

# **Immigration (COVID-19 Response) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The Immigration Act 2009 (the **Act**) is predicated on individual applications managed on an individual basis. The Act, as currently drafted, has very limited ability to deal with applicants as a class or group of individuals. In emergency situations, this creates challenges, and constrains the Government's ability to respond flexibly, where, for example, large numbers of visas need to be changed or extended at once.

The Act already envisages that an outbreak would create challenges, and has a small number of emergency provisions which can be triggered once the Prime Minister has issued an epidemic notice and epidemic management notice. Valid visas held by people in New Zealand which would otherwise be due to expire are automatically extended so they will expire 3 months after the day on which the epidemic management notice expires, and adjustments can be made to detention on immigration grounds. These emergency epidemic management settings were, however, introduced in 2006 when New Zealand had much lower numbers of temporary migrants. The Act has now been demonstrated to not be fit-for-purpose to respond to the pressing practical challenges introduced by the COVID-19 outbreak.

The New Zealand immigration system is facing the unprecedented challenge of managing a large number of migrants who practically are unable to leave New Zealand due to the COVID-19 outbreak. Ordinarily, temporary migrants are required to submit individual applications for a new visa or to vary its conditions where circumstances change and, for example, they need to be redeployed by their employer into a different role or a different region, or seek another job after being made redundant. Applications are also ordinarily subject to regulatory requirements which include the provision of fees, passport photos, and travel documents. At a time when the Government needs to be as flexible and efficient as possible, waiving requirements on an individual basis is not practicable, and individually processing thousands of applications

at once is time-consuming and expensive, and provides little certainty for affected applicants.

This Bill aims to ensure that the Government can respond appropriately and efficiently to the COVID-19 outbreak by providing additional flexibility in the immigration system. It does so by introducing 8 time-limited powers, as follows:

- the power to vary or cancel conditions for classes of resident class visa holders:
- the power to impose, vary, or cancel conditions for classes of temporary entry class visa holders:
- the power to waive any regulatory requirements for certain classes of applications:
- the power to grant visas to individuals and classes of people in the absence of an application:
- the power to extend the expiry dates of visas for classes of people:
- the power to waive the requirement to obtain a transit visa in an individual case:
- the power 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:
- the power to suspend the ability of classes of people to make applications for visas or submit expressions of interest in applying for visas.

These powers will enable the Government to amend visa conditions for large groups of people, extend visas of large groups of people for varying periods of time (enabling processing to be staggered), stop people overseas from making applications while it is not possible to travel to New Zealand due to border restrictions, and refuse entry to certain people with deemed entry permission to prevent them from entering New Zealand while border restrictions are in place.

These powers are wide-reaching; they could potentially affect large numbers of people. The Bill recognises this and accordingly subjects these powers to a range of safeguards. The majority need to be exercised by special direction, and one (the ability to suspend applications) requires an Order in Council. The majority can only be used to manage the effects or consequences of:

- measures taken under the Immigration Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects, or
- any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.

Some can only be exercised by the Minister of Immigration. All the powers are also time-limited and will be automatically repealed 1 year after entering into force.

### **Departmental disclosure statement**

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement pro-

vides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=243>

### **Regulatory impact assessment**

The Treasury has determined that this is a direct COVID-19 response and has suspended the RIA requirements (in accordance with CAB-20-MIN-0138).

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* provides that the Bill comes into force on the day after the date on which it receives the Royal assent. The amendments made by the Bill will be repealed 12 months after the Bill comes into force. Each of the amendments has a provision to this effect.

*Clause 3* provides that the Bill amends the Immigration Act 2009 (the **principal Act**).

## **Part 1**

### **Amendments to principal Act**

*Clause 4* inserts *new section 11A*, which introduces a schedule of transitional, savings, and related provisions.

*Clause 5* amends section 50 of the principal Act by inserting *new subsections (4A) to (4E)*. *New subsections (4A) to (4C)* give the Minister under the principal Act, currently the Minister of Immigration, a new special direction power for use in dealing with the effects of measures taken, under the principal Act or otherwise, in relation to COVID-19. The power enables employment and travel conditions of resident visas to be amended by the Minister for classes of visa holders, rather than needing to be amended separately for each individual visa holder. Criteria that can be used to define a class include visa holders' nationality, their immigration documentation, and the type of resident visa involved. *New subsection (4D)* provides for special directions under the new power to be published on the Internet and scrutinised by Parliament.

