

House of Representatives

Supplementary Order Paper

Wednesday, 13 May 2020

Immigration (COVID-19 Response) Amendment Bill

Proposed amendments for the consideration of the Committee of the whole House

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**

Explanatory note

This Supplementary Order Paper makes the following amendments to the Immigration (COVID-19 Response) Amendment Bill.

Clause 5, new section 50(4B) is amended to adjust the precondition for the making of a special direction under *new section 50(4A)* (relating to varying or cancelling certain conditions on resident visas). In particular,—

- the Minister must be satisfied that the direction does not materially disadvantage the class or classes of persons to which it relates;
- the Minister must be satisfied that the making of the special direction is reasonably necessary. This replaces the previous wording “necessary or desirable”;
- a further possible ground on which a special direction may be justified is added. That is if the Minister is satisfied that the direction is reasonably necessary to manage the effects, or deal with the consequences, of the outbreak of COVID-19.

Clause 6, new section 52(4B) is amended to adjust the precondition for the making of a special direction under *new section 52(4A)* (imposing new conditions, or varying or cancelling conditions, on temporary entry class visas). In particular,—

- the Minister must be satisfied that the direction—
 - does not materially disadvantage the class or classes of persons to which it relates; or
 - relates to compliance with directions, orders, or requirements of the Minister of Health, the Director-General of Health, any medical officer of health, or a District Court Judge in response to COVID-19 given or imposed under the Health Act 1956 or any other Act:
- the Minister must be satisfied that the making of the special direction is reasonably necessary. This replaces the previous wording “necessary or desirable”;
- a further possible ground on which a special direction may be justified is added. That is if the Minister is satisfied that the direction is reasonably necessary to manage the effects, or deal with the consequences, of the outbreak of COVID-19.

Clause 7, new section 53(4B) is amended to adjust the precondition for the making of a special direction under *new section 53(4A)* (imposing new conditions, or varying or cancelling conditions, on temporary entry class visas subject to restricted temporary entry instructions). The amendments are the same as those made in relation to *new section 52(4B)* as set out above.

Clause 8, new section 57(4) is amended to adjust the precondition for the making of a special direction under *new section 57(3)* (waiving prescribed requirements for applying for a visa). In particular,—

- the Minister must be satisfied that the making of the special direction is reasonably necessary. This replaces the previous wording “necessary or desirable”;

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- a further possible ground on which a special direction may be justified is added. That is if the Minister is satisfied that the direction is reasonably necessary to manage the effects, or deal with the consequences, of the outbreak of COVID-19.

Clause 9, new section 61A(4) is amended to insert a precondition for the making of a special direction under *new section 61A(1)* (granting of visa to a person by special direction). *New section 61A(4)(a)* provides that before making the special direction the Minister must be satisfied that the grant of the visa does not materially disadvantage the person to whom it is granted.

Clause 9, new section 61A(4) is also amended to adjust the precondition for the making of a special direction under *new section 61A(2)* (granting of visa to a class or classes of persons by special direction). In particular,—

- the Minister must be satisfied that the grant of the visa does not materially disadvantage the class or classes of persons to whom they are granted;
- the Minister must be satisfied that the making of the special direction is reasonably necessary. This replaces the previous wording “necessary or desirable”;
- a further possible ground on which a special direction may be justified is added. That is if the Minister is satisfied that the direction is reasonably necessary to manage the effects, or deal with the consequences, of the outbreak of COVID-19.

Clause 11 is amended to adjust the precondition for the making of a special direction under *new section 78A(1)* (extending temporary entry class visas). In particular,—

- the Minister must be satisfied that the making of the special direction is reasonably necessary. This replaces the previous wording “necessary or desirable”;
- a further possible ground on which a special direction may be justified is added. That is if the Minister is satisfied that the direction is reasonably necessary to manage the effects, or deal with the consequences, of the outbreak of COVID-19.

