

New Zealand border restrictions amidst COVID-19 and their impacts on temporary migrant workers

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Abstract

In September 2021, Immigration New Zealand (INZ) announced the offer of a one-off residence visa category – the 2021 Resident Visa, to over 165,000 temporary migrant workers and their family members living in the country. The offer was a response to the backlog and growing numbers of applications that INZ was unable to attend to largely because of the lockdown during the COVID-19 pandemic. Drawing on relevant statistical data, news media reports and available academic publications, this research note examines how New Zealand's sanitization policies during the pandemic affected the lives of temporary migrant workers who hold various work visas.

Keywords

COVID-19, border restriction, immigration policy, migrants, migration management, New Zealand

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Introduction

Since the early 2000s, New Zealand's migration policy regime has been shifting from encouraging permanent settlement migration towards regulating and managing multiple streams of temporary visas with possibilities of obtaining permanent residence status (Collins, 2018, 2021). Under this migration policy regime, there are two major immigration pathways for migrants to acquire long-term resident visas. The first is a direct path under the Skilled and Business Categories in the New Zealand Residence Programme (NZRP).¹ The second is a transitional pathway towards residence status under various work-related temporary visas, such as Work to Residence Visa (Talent Visa),² Essential Skills Work Visa,³ Working Holiday Visa⁴ and Post-study Work Visas.⁵ Temporary work visa holders come to the country with an offer of a temporary residence status with possibilities to transit to a permanent resident status, depending on their eligibility and migration outcomes, as evidenced by the accumulation of education and work experience (Spoonley and Bedford, 2012). This transitional immigration pathway has been described as "permanent temporariness" (Collins, 2021: 194). Under this situation, migrants are regarded simply as a tool for addressing New Zealand's labor market gaps to support economic development but withholding permanent residence status for them (Collins, 2018, 2020, 2021).

¹The New Zealand Residence Programme (NZRP) specifies residence goals set by the New Zealand governments to meet the country's skills requirements and humanitarian commitments.

²The Work to Residence Visa (also called Talent Visa) is for applicants who are looking for a pathway to live in New Zealand and who have a skill that is needed by a New Zealand accredited employer. If an accredited employer offers full-time work to a person, he/she will be able to get a work visa to work in New Zealand. If he/she continues to work for that employer for two years, he/she will be able to apply to live in New Zealand permanently.

³The Essential Skills Work Visa allows the visa holders to live and work in New Zealand on a temporary basis. Its purpose is to help employers fill positions when they cannot find New Zealand applicants with the right skills. The visa holders can only work in specific occupations for their employers and in the locations specified on the visas. They can apply for their partners and dependent children to come to New Zealand. The visa is usually valid for up to three years. After the three years have expired, the visa holder may obtain another Essential Skills Work Visa if they are paid above the median wage.

⁴The Working Holiday Visa is for young people, usually aged 18 to 30, or 18 to 35 for some selected countries. It allows visa holders to travel and work in New Zealand for up to 12 months, or 23 months if they are from the UK or Canada. During the pandemic, only people coming from a Quarantine-Free Travel Zone may apply for this visa category.

⁵All international students who have completed a second higher qualification at bachelor's degree level or higher in New Zealand can apply for the Post-study Work Visa. Student visa holders can work in almost any job for any employer in New Zealand for between one and three years, depending on the locations of their studies. Their partners can apply for a work visa while their dependent children can study without fees.

New Zealand's immigration policy shift since the early 2000s can be understood within a neoliberal immigration regime which often takes an "economic" lens to frame and reframe immigration regulations based on a cost-benefit analysis to favor immigrant-receiving countries (Mulvey and Davidson, 2019). Under this regime, skilled and business immigration is often framed as an "economic" immigration category to bring in financial or human capital (Liu, 2018; Liu and Ran, 2021).

The COVID-19 pandemic since March 2020 has created unprecedented health, social and economic impacts on New Zealand, including migration (Liu, 2021; Liu and Ran, 2020). The processing of many visa applications was delayed, thus, placing pressure on the country's immigration system and migrant populations (Liu, 2021), especially temporary migrant workers (Collins, 2020). According to statistics from the Ministry of Business, Innovation, and Employment (MBIE), as of June 2021, there were 183,054 temporary work visa holders and their family members in New Zealand under various categories of temporary visas⁶ (Collins, 2020). The nationwide lockdowns and health regulations reduced the work capacity of Immigration New Zealand (INZ). The processing of many visa applications was suspended, which consequently left many temporary migrants stranded. In response to the situation, the New Zealand government took some proactive measures such as the relaxation of visa extension, provision of entry exemptions and lifting immigration rules to grant residency to migrants, especially to essential health workers and those who have a critical purpose for coming to New Zealand (Bonnett, 2020).

