



27 November 2020

Immigration New Zealand Operational Manual: Amendment Circular No. 2020-52

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.

Description of changes

Implementing the New Zealand Government response to COVID-19

H5.30 Definitions

Changes are being made to update Restricted Temporary Entry immigration instructions for border exceptions to add a new class of approved workers (shearers).

These instructions are effective on and after 25 November 2020.

Additions to immigration instructions are highlighted for ease of reference.

Appendix 1 - Amendments to Restricted Temporary Entry instructions effective on and after 25 November 2020

H5.30 Definitions

H5.30.1 Critical health workers

- a. A critical health worker is a person who will work in New Zealand in a job or occupation described on the Immigration New Zealand website as a critical health worker.
- b. The jobs and occupations considered as critical 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 critical 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 critical health worker.

H5.30.5 Other critical workers

- a. An 'other critical worker' is a person who is required to come to New Zealand and:
 - i. has unique experience and technical or specialist skills that are not readily obtainable in New Zealand, or
 - ii. is undertaking a time-critical role:
 - o for the delivery of an approved major infrastructure project (as defined in H5.30.10); or a government approved event or a major government-approved programme (as defined in H5.30.15), or
 - o in support of an approved government-to-government agreement (as defined in H5.30.15); or
 - o for work which brings significant wider benefit to the national or regional economy; or
 - iii. meets the requirements of an approved class of worker listed at H5.30.20.
- b. Where H5.30.5(a) applies, the 'other critical worker' may be granted a visa or variation of conditions for up to six months.
- c. However, a visa or variation of condition as an 'other critical worker' may be granted for more than six months (up to a maximum of 12 months), if the person meets the criteria at H5.30.5 (a) (i) or (ii), and also:
 - i. earns at least twice the median salary (currently \$106,080 per annum); or
 - ii. has a role that is essential for the completion or continuation of a science programme under a government funded or partially government-funded contract, including research and development exchanges and partnerships, and has the support of MBIE Science, Innovation and International Branch to travel to New Zealand to carry out their work; or
 - iii. has an essential role for delivery or execution of an approved major infrastructure project (as defined in H5.30.10); or for a government approved event or a major government-approved programme (as defined in H5.30.15).
- d. Despite, (b) and (c) above, a person may be granted a visa or variation of conditions for less or more than six months, if the person is an 'other critical worker' approved on the basis of being part of a class of workers, and a maximum duration is specified at H5.30.20.
- e. When considering H5.30.5 (a)(i) and (ii), an immigration officer who is a National Manager in the Border and Visa Operations Branch will determine who is an 'other critical worker' and whether they are eligible for a visa of up to six months under H5.30.5 (a) (i) or (ii) or a visa of up to 12 months under H.5.30.5 (c).
- f. Factors an immigration officer who is a National Manager in the Border and Visa Operations Branch may take into account when determining whether a person is an 'other critical worker' as defined in H5.30.5 (a)(i) and (ii), include:
 - i. why that person is needed to ensure the delivery, continuity or execution of the work or service, and the effect on the work or service if the person was unable to come; and
 - ii. why it is not possible to re-deploy workers already in New Zealand (this could include time constraints or the specific nature of the work or service to be done); and
 - iii. the situation of the staff (if any) currently performing the role(s), and whether they can remain or not in the roles; and
 - iv. the length of the visa required and the reason for that length of visa.
- g. Any partners or dependent children (see E4.1) of an 'other critical worker' who has 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 'other critical worker' (except where H5.30.20(c) states that partners and dependent children are not eligible to be included).
- h. When considering H5.30.5 (a)(i), the factors that an immigration officer may take into consideration when assessing:
 - i. "unique experience and technical or specialist skills" include, but are not limited to, whether these skills or experience:
 - o have been gained in a specialist training institution or by working in a highly-specialist firm
 - o can be demonstrated through global experience
 - o are inherent to a person

- ii. "not readily obtainable" include, but are not limited to, whether:
 - o there are no workers in the country who could perform the role, or
 - o there is a very limited pool of available workers who could perform the role and they are not available to the employer.
- i. When considering H5.30.5 (a)(i), applications for seasonal workers will generally not be approved under these instructions. The only exceptions will be if the nature of the work is highly skilled or uniquely specialised.
- j. "Time critical" in H5.30.5 (a)(ii) includes if the person does not come to New Zealand, the project, work or event will cease or be severely compromised, or significant costs will be incurred.