Clause 12, new section 86(4B) is amended to adjust the precondition for the making of a special direction under *new section 86(4A)* (waiving the requirement to hold a transit visa or suspending an existing transit visa waiver). In particular,—

- the Minister must be satisfied that the making of the special direction is reasonably necessary. This replaces the previous wording “necessary or desirable”;
- a further possible ground on which a special direction may be justified is added. That is if the Minister is satisfied that the direction is reasonably necessary to manage the effects, or deal with the consequences, of the outbreak of COVID-19.

Clause 16 is amended to provide that the regulation-making power for the purpose in *new section 401A(1)* to suspend the making of applications for visas and expressions of interest may be used only in respect of persons outside New Zealand. In addition,

new section 401A(4) is amended to adjust the precondition for the making of the regulations. In particular,—

- the Minister must be satisfied that the making of the regulations is reasonably necessary. This replaces the previous wording “necessary or desirable”:
- a further possible ground on which the Minister may recommend the making of the regulations is added. This is that the Minister is satisfied that the regulations are reasonably necessary to manage the effects, or deal with the consequences, of the outbreak of COVID-19.

Schedules 1 and 2 are amended to make minor corrections and clarifications.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. It provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop &subtype=government&year=2020&no=504&>

The Honourable Iain Lees-Galloway, in Committee, to propose the amendments shown in the following document.

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.
- 3 Principal Act**
This Act amends the Immigration Act 2009 (the **principal Act**).

Part 1
Amendments to principal Act

- 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.

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:
 - (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.
- ~~(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~~
 - ~~(b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.~~
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that—
- (a) doing so is reasonably necessary to manage the effects, or deal with the consequences, of—
 - (i) the outbreak of COVID-19; or
 - (ii) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or
 - (iii) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects; and
 - (b) the direction does not materially disadvantage the class or classes of persons to which it relates.
- (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:
- (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:
 - (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
 - (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.
- (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,—
- (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.
- ~~(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~~
 - ~~(b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.~~
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that—
- (a) doing so is reasonably necessary to manage the effects, or deal with the consequences, of—
 - (i) the outbreak of COVID-19; or
 - (ii) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or
 - (iii) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects; and
 - (b) the direction—
 - (i) does not materially disadvantage the class or classes of persons to which it relates; or

- (ii) relates to compliance with directions, orders, or requirements of the Minister of Health, the Director-General of Health, any medical officer of health, or a District Court Judge given or imposed—
- (A) under the Health Act 1956 or any other Act (whether enacted before or after the Immigration (COVID-19 Response) Amendment Act 2020); and
- (B) in response to COVID-19.
- (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:
- (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;
 - (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
 - (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.
- (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,—
- (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:

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- (b) vary or cancel conditions that would otherwise apply to visas of the relevant types or that were imposed under this section.
- ~~(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~~
- ~~(b) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects.~~
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that—
- (a) doing so is reasonably necessary to manage the effects, or deal with the consequences, of—
- (i) the outbreak of COVID-19; or
- (ii) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects; or
- (iii) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects; and
- (b) the direction—
- (i) does not materially disadvantage the class or classes of persons to which it relates; or
- (ii) relates to compliance with directions, orders, or requirements of the Minister of Health, the Director-General of Health, any medical officer of health, or a District Court Judge given or imposed—
- (A) under the Health Act 1956 or any other Act (whether enacted before or after the Immigration (COVID-19 Response) Amendment Act 2020); and
- (B) in response to COVID-19.
- (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:
- (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:
- (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
 - (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.
- (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.
- (4) However, the Minister may not make a special direction under **subsection (3)** unless satisfied that doing so is reasonably necessary or ~~desirable~~ to manage the effects, or deal with the consequences, of—
 - (aa) the outbreak of COVID-19; or
 - (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 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:
 - (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;
 - (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

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- (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.