One of the major responses of the New Zealand government to the challenges faced by many temporary migrants is to introduce a one-off and fast-tracked residence pathway. On 30 September 2021, INZ officially announced the offering of the pathway to more than 165,000 migrant workers and their family members in the country. This new 2021 Resident Visa aims to ease the backlog in the processing of applications which were heightened during the pandemic. Before the pandemic, there was already a delay in the timely processing of applications. Anyone who has been in New Zealand since 29 September 2021 and has applied for (and subsequently been granted) a valid work visa is eligible to apply for this resident visa (Liu, 2021). When the pandemic broke out, the backlog worsened. Apart from the pressure on INZ, labor shortages in primary industries and the competition for skilled migrant workers with other major migrant-receiving countries, such as Australia and Canada, were other reasons to introduce the one-off 2021

⁶These temporary visa categories include Essential Skills Work Visa, Work to Residence Work Visa, Working Holiday Visa, Post-study Work Visa, Supplementary Seasonal Employer Work Visas and Recognised Seasonal Employer Limited Visa.

resident visa. This new visa category helped ensure the stay of some essential migrant workers in New Zealand (Liu, 2021).

However, the 2021 Resident Visa is only a short-term solution to the crisis faced by New Zealand's immigration system (Liu, 2021). The immigration minister's statement when he mentioned that this one-off residence pathway "provides certainty to migrants and business" (Fafoi, 2021) suggests official recognition of the flaws in New Zealand's approach to temporary migration and how these were revealed by the COVID-19 pandemic (Collins, 2021). As the research note will show, the COVID-19 pandemic did not create these problems, but it brought to the surface some deep-rooted problems of the country's migration policy setting and management. The research note drew on relevant statistical data, news media reports and available academic publications to illustrate how one of New Zealand's pandemic responses, i.e. sanitization policies, impacts temporary migrant workers' mobility, life opportunities and family life.

Sanitizing the border: Implications of New Zealand's border policies on its immigration program and categories

Since the onset of the pandemic, the New Zealand government had consistently adopted restrictive border policies aimed at sanitizing its border-crossing spaces to contain the spread of the pandemic to the general population. New Zealand started enforcing border restrictions on 3 February 2020, when the government implemented a travel ban on people traveling from China, followed by a ban on travelers coming from Iran on 28 February 2020. A full-scale border closure to all non-citizens and non-residents was enforced on 20 March 2020 and a series of border restrictions/measures followed (Liu and Ran, 2020). These border restrictions and control helped to prevent the spread of COVID-19 (Cumming, 2022; Jefferies et al., 2020). It also meant that international tourism was brought to a complete stop, and only New Zealand citizens, their spouses and dependent children and New Zealand residents could travel back to the country. This strict border control was in place until 27 February 2022 when the New Zealand border started to re-open gradually by following a five-stage plan.⁷ The border

⁷More detailed information about New Zealand's five-phase border re-opening plan is available from: <https://www.immigration.govt.nz/about-us/covid-19/border-closures-and-exceptions/border-entry-requirements>.

closing had significant implications for New Zealand's immigration program. In general, New Zealand put up a "no entry" sign to some major visa categories. It also implied that applications under some visa categories were prioritized for assessment while others were suspended.

First, the selection of EOIs⁸ for resident visas under the Skilled Migrant Category and Parent Resident Visa Category was suspended from March 2020 without being given a definite due date. This action taken by INZ had significantly negative impacts on those migrants who held a temporary visitor or work visas but intended to apply for resident visas. For all temporary visa applications, this "no entry" border control principle implied that all these visa applications from outside New Zealand or a Quarantine-free Travel Zone⁹ were suspended unless an exemption could be claimed. For example, all capped Working Holiday Visa applications were suspended until further notice, while uncapped Working Holiday Visas, such as those applying under the United Kingdom (UK), Germany and the United States (USA) schemes, remained open to people who are already in New Zealand or a Quarantine-free Travel Zone. The receiving of applications for Student Visas and Visitor Visas was also paused. Those who already have a Student Visa or Visitor Visa but were not in New Zealand when the border restrictions were enforced, could not enter New Zealand unless they were approved as part of the New Zealand government's border exemption scheme.¹⁰

The border closure and restrictions and their effect on these visa categories brought an immediate pause to the migratory inflow into the country. Based on migration arrival data from INZ, [Figure 1](#) shows the numbers of arrivals by major visa types from 2011/2012 to 2021/2022. Apparently, arrivals with visitor,

⁸In December 2003, a new two-stage selection system under the New Zealand Skilled Migration Category was introduced. This new system shifted how the points system worked from passive acceptance to active selection of immigration applications. It replaced the "pass" mark system with a process whereby people who qualify above a certain level of points (at least 100 points) submit an Expression of Interest (EOI) to a selection pool, from which they are then invited to apply. Points were allocated based on age, qualifications, a skilