets requirements for either an essential health worker (H5.20.1 (a)), or an essential worker (H5.20.1 (b)), may be granted conditions allowing them to work in any occupation for any employer in any location in New Zealand.
- e. A person granted a visitor visa who meets the requirement for either a partner or dependent child of a New Zealand citizen or residence class visa holder (H5.20.1 (e-g)), may be granted conditions requiring them to travel to New Zealand with their New Zealand partner or parent.

H5.35 Grant of work visa in special cases

- a. Where a person meets requirements for either an essential health worker (H5.20.1 (a)), or an essential worker (H5.20.1 (b)) and where the application is supported by a Government agency with a role in operationalising any measures required to respond to the COVID-19 situation, an immigration officer may grant the principal applicant a work visa for up to 24 months.
- b. Where a work visa is granted under these instructions the holder may be granted conditions that allow them to work in any occupation for any employer in any location in New Zealand.
- c. Where an applicant for a visitor visa is granted a work visa under these instructions that visa must be granted with the condition that the holder carries out the critical reason that allowed the grant of this visa while they are in New Zealand.