Note: Examples of workers meeting this standard may include: some highly specialist veterinarians, vendor-appointed engineers required to install major equipment, or an actor in a key film role.

H5.30.5.1 Other critical worker requests received prior to 18 June 2020

- a. The Minister for Economic Development and the relevant portfolio Minister were responsible for determining whether a person was an 'other critical worker' before these instructions took effect on 18 June 2020.
- b. Despite H5.30.5, the determination that a person is an 'other critical worker' for requests from employers received before 18 June 2020, that were made by the Minister for Economic Development and the relevant portfolio Minister, on the advice of MBIE, mean that a person is an 'other critical worker' for visa applications and invitations to apply made on and after 18 June 2020.

H5.30.10 Approved major infrastructure projects

For the purposes of these instructions, approved major infrastructure projects, are:

	Column A: Infrastructure project name	Column B: Procuring Agency
a.	New Dunedin Hospital Campus - Southern DHB.	Ministry of Health
b.	City Centre to Mangere Light Rail Auckland.	New Zealand Transport Agency
c.	Central Interceptor Programme - Western Springs to Mangere.	Watercare
d.	Mill Road - Northern Southern and Papakura Sections.	New Zealand Transport Agency
e.	Elective Capacity and Inpatient Beds and Supporting Infrastructure - Waitemata DHB.	Ministry of Health
f.	Capability of Airfield Infrastructure.	New Zealand Defence Force
g.	Investment in Horizontal Infrastructure.	New Zealand Defence Force
h.	Redevelopment of Scott Base - Antarctica.	Antarctica New Zealand
i.	Auckland Metro Rail Network Programme - Accelerated Renewals.	KiwiRail
j.	North Auckland Line - Northland.	KiwiRail
k.	Rolling Stock Procurement Project - Stage 1 - Wagon Fleet.	KiwiRail
l.	Wellington Metro Rail Network Programme - Stage 4 - Network Capacity Improvements.	KiwiRail
m.	Manawatu Road Maintenance Programme.	Manawatu District Council
n.	Laboratory and Biocontainment Greenhouse New Build and Relocation - Tamaki.	Ministry for Primary Industries
o.	Low Cost Low Risk Road Improvements across New Zealand.	New Zealand Transport Agency

	Column A: Infrastructure project name	Column B: Procuring Agency
p.	Totara Road Wastewater Treatment Plant Consent Renewal Upgrade.	Palmerston North City Council
q.	Adams Building Replacement Build and Precinct Enabler.	University of Otago
r.	Dental School Redevelopment.	University of Otago
s.	University of Otago - Christchurch Health Science Campus Redevelopment - Stage 1.	University of Otago
t.	Construction of New Gravity Tunnel - Whenuapai and Redhills.	Watercare
u.	Huia 1 and Nihotupu 1 Watermain Replacement.	Watercare
v.	New Watermain Connecting Woodlands Park Reservoirs to Greenhithe Bridge.	Watercare
w.	Pump Station and Rising Main Upgrade - Stanmore.	Watercare
x.	Upgrade of Huia Water Treatment Plant.	Watercare
y.	Upgrade of the Waiuku Wastewater Treatment Plant and Wastewater Servicing to Clarks Beach.	Watercare
z.	Wastewater Treatment Plant Reactor/Clarifiers and Ultra Violet Expansion - Rosedale.	Watercare
aa.	Wastewater Treatment Plant Upgrade - Pukekohe.	Watercare
ab.	Cross Harbour Pipeline Construction - Wellington Eastern Suburbs to Waterloo.	Wellington Water
ac.	Peacocke River Bridge and Northern Arterials Construction - Hamilton.	Hamilton City Council
ad.	Hamilton Transport Network Renewals and Maintenance.	Hamilton City Council
ae.	Drury Rail Station Development.	New Zealand Transport Agency
af.	Wastewater Treatment Plant Membrane Bio-Reactor Upgrade - Waiuku.	Watercare
ag.	Wellington Metro Rail Network Programme - Stage 6 - Infrastructure Upgrades.	KiwiRail
ah.	Wellington Metro Rail Network Programme - Stage 7 - Automated Train Protection.	KiwiRail
ai.	New Aircraft Apron.	Wellington International Airport Limited
aj.	Marine Defences and Seawall Reconstruction.	Wellington International Airport Limited