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

After section 61, insert:

61A Grant of visas by special direction

- (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.
- (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—~~
 - ~~(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.~~
- (4) However, the Minister—
 - (a) may not make a special direction under **subsection (1)** unless satisfied that the grant of the visa does not materially disadvantage the person to whom it is granted:
 - (b) may not make a special direction under **subsection (2)** unless satisfied that—
 - (i) doing so is reasonably necessary to manage the effects, or deal with the consequences, of—
 - (A) the outbreak of COVID-19; or
 - (B) measures taken under this Act or any other enactment to contain or mitigate the outbreak of COVID-19 or its effects;
 - or

- (C) any other measures (whether in New Zealand or elsewhere) to contain or mitigate the outbreak of COVID-19 or its effects; and
- (ii) the grant of the visas does not materially disadvantage the class or classes of persons to whom they are granted.
- (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:
- (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;
 - (d) any type of visa that they hold or have applied for.
- (6) A special direction under **subsection (2)**—
- (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.
- (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)

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)

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.
- (2) However, the Minister may not make a special direction under **subsection (1)** unless satisfied that doing so is reasonably necessary ~~or desirable~~ to manage the effects, or deal with the consequences, of—
 - (aa) the outbreak of COVID-19; or
 - (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.
- (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:
 - (a) the visa's cancellation;
 - (b) the expiration of the period of the extension.
- (4) **Subsection (1)** does not require—
 - (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:
 - (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;
 - (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.

- (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)

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).
- (4B) However, the Minister may not make a special direction under **subsection (4A)** unless satisfied that doing so is reasonably necessary ~~or desirable~~ to manage the effects, or deal with the consequences, of—
- (aa) the outbreak of COVID-19; or
 - (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.
- (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.

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.
- (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.
- (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.

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- (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.

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)**;
 - (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)**;
 - (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)**;
- (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.

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
 - (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

- (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
- (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.

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

- (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~~ all persons, or of any class of persons, who are outside New Zealand 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.
- (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
- (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):
- (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

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- (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 reasonably necessary ~~or desirable~~ to manage the effects, or deal with the consequences, of—
 - (aa) the outbreak of COVID-19; or
 - (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),—

- (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.
- (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.
 - (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.

Part 2

Provisions of principal Act to be read as modified

18 New section 403B and cross-heading inserted

After section 403A, insert:

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.

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

s 11A

Part 1

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

1 Special directions

- (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 provisions of this Act that were inserted by the Immigration (COVID-19 Response) Amendment Act 2020 and any revocation under **subclause (1)** do not affect—
 - (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)**;
 - (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

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

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

s 403B

1AA Modification to section 4 (Interpretation)

Section 4 must be read as if in the appropriate place there were inserted:

“**medical officer of health** has the meaning given to it by section 2(1) of the Health Act 1956”.

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)”.
- (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:
 - (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.”

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)”.

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”.

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Schedule 2

Immigration (COVID-19 Response) Amendment Bill

- (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:
 - (b) **subsection (4A)** applies whether the temporary entry class visas, or any of them, were granted as an exception to temporary entry instructions or otherwise.”
- 4 Modification to section 56 (Visa holder must comply with conditions)**
- Section 56(4) must be read as if after “section 386A” the words “or if the special direction making them was notified in the *Gazette* in accordance with **section 50(4D)(a), 52(4D)(a) or 53(4D)(a)**” were inserted.
- 5 Modification to section 63 (Expiry of visa)**
- 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 **section 78A**.”
- 6 Modification to section 66 (Cancellation of temporary entry class or transit visa by Minister or immigration officer)**
- In section 66(1)(b), the reference to “section 78” must be read as a reference to “section 78 or **78A**”.
- 7 Modification to section 86 (Who must obtain transit visa)**
- 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 **subsection (4A)** applies.”
- 8 Modification to section 400 (Regulations generally)**
- In section 400(b), the reference to “section 401” must be read as a reference to “section 401 or **401A**”.