



**Road Transport Forum NZ Submission
to the:
Education and Workforce
Select Committee
on the
Immigration (Covid-19 Response)
Amendment Bill**

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Road Transport Forum (RTF) submission on the Immigration (Covid-19 Response) Amendment Bill

1. Representation

- 1.1 Road Transport Forum New Zealand (RTF) is made up of several regional trucking associations for which the RTF provides unified national representation. RTF members include Road Transport Association NZ, National Road Carriers, and NZ Trucking Association. The affiliated representation of the RTF is some 3,000 individual road transport companies which in turn operate 16-18,000 trucks involved in commercial road freight transport, as well as companies that provide services allied to road freight transport.
- 1.2 The RTF is the peak body and authoritative voice of New Zealand's road freight transport industry which employs 32,868 people (2.0% of the workforce), and has a gross annual turnover in the order of \$6 billion.
- 1.3 RTF members are predominately involved in the operation of commercial freight transport services both urban and inter-regional. These services are entirely based on the deployment of trucks both as single units for urban delivery and as multi-unit combinations that may have one or more trailers supporting rural or inter-regional transport.
- 1.4 According to Ministry of Transport research (National Freight Demands Study 2018) road freight transport accounts for 93% of the total tonnes of freight moved in New Zealand.

2. Introduction

- 2.1 The RTF welcomes the opportunity to submit on the Immigration (COVID-19 Response) Amendment Bill.
- 2.2 Our comments relate primarily to the process, timeline, lack of consultation, and lack of scrutiny applied to this extension of emergency powers for a further two year period.
- 2.3 While the RTF appreciates the necessity and intent of the original Amendment Bill, we do not support its two-year extension (to 15 May 2023) and we do not support the extension of visa suspension from three months to six months. The far-reaching ministerial powers should only be considered appropriate, or necessary, in a true emergency situation.
- 2.4 The "state of emergency" that filled the early months of the pandemic response should be well over now – more than one year on - as New Zealand adjusts and plans for recovery and the vaccine roll out

provides herd immunity, allegedly by the end of 2021. As such, reliance on emergency powers should no longer be necessary other than in exceptional circumstances. As the pandemic will be with us for years, there has to be a move back to normality, rather than fostering fear and exclusion for years to come.

- 2.5 The RTF is aware of issues that have occurred for our industry as a result of the ongoing uncertainty around New Zealand's immigration settings and its border closure policy, and the resulting confusion within Immigration New Zealand. This not only causes personal distress for employees in New Zealand waiting on responses for Immigration New Zealand; it also has economic impacts for the companies with those employees.
- 2.6 Not allowing workers into New Zealand, or to stay in New Zealand and/or be joined by their families - other than those who can get approval from only a handful of people - for a further two years will be an ongoing restriction for employers who cannot find appropriately skilled workers in the New Zealand labour market.
- 2.7 The RTF believes the negative economic impacts of uncertainty around New Zealand's immigration settings outweigh the original intent of the Amendment Bill, which was effectively to deal with an emerging emergency situation. The fact that no Regulatory Impact Statement needs to be proffered, due to a loophole that allows this because the legislation is "temporary", erodes confidence in the transparency of government. Is three years temporary? The first "sunset clause" is being extended and there is no guarantee that after two years that won't happen again.
- 2.8 The RTF notes that the deficiencies in the existing immigration law were highlighted by the COVID-19 pandemic and that a broader review of the Immigration Act 2009 is in its early scoping stages. Such a review may look at the longer-term role of the powers and their efficacy in responding to emergency situations. The RTF believes that work is a separate issue and we don't believe extending emergency powers should be a proxy for an Act that needs review.

3. Comments on the process and timeline and lack of external consultation and scrutiny

- 3.1 The RTF believes that given the Ministerial powers the extension of this Amendment Bill confers, more time should be given to discuss its merits or otherwise. One week is a very short time given the message this extension sends to the world that New Zealand's border is closed for the next two years, at least.