	Column A: Infrastructure project name	Column B: Procuring Agency
ak.	Whau Recreation Centre - New Recreation Centre.	Auckland Council
al.	Facilities Infrastructure Remediation Programme - Stage 1 - Auckland DHB.	Ministry of Health
am.	SH1 Improvements - Papakura to Bombay.	New Zealand Transport Agency
an.	Modular Prison Build Programme - Stage 2.	Department of Corrections
ao.	Auckland Metro Rail Network Programme - Wiri to Quay Park Capacity Enhancements.	KiwiRail
ap.	Auckland Metro Rail Network Programme - Papakura to Pukekohe Electrification.	KiwiRail
aq.	High Voltage Direct Current Cable Replacement and Capacity Increase - Cook Strait.	Transpower
ar.	Voltage Management - Waikato and Upper North Island.	Transpower
as.	Taranaki Base Hospital Redevelopment - Project Maunga - Stage 2 - Taranaki DHB.	Ministry of Health
at.	State Highway Improvements - SH1 Papakura to Drury South.	New Zealand Transport Agency
au.	Tauranga Northern Link.	New Zealand Transport Agency
av.	Walking and Cycling Facilities - Northern Pathway including Seapath.	New Zealand Transport Agency
aw.	Penlink Road.	New Zealand Transport Agency
ax.	SH2 Te Puna to Omokoroa Improvements.	New Zealand Transport Agency
ay.	Melling Interchange Improvements.	New Zealand Transport Agency
az.	New Domestic and International Jet Terminal.	Wellington International Airport Limited
ba.	New State Highway Construction - Te Ahu a Turanga: Manawatu Tararua Highway.	New Zealand Transport Agency
bb.	Waikeria Prison Build.	Department of Corrections
bc.	Interisland Ferry Replacement Project - Wellington and Picton.	KiwiRail
bd.	Main North Line Reinstatement Project - Christchurch to Picton.	KiwiRail
be.	SH1 Whangarei to Port Marsden Upgrade.	New Zealand Transport Agency
bf.	SH1 Otaki to North Levin Improvements.	New Zealand Transport Agency
bg.	Rolling Stock Procurement Project - Stage 2 - Locomotives.	KiwiRail

	Column A: Infrastructure project name	Column B: Procuring Agency
bh.	Rolling Stock Procurement Project - Stage 2 - Wagons.	KiwiRail
bi.	Te Pae - Christchurch Convention Centre.	Ōtākaro Limited
bj.	Metro Sports Facility – Christchurch.	Ōtākaro Limited
bk.	City Rail Link.	City Rail Link Limited

H5.30.15 Major government-approved programmes, government-approved events and government-to-government agreements

For the purposes of these instructions, major government-approved programmes, government-approved events, and government-to-government agreements are:

Column A: Major government-approved programmes	Column B: Government-approved events	Column C: Government-to-government agreements
Rocket Lab launches	BWF Junior World Championships (Badminton)	The Antarctic Programme
Mutual Assistance Programme (Defence programme)	ICC Women’s World Cup	
Pacific Leadership Development Programme (Defence programme)	New Zealand Golf Open	
Recruitment and personnel exchange programmes (Defence programme)	36th America’s Cup	
Defence capability programmes (Defence programme)	ICF Junior and U23 Canoe Slalom World Championships	
	Crankworx Rotorua	
	IronMan 70.3 World Championship 2020	
	The Pioneer	
	Winter Games	
	Rugby World Cup (Womens)	
	WSL Challenger Series Piha Pro	
	XVI WSBC Men’s Softball World Championship	
	Ocean Race 2022	