*Clauses 6 and 7* amend sections 52 and 53 of the principal Act. Like *clause 5*, these clauses confer powers on the Minister to deal with visa holders by class when managing the effects of measures related to COVID-19. The powers enable the Minister to alter the conditions of temporary entry class visas by special direction. Again, the factors that can be used to define classes include nationality, immigration documentation, and the type of visa involved. *New subsection (4D)* in each of sections 52 and 53 provides for the special directions to be published on the Internet and scrutinised by Parliament.

*Clause 8* inserts *new subsections (3) to (7)* in section 57 of the principal Act. The new subsections enable the Minister to make special directions waiving the usual visa

application requirements for classes of applicants in consequence of the COVID-19 outbreak. *New subsection (5)* sets out examples of how the classes of applicants may be delineated, including by nationality and type of visa. *New subsection (6)* provides for publication and scrutiny of the special directions.

*Clause 9* inserts *new section 61A*, which relates to the grant of visas by special direction. Under *subsection (1)* of the new section, the Minister may grant a visa to someone outside New Zealand, or someone in New Zealand on a temporary entry class visa, even if the person has not made an application. *Subsection (2)* enables the Minister to do the same for classes of people where (broadly speaking) the Minister considers it necessary or desirable to help manage the consequences of COVID-19-related measures. *Subsection (5)* lists ways in which the classes could be defined, while *subsection (6)* deals with publication and scrutiny by Parliament. *New section 61A* could be used to grant visas to severely unwell visitors who are unable to leave New Zealand but too ill to complete a visa application.

*Clause 10* makes a small change to section 78 of the principal Act (deemed extension of temporary entry class visa expiring during epidemic) in connection with *clause 11*.

*Clause 11* inserts *new section 78A* into the principal Act. This new section enables the Minister to make special directions extending temporary entry class visas by up to 6 months for classes of visa holders. The new power may only be exercised if the Minister is satisfied that it is necessary or desirable to manage COVID-19-related measures or effects. *Subsection (5)* provides that classes of visa holders can be defined by reference to similar matters to those for other special direction powers in the Bill (*see subsection (5)*). *Subsection (6)* requires special directions given under *new section 78A* to be published and made available to Parliament for scrutiny.

*Clause 12* amends section 86 of the principal Act to allow the Minister to waive the requirement, in an individual case, to obtain a transit visa before transiting through New Zealand. The Minister may also suspend a transit visa waiver in an individual case. Again, the power is exercisable by special direction and may only be used to help manage the effects of measures related to COVID-19.

*Clause 13* inserts *new section 113A* into the principal Act. *New section 113A* applies if a person's entry permission is deemed to be granted under regulations made under the principal Act. At present these regulations are in the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010. *New section 113A(2)* provides that an immigration officer may revoke the entry permission if permitted or required by, and only in accordance with, immigration instructions made under the principal Act. *New section 113A(4) and (5)* specify the time within which the entry permission may be revoked. *New section 113A(7)* provides that immigration instructions certified under section 22(1)(b) may provide for the revocation of entry permission that is deemed to have been granted under regulations made under this Act.

*Clause 14* amends section 378 of the principal Act, which relates to special directions. The effect of the amendments is that any special direction under one of the new special direction powers must be given in writing if it relates to a class of people rather than an individual.

*Clause 15* amends section 380 of the principal Act (delegation of Minister's powers). The amendments prevent the delegation of any of the new ministerial special direction powers that relate to classes of people.

*Clause 16* inserts *new sections 401A and 401B* into the principal Act. *New section 401A* authorises regulations to be made suspending the ability of all persons or any class of persons to—

- apply for a particular class or type of visa; or
- submit an expression of interest in obtaining an invitation to apply for a particular class or type of visa.

*New section 401A(4)* provides that the Minister must not recommend the making of the regulations unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—

- measures taken under the principal Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or
- any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.

A suspension may be for up to 3 months at a time.

*New section 401B* provides that if regulations are made for the purposes in *new section 401A*, the relevant applications must not be made and the relevant expressions of interest must not be submitted.

*Clause 17* inserts *new Schedule 1AA* into the principal Act (transitional, savings, and related provisions).