- 3.2 That the original Amendment Bill was passed in May 2020 and expires in May 2021 should have been considered for proper consultation, rather than rushing the consultation to meet the timeline. It has been apparent for some time that the New Zealand Government has no plans to open the border so this matter could have been consulted on for longer than one week at Select Committee.
- 3.3 On the matter of consultation, there has been no external consultation on the policy to be given effect by this Bill, or on a draft of this Bill, including no Regulatory Impact Statement (RIS). The team at Treasury said that the proposed extension of the expiry of powers under the Immigration (COVID-19 Response) Amendment Bill is exempt from the requirement to produce a RIS "on that basis that is intended to temporarily defer or extend legislative deadlines".
- 3.4 The whole point of a RIS, in addition to summarising the options and the associated costs and benefits, is to ensure the regulatory process is open and transparent. We are concerned that decisions are being made devoid of knowledge of the full impacts and that there appears to be no interest in openness and transparency.
- 3.5 Targeted discussion with key external stakeholders on the policy underlying the 2020 Amendment Act were undertaken by the Ministry of Business, Innovation and Employment. It was considered that as the Bill is not changing the powers or provisions of the 2020 Amendment Act, no further consultation was required. In fact, the landscape has changed considerably from April 2020 to April 2021 and this lack of consultation is concerning. New Zealand risks losing skilled workers, and is certainly being prevented from recruiting them from overseas, due to the current immigration settings. As we have a very small population, we are always going to rely on external labour supply.
- 3.6 While the legislation is painted as "providing continued flexibility to support migrants, manage the border, and help industries facing labour shortages" – Immigration Minister Kris Faafoi in his media release dated 1 April 2021 – that is not the message extending it for two years sends.
- 3.7 The RTF contends that in emergency situations the need for communication, truth, openness and transparency is heightened because of the broad sweeping powers conferred on a handful of people. We see no provision for this.
- 3.8 The RTF appreciates the Government needs to have the ability to respond appropriately and efficiently to the COVID-19 outbreak by continuing additional, constrained, flexibility in the immigration system. However, we believe the eight time-limited powers to do this are no longer required. Their time is up. The Ministry of Business,

Innovation and Employment Department Disclosure Statement for the Immigration (COVID-19 Response) Amendment Bill, dated 16 March 2021, says they should remain until border restrictions are lifted.

- 3.9 The Department Disclosure Statement also says, in amending to six months the maximum duration of a suspension or extension for the Regulations which suspend the ability of certain offshore persons to make temporary entry class visa applications: "The change is made because the regulations have had to be renewed for a longer period of time that was envisaged, and the frequency of renewal is burdensome. In addition it may be giving intending visa applicants the impression that the border will open soon, when that is not the case".
- 3.10 Therein lies the nub. The Government has articulated no clear COVID-19 recovery plan and no COVID-19 vaccine rollout plan with measurable outcomes and timelines. There is no indication of when the border will open, or indeed, any willingness to expedite that. This leaves pause to think this "emergency" legislation, that will be in place for three years, could be extended again without scrutiny, as it is deemed merely temporary.
- 3.11 We believe use of emergency powers regarding COVID-19 should be more judicious than the two-year extension of this Amendment Bill allows.

4. Concluding comments

- 4.1 The RTF does not believe immigration settings should be reliant on emergency powers for a further two years. Extending emergency powers for two years, in effect being in place for three years, signals to the rest of world that the New Zealand border is closed for a long time yet.
- 4.2 Three years of emergency powers is certainly not "temporary" – it is the length of a full Parliamentary term. Relying on a "temporary" tag to avoid scrutiny and consultation makes a mockery of open and transparent democratic Government law making.
- 4.3 Without consideration for the full impacts and costs of this two-year extension, the Government is showing a lack of ambition for New Zealand's recovery from the COVID-19 pandemic. To get on with building houses and massive infrastructure, to meet the full potential that comes from harvesting our primary produce, and to add to the brainpower across professional services, labour from outside New Zealand's limited pool is always necessary.
- 4.4 According to the NZ Customs Service data, the net loss on those that have arrived in New Zealand by air and those that have departed from

March-December 2020 is 123,354 (<https://www.customs.govt.nz/globalassets/documents/covid-19/air-pax-movements-1-jan-until-31-dec-2020.pdf>). The trend of more people leaving New Zealand than entering has continued through early 2021, with the net loss on those that have arrived in New Zealand by air and those that have departed in January and February at 1,950 <https://www.customs.govt.nz/globalassets/documents/covid-19/air-pax-movements-1-jan-until-28-feb-2021.pdf> We are losing, not gaining, workers.

- 4.5 Workers in New Zealand whose immigration status is uncertain will be put under further stress and duress for too long if this two-year extension proceeds.
- 4.6 Emergency powers cannot be a proxy for failures in existing legislation that do not fit the Government's immigration agenda.
- 4.7 The RTF understands this Amendment Bill will be extended however, we recommend that be for a period of six months only. That gives time to set in place more appropriate immigration settings in line with the global response to COVID-19. It also gives consideration to the Government's assertion that the bulk of New Zealanders will be vaccinated by the end of 2021.
- 4.8 We believe being "burdensome" and not wanting to signal to visa applicants that the border will open soon are not sufficient grounds for the extension of visa suspension from three months to six months. We contend it should remain as is for the duration of this legislation.

5. Appearing before select committee

- 5.1 The Road Transport Forum would like the opportunity to appear before Select Committee to discuss our submission.

Nick Leggett
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Road Transport Forum