Column A: Major government-approved programmes	Column B: Government-approved events	Column C: Government-to-government agreements
	FIFA Women's World Cup 2023	
	Bledisloe Cup	
	Taini Jamison Trophy	
	International West Indian Men's Cricket Tour of New Zealand	
	International Pakistan Men's Cricket Tour of New Zealand	

H5.30.20 Approved classes of workers

- For the purpose of these instructions, the authorised government organisation or relevant departmental agency, as specified in column F below, will liaise with relevant industries and employers and provide a list of nominated workers to Immigration New Zealand.
- An immigration officer will determine whether a person is part of an approved class of workers based on whether they are on a list of nominated workers provided by the authorised government organisation or relevant departmental agency, as specified in column F below.
- The classes of workers that have been approved by Cabinet are:

	Column A: Class of worker	Column B: Class details	Column C: Eligible to include partners and/or dependents	Column D: Maximum duration of visa	Column E: Last date of entry	Column F: Authorised government organisation or department	Column G: Number of workers in class
a.	Deepwater fishing crew	<p>Workers must be employed by one of the following companies to work on any of the named deepwater fishing vessels:</p> <p>Company: Independent Fisheries Ltd</p> <p>Vessels:</p> <ul style="list-style-type: none"> • Independent • Irvinga • Mainstream <p>Company: Maruha (N.Z.) Corporation Ltd</p> <p>Vessels:</p> <ul style="list-style-type: none"> • Aleksey Slobodchikov • Te Raukura <p>Company: Sealord Charters Ltd</p> <p>Vessels:</p>	No			Ministry for Primary Industry (MPI)	Up to 570

Column A: Class of worker	Column B: Class details	Column C: Eligible to include partners and/or dependents	Column D: Maximum duration of visa	Column E: Last date of entry	Column F: Authorised government organisation or department	Column G: Number of workers in class
	<ul style="list-style-type: none"> Meridian Professor Mykhaylo Aleksandrov <p>Company: Aurora Fisheries Ltd Vessel:</p> <ul style="list-style-type: none"> Tomi Maru 87 <p>Company: DW New Zealand Limited</p> <p>Vessels:</p> <ul style="list-style-type: none"> Dong Won 519 Dong Won 530 <p>Company: Jaico Limited</p> <p>Vessels:</p> <ul style="list-style-type: none"> Fortunui Pacinui 					
b. Agricultural mobile plant operators	Workers with at least three seasons' experience as agricultural mobile plant operators and relevant vehicle licencing qualifications. Working under an approved contract agreement in a fulltime role with specified rural contract operators.	Yes		April 2021	MPI	Up to 210
c. Mixed and large animal veterinarian	Veterinarians must hold the necessary qualifications and experience for them to be licensed and registered with the Veterinary Council of New Zealand.	Yes			MPI	Up to 30
d. Shearers	Shearers contracted by or through a NZSCA approved employer, and with more than two years' shearing experience	No	-	31 March 2021	MPI	60

H5.30.21 Approved classes of individuals

- a. For the purpose of these instructions, the authorised government organisation or relevant departmental agency, as specified in column F below, will liaise with relevant parties and provide a list of nominated individuals to Immigration New Zealand.

- b. An immigration officer will determine whether a person is part of an approved class of individuals based on whether they are on a list of nominated individuals provided by the authorised government organisation or relevant departmental agency, as specified in column F below.
- c. The classes of individuals that have been approved by Cabinet are:

	Column A: Class of individual	Column B: Class details	Column C: Eligible to include partners and/or dependents	Column D: Maximum duration of visa	Column E: Last date of entry	Column F: Authorised government organisation or departmental agencies	Column G: Number of people in class	Column H: Relevant parties
i.	PhD and post-graduate students	Nominated PhD and postgraduate students who held or hold a visa to study in 2020 but have been unable to enter New Zealand due to COVID-19	Where allowed under student or work instructions (U8.25, WF4.1, WF4.5)	Up to a maximum of four years (U6.30(b))	N/A	Ministry of Education	Up to 250	Education providers, tertiary education sector groups
ii.	Essential travel to and from the Cook Islands, Niue, Samoa, Tokelau and Tonga	Nominated individuals who are travelling to or from the Cook Islands, Niue, Samoa, Tokelau, or Tonga, for essential activities, but who may be required to enter New Zealand before onward travel	Yes	Up to a maximum of six months	N/A	Ministry of Foreign Affairs and Trade	Up to 100 in the period 2 November 2020 - 2 May 2021	The governments of Cook Islands; Niue; Samoa; Tokelau; and Tonga

Note: For the purposes of H5.30.21(c)(ii), essential activities can include, but are not limited to: activities related to key sectors vital for Pacific economies; critical relief and development activities; technical specialists to support good governance; and staff for diplomatic missions.