## Part 2

### Provisions of principal Act to be read as modified

*Clause 18* inserts *new section 403B* into the principal Act. *New section 403B* introduces a schedule of minor modifications of the principal Act that are consequential on the amendments made to the Act in *Part 1* of the Bill. *Clause 19* inserts that new schedule into the principal Act as *new Schedule 6*.



*Hon Iain Lees-Galloway*

## **Immigration (COVID-19 Response) Amendment Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Immigration (COVID-19 Response) Amendment Act **2020**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent. 5

**3 Principal Act**

This Act amends the Immigration Act 2009 (the **principal Act**).

**Part 1**

**Amendments to principal Act** 10

**4 New section 11A inserted (Transitional, savings, and related provisions)**

After section 11, insert:

**11A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms. 15

**5 Section 50 amended (Conditions on resident visas)**

After section 50(4), insert:

- (4A) The Minister may, by special direction in relation to a class or classes of persons holding resident visas,—
- (a) vary conditions that would otherwise apply to visas of the relevant types, or that were imposed under this section, that relate to travel to New Zealand: 5
  - (b) vary or cancel conditions that would otherwise apply to visas of the relevant types, or that were imposed under this section, that relate to employment in New Zealand. 10
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or 15
  - (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (4C) A special direction under **subsection (4A)** may, without limiting the generality of the manner in which persons may be classified, classify persons to whom a variation or cancellation of a visa condition applies by reference to all or any of the following: 20
- (a) their nationality;
  - (b) the country or place from which they are travelling (whether it be their original or an intermediate point of departure):
  - (c) whether or not they hold, or are required to hold, any particular type of travel or immigration documentation, by whomever issued: 25
  - (d) the type of visa concerned;
  - (e) any other type of visa that they have applied for.
- (4D) A special direction under **subsection (4A)**—
- (a) must, along with an explanation of the effect of the special direction, be notified in the *Gazette* and published on an Internet site maintained by or on behalf of the Department; and 30
  - (b) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 35
- (4E) This subsection and **subsections (4A) to (4D)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.

**6 Section 52 amended (Conditions on temporary entry class visas (other than those subject to restricted temporary entry instructions))**

After section 52(4), insert:

- (4A) The Minister may, by special direction in relation to a class or classes of persons holding temporary entry class visas,— 5
- (a) impose further conditions on the visas, whether or not the conditions are specified in the temporary entry instructions in relation to visas of the relevant types:
- (b) vary or cancel conditions that would otherwise apply to visas of the relevant types or that were imposed under this section. 10
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or 15
- (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (4C) A special direction under **subsection (4A)** may, without limiting the generality of the manner in which persons may be classified, classify persons to whom a further visa condition, or a variation or cancellation of a visa condition, applies by reference to all or any of the following: 20
- (a) their nationality:
- (b) the country or place from which they are travelling or have travelled (whether it be their original or an intermediate point of departure):
- (c) whether or not they hold, or are required to hold, any particular type of travel or immigration documentation, by whomever issued: 25
- (d) the type of visa concerned:
- (e) any other type of visa that they have applied for.
- (4D) A special direction under **subsection (4A)**— 30
- (a) must, along with an explanation of the effect of the special direction, be notified in the *Gazette* and published on an Internet site maintained by or on behalf of the Department; and
- (b) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 35
- (4E) This subsection and **subsections (4A) to (4D)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.

**7 Section 53 amended (Conditions on temporary entry class visas subject to restricted temporary entry instructions)**

After section 53(4), insert:

- (4A) The Minister may, by special direction in relation to a class or classes of persons holding temporary entry class visas subject to restricted temporary entry instructions,— 5
- (a) impose further conditions on the visas, whether or not the conditions are specified in the restricted temporary entry instructions in relation to visas of the relevant types:
- (b) vary or cancel conditions that would otherwise apply to visas of the relevant types or that were imposed under this section. 10
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or 15
- (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (4C) A special direction under **subsection (4A)** may, without limiting the generality of the manner in which persons may be classified, classify persons to whom a further visa condition, or a variation or cancellation of a visa condition, applies by reference to all or any of the following: 20
- (a) their nationality:
- (b) the country or place from which they are travelling or have travelled (whether it be their original or an intermediate point of departure): 25
- (c) whether or not they hold, or are required to hold, any particular type of travel or immigration documentation, by whomever issued:
- (d) the type of visa concerned:
- (e) any other type of visa that they have applied for.
- (4D) A special direction under **subsection (4A)**— 30
- (a) must, along with an explanation of the effect of the special direction, be notified in the *Gazette* and published on an Internet site maintained by or on behalf of the Department; and
- (b) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 35
- (4E) This subsection and **subsections (4A) to (4D)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.

**8 Section 57 amended (Applications for visas)**

After section 57(2), insert:

- (3) The Minister may by special direction waive 1 or more of the prescribed requirements for applying for a visa (whether at an immigration control area or otherwise) in respect of a class or classes of persons. 5
- (4) However, the Minister may not make a special direction under **subsection (3)** unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or 10
- (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (5) A waiver made in accordance with **subsection (3)** may, without limiting the generality of the manner in which persons may be classified, classify persons to whom the waiver applies by reference to all or any of the following: 15
- (a) their nationality:
- (b) the country or place from which they are travelling or have travelled (whether it be their original or an intermediate point of departure):
- (c) whether or not they hold, or are required to hold, any particular type of travel or immigration documentation, by whomever issued: 20
- (d) the type of visa concerned:
- (e) any other type of visa that they hold or have applied for.
- (6) A special direction under **subsection (3)**—
- (a) must, along with an explanation of the effect of the special direction, be notified in the *Gazette* and published on an Internet site maintained by or on behalf of the Department; and 25
- (b) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (7) This subsection and **subsections (3) to (6)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force. 30

**9 New section 61A inserted (Grant of visas by special direction)**

After section 61, insert:

- 61A Grant of visas by special direction** 35
- (1) The Minister may at any time of the Minister's own volition, by special direction, grant a visa of any type to a person who—
- (a) is outside New Zealand; or

- (b) is in New Zealand and holds a temporary entry class visa.
- (2) The Minister may at any time of the Minister's own volition, by special direction, grant visas of any type to a class or classes of persons who—
- (a) are outside New Zealand; or
- (b) are in New Zealand and hold temporary entry class visas. 5
- (3) A visa may be granted under **subsection (1) or (2)** even if the grant is contrary to immigration instructions.
- (4) However, the Minister may not make a special direction under **subsection (2)** unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of— 10
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or
- (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (5) A special direction under **subsection (2)** may, without limiting the generality of the manner in which persons may be classified, classify persons to whom a visa is granted by reference to all or any of the following: 15
- (a) their nationality:
- (b) the country or place from which they are travelling or have travelled (whether it be their original or an intermediate point of departure): 20
- (c) whether or not they hold, or are required to hold, any particular type of travel or immigration documentation, by whomever issued:
- (d) any type of visa that they hold or have applied for.
- (6) A special direction under **subsection (2)**— 25
- (a) must, along with an explanation of the effect of the special direction, be notified in the *Gazette* and published on an Internet site maintained by or on behalf of the Department; and
- (b) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 30
- (7) This section is repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.
- 10 Section 78 amended (Deemed extension of temporary entry class visa expiring during epidemic) 35**
- After section 78(2), insert:
- (2A) Subsection (2) is subject to any extension of the visa by special direction under **section 78A**.

(2B) This subsection and **subsection (2A)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.

**11 New section 78A inserted (Extension of temporary entry class visa by special direction)**

5

After section 78, insert:

**78A Extension of temporary entry class visa by special direction**

- (1) The Minister may, by special direction in relation to a class or classes of persons holding temporary entry class visas, extend the visas by a period of up to 6 months from the date on which they would otherwise expire. 10
- (2) However, the Minister may not make a special direction under **subsection (1)** unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or 15
- (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (3) A visa extended under **subsection (1)** must, for all purposes, be treated as if it continues to be a current visa allowing a person to travel to New Zealand, apply for entry permission, and stay in New Zealand, until the earlier of the following events: 20
- (a) the visa's cancellation;
- (b) the expiration of the period of the extension.
- (4) **Subsection (1)** does not require— 25
- (a) the endorsement or modification of the visa; or
- (b) the issue of a document extending the visa; or
- (c) the grant of a new visa.
- (5) A visa extension under **subsection (1)** may, without limiting the generality of the manner in which persons may be classified, classify persons to whom the extension applies by reference to all or any of the following: 30
- (a) their nationality;
- (b) the country or place from which they are travelling or have travelled (whether it be their original or an intermediate point of departure);
- (c) whether or not they hold, or are required to hold, any particular type of travel or immigration documentation, by whomever issued: 35
- (d) the type of visa concerned.
- (6) A special direction under **subsection (1)**—

- (a) must, along with an explanation of the effect of the special direction, be notified in the *Gazette* and published on an Internet site maintained by or on behalf of the Department; and
- (b) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 5
- (7) This section is repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.