H5.30.25 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.

H5.30.30 Replacement cargo ship crew

- a. A replacement cargo ship crew member is a person travelling to New Zealand as a passenger on a commercial aircraft for the purpose of leaving New Zealand as crew on a cargo ship.
- b. After arriving in New Zealand, replacement cargo ship crew must transfer as soon as reasonably practicable to a cargo ship to depart New Zealand.
- c. 'Cargo ship' means a ship that is a commercial craft and that is carrying primarily cargo into or out of New Zealand.

Note: For the avoidance of doubt, crew subject to regulation 25 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 are not subject to this instruction (namely cargo crew on a ship when arriving by sea in New Zealand).

H5.30.35 Essential Skills, Entrepreneur and Work to Residence visa holders who normally live in New Zealand

A principal applicant will be considered to have a critical purpose for travel to New Zealand (H5.25.15(j)) if they meet the following requirements:

- a. The principal applicant departed New Zealand between 1 December 2019 and 9 October 2020 (inclusive) and is currently outside of New Zealand.
- b. At the time of departing New Zealand, the principal applicant held either a current:
 - i. Work to Residence visa; or
 - ii. Entrepreneur work visa; or
 - iii. Essential Skills visa based on mid-skilled or higher-skilled employment, or based on employment assessed as being paid at or above the median wage.
- c. The visa held by the principal applicant at the time of departure from New Zealand has or had an expiry date of:
 - i. on or after 1 January 2021; or
 - ii. before 1 January 2021 and the principal applicant has:
 - o submitted a further visa application on or before 9 August 2020; and
 - o the further visa would, or if already granted does, allow the principal applicant to stay in New Zealand for at least 12 months; and
 - o that visa would allow the principal applicant to work in the same position or operate the same business as referred to in H5.30.35(d); and
 - o if the further visa is a temporary visa, that visa is approved.
- d. The principal applicant has retained their job or business in New Zealand in that they:
 - i. were employed at the time of departing New Zealand in accordance with the conditions of their existing visa, are employed in the same position and have maintained their employment relationship continuously since departing New Zealand; or
 - ii. if the principal applicant held an Entrepreneur work visa at the time of departing New Zealand, they operated a business in New Zealand at the time of departing New Zealand in accordance with the conditions of their existing visa, and have continued to operate that same business since departing New Zealand.
- e. The principal applicant was in New Zealand for either:
 - i. at least 273 days in each of the two 12 month periods immediately preceding the date of their departure from New Zealand; or
 - ii. at least 273 days in the 12 month period immediately preceding the date of their departure from New Zealand and meet one of the following:
 - o if the principal applicant held an Entrepreneur work visa at the time of departing New Zealand, they operated a business at the time of departing New Zealand in accordance with the conditions of their visa, and have continued to operate the same business since departing New Zealand; or
 - o had one or more dependent children with them in New Zealand for at least 6 months of that 12 month period; or
 - o have parents or siblings who are 18 years or older, who are currently in, and who are ordinarily resident (E4.10) in, New Zealand; or
 - o submitted an application for a resident visa on or before 9 August 2020.

Notes:

- Work to Residence visas include Talent (Accredited Employer), Talent (Arts, Culture and Sports), Long Term Skill Shortage List, Skilled Migrant Category Job Search, South Island Contribution and Global Impact visas.
- Partners and dependent children of the principal applicant may be eligible to be included (see H5.10). Invitations to apply will be given where any partner or dependent children (see E4.1) of the principal applicant included on the Expression of Interest:
 - have been born on or after 1 December 2019; or
 - currently hold, or held at the time of departing New Zealand, a visitor, work or student visa based on their relationship to the principal applicant.