## 12 Section 86 amended (Who must obtain transit visa) 10

After section 86(4), insert:

- (4A) The Minister may, by special direction,—
- (a) waive, in any individual case, the requirement to hold a transit visa:
- (b) suspend, in any individual case, a transit visa waiver made by regulations referred to in subsection (2)(a). 15
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or 20
- (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (4C) This subsection and **subsections (4A) and (4B)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force. 25

## 13 New section 113A inserted (Revocation of deemed entry permission)

After section 113, insert:

### 113A Revocation of deemed entry permission

- (1) This section applies if a person's entry permission is deemed to have been granted under regulations made under this Act. 30
- (2) An immigration officer may revoke the entry permission if permitted or required by, and only in accordance with, immigration instructions certified under section 22(1)(b).
- (3) **Subsection (2)** applies despite anything in the regulations under which entry permission is deemed to have been granted or in any other provision of this Act. 35
- (4) If the person arrives at an immigration control area, entry permission may be revoked at any time before the person leaves the immigration control area.

- (5) If the person arrives in New Zealand other than at an immigration control area, entry permission may be revoked within 72 hours of the person first arriving in New Zealand.
- (6) A revocation under this section is made by entry on the records of the Department and takes effect immediately. 5
- (7) Without limiting the generality of section 22, immigration instructions certified under section 22(1)(b) may provide for the revocation of entry permission that is deemed to have been granted under regulations made under this Act.
- (8) This section is repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force. 10

#### 14 Section 378 amended (Special directions)

- (1) Before section 378(2)(a), insert:
- (aaa) varying or cancelling conditions of resident visas in relation to any class of persons, in accordance with **section 50(4A)**: 15
- (aab) imposing, varying, or cancelling conditions of temporary entry class visas in relation to any class of persons, in accordance with **section 52(4A) or 53(4A)**:
- (aac) waiving 1 or more prescribed requirements for applying for a visa in relation to any class of persons, in accordance with **section 57(3)**: 20
- (aad) granting, at any time and of the Minister's own volition, visas of any type to any class of persons, in accordance with **section 61A(2)**:
- (2) After section 378(2)(b), insert:
- (ba) extending temporary entry class visas in relation to any class of persons, in accordance with **section 78A(1)**: 25
- (3) After section 378(2), insert:
- (2A) This subsection and **subsection (2)(aaa) to (aad) and (ba)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force. 30

#### 15 Section 380 amended (Delegation of Minister's powers)

- (1) After section 380(1)(c), insert:
- (ca) the power to make a special direction under **section 50(4A)** (relating to varying or cancelling resident visa conditions in relation to any class of persons); and 35
- (cb) the power to make a special direction under **section 52(4A) or 53(4A)** (relating to imposing, varying, or cancelling temporary entry class visa conditions in relation to any class of persons); and

- (cc) the power to make a special direction under **section 57(3)** (which relates to waiving 1 or more prescribed requirements for applying for a visa in relation to any class of persons); and
- (cd) the power to make a special direction under **section 61A(2)** (which relates to granting visas of the Minister's own volition to any class of persons who are outside New Zealand or who are in New Zealand with temporary entry class visas); and 5
- (2) After section 380(1)(d), insert:
- (da) the power to make a special direction under **section 78A(1)** (which relates to extending temporary entry class visas in relation to any class of persons); and 10
- (3) After section 380(1), insert:
- (1A) This subsection and **subsection (1)(ca) to (cd) and (da)** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force. 15

## 16 New sections 401A and 401B inserted

After section 401, insert:

- 401A Regulations relating to suspending ability to make applications for visas and expressions of interest** 20
- (1) Without limiting the generality of section 400, regulations made under that section may suspend the ability of all persons or of any class of persons to—
- (a) apply for a particular class or type of visa; or
- (b) submit an expression of interest in obtaining an invitation to apply for a particular class or type of visa. 25
- (2) **Subsections (3) to (7)** apply to regulations made for the purposes of **subsection (1)**.
- (3) The regulations may—
- (a) provide for different periods of suspension for different classes of people and different classes and types of visa; and 30
- (b) without limiting the generality of the manner in which persons may be classified, classify persons by reference to all or any of the following:
- (i) the country or place from which they are travelling or have travelled (whether it be their original or an intermediate point of departure); 35
- (ii) whether or not they hold, or are required to hold, any particular type of travel or immigration documentation, by whomever issued:

- (iii) any other type of visa that they hold or have applied for:
- (iv) whether the person is outside or in New Zealand:
- (v) any other factor that is relevant to containing or mitigating the outbreak of COVID-19 or its effects; and
- (c) without limiting the generality of the manner in which classes or types of visa may be classified, classify classes or types of visa by reference to all or any of the following:
- (i) in the case of a temporary visa, the name and description of the visa as provided in the immigration instructions:
- (ii) whether an application for the visa is required by or under the regulations to be made online:
- (iii) any specific information or evidence that is required by the regulations or the immigration instructions to be provided in order for an application for the visa to be made.
- (4) The Minister must not recommend the making of the regulations unless satisfied that doing so is necessary or desirable to manage the effects, or deal with the consequences, of—
- (a) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or
- (b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.
- (5) A suspension may be for a period not exceeding 3 months specified in the regulations.
- (6) If the requirements of **subsection (4)** continue to be met, regulations may from time to time be made under section 400 that extend the period of a suspension already in force for a further period not exceeding 3 months.
- (7) An extension referred to in **subsection (6)** may only be made before the end of the period to be extended.
- (8) This section is repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.
- 401B Provisions relating to regulations made for purposes of section 401A**
- (1) If the making of an application for a class or type of visa by all persons or by any class of persons is suspended by regulations made for the purposes of **section 401A**, then, despite any other provision of this Act (or any immigration instruction),—
- (a) no person or, as the case may be, no person in the relevant class of persons may apply for a visa of that class or type; and

- (b) if a person purports to apply for a visa contrary to **paragraph (a)**, the application is deemed not to have been made.
- (2) If the ability of all persons or of any class of persons to submit an expression of interest in relation to a class or type of visa is suspended by regulations made for the purposes of **section 401A**, then, despite any other provision of this Act (or any immigration instruction),— 5
- (a) no person or, as the case may be, no person in the relevant class of persons may submit an expression of interest in obtaining an invitation to apply for a visa of that class or type; and
- (b) if a person purports to submit an expression of interest in obtaining an invitation to apply for a visa contrary to **paragraph (a)**, the expression of interest is deemed not to have been submitted. 10
- (3) To avoid doubt, no suspension provided for by regulations made for the purposes of **section 401A** affects the ability of any person to claim refugee or protected person status. 15
- (4) This section is repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force.

**17 New Schedule 1AA inserted**

Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act. 20

**Part 2**

**Provisions of principal Act to be read as modified**

**18 New section 403B and cross-heading inserted**

After section 403A, insert: 25

*Modifications of Act relating to COVID-19 outbreak*

**403B Modifications of Act relating to COVID-19 outbreak)**

- (1) The provisions of this Act identified in **Schedule 6** apply as modified in that schedule.
- (2) This section and **Schedule 6** are repealed immediately after the expiry of the 12-month period that starts on the date on which the Immigration (COVID-19 Response) Amendment Act **2020** comes into force. 30

**19 New Schedule 6 inserted**

After Schedule 5, insert the **Schedule 6** set out in **Schedule 2** of this Act.

**Schedule 1**  
**New Schedule 1AA inserted**

s 17

**Schedule 1AA**  
**Transitional, savings, and related provisions**

5

s 11A

**Part 1**  
**Provisions relating to Immigration (COVID-19 Response)**  
**Amendment Act 2020**

- 1 Special directions** 10
- (1) Any special direction that is made under a provision of this Act inserted by the Immigration (COVID-19 Response) Amendment Act **2020** and that is in force on the date when that provision is repealed (the **repeal date**) is revoked on that date.
- (2) However, the repeal of the Immigration (COVID-19 Response) Amendment Act **2020** and any revocation under **subclause (1)** do not affect— 15
- (a) any visa condition imposed, varied, or cancelled under **section 50(4A), 52(4A) or 53(4A)** before the repeal date:
- (b) any visa application made before the repeal date in accordance with a waiver of a prescribed requirement under **section 57(3)**: 20
- (c) any visa granted under **section 61A** before the repeal date:
- (d) any extension of a visa under **section 78A(1) or (2)** by special direction made before the repeal date.
- 2 Transitional provision relating to revocation of deemed entry permission** 25
- A person's entry permission may be revoked in accordance with section **113A(5)** within 72 hours of the person first arriving in New Zealand even if the person arrived in New Zealand before the date on which the Immigration (COVID-19 Response) Amendment Act **2020** came into force.
- 3 Suspension of ability to apply for visa or submit expression of interest does not affect existing applications or expressions of interest** 30
- Nothing in regulations made under section 400 for the purpose in **section 401A(1)** applies to any application for a visa made, or an expression of interest submitted, before the regulations come into force.

**Schedule 2**  
**New Schedule 6 inserted**

s 19

**Schedule 6**  
**Modifications of Act relating to COVID-19 outbreak**

5

s 403B

**1 Modifications to section 50 (Conditions on resident visas)**

(1) In section 50(2)(b), the reference to “subsection (1)” must be read as a reference to “this section”.

(2) In section 50(4), the reference to “this section” must be read as a reference to “any of subsections (1) to (3)”. 10

(3) Section 50 must be read as if subsection (5) were replaced with:

“(5) To avoid doubt,—

(a) subsection (2) applies whether the resident visa was granted as an exception to residence instructions or otherwise: 15

(b) **subsection (4A)** applies whether the resident visas, or any of them, were granted as an exception to residence instructions or otherwise:

(c) nothing in this section allows the Minister to impose conditions on a permanent resident visa, whether at the time of or subsequent to granting the visa.” 20

**2 Modifications to section 52 (Conditions on temporary entry class visas (other than those subject to restricted temporary entry instructions))**

(1) In section 52(2)(b), the reference to “subsection (1)” must be read as a reference to “this section”.

(2) In section 52(4), the reference to “this section” must be read as a reference to “any of subsections (1) to (3)”. 25

**3 Modifications to section 53 (Conditions on temporary entry class visas subject to restricted temporary entry instructions)**

(1) In section 53(2)(b), the reference to “subsection (1)” must be read as a reference to “this section”. 30

(2) In section 53(4), the reference to “this section” must be read as a reference to “any of subsections (1) to (3)”.

(3) Section 53 must be read as if subsection (5) were replaced with:

“(5) To avoid doubt,—

(a) subsection (2) applies whether the temporary entry class visa was granted as an exception to temporary entry instructions or otherwise: 35

	(b) <b>subsection (4A)</b> applies whether the temporary entry class visas, or any of them, were granted as an exception to temporary entry instructions or otherwise.”	
<b>4</b>	<b>Modification to section 56 (Visa holder must comply with conditions)</b> Section 56(4) must be read as if after “section 386A” the words “or if the special direction making them was notified in the <i>Gazette</i> in accordance with <b>section 50(4D)(a), 52(4D)(a) or 53(4D)(a)</b> ” were inserted.	5
<b>5</b>	<b>Modification to section 63 (Expiry of visa)</b> Section 63 must be read as if after subsection (2) the following subsection were inserted: “(3) Subsections (1) and (2) are subject to any extension of the visa under <b>section 78A.</b> ”	10
<b>6</b>	<b>Modification to section 66 (Cancellation of temporary entry class or transit visa by Minister or immigration officer)</b> In section 66(1)(b), the reference to “section 78” must be read as a reference to “section 78 or <b>78A</b> ”.	15
<b>7</b>	<b>Modification to section 86 (Who must obtain transit visa)</b> Section 86 must be read as if subsection (2) were replaced with: “(2) Subsection (1) applies to the person unless— (a) he or she is classified, by regulations made under section 400 or special direction of the Minister under subsection (4), as a person to whom a transit visa waiver applies; or (b) an individual waiver under <b>subsection (4A)</b> applies.”	20
<b>8</b>	<b>Modification to section 400 (Regulations generally)</b> In section 400(b), the reference to “section 401” must be read as a reference to “section 401 or <b>401A</b> ”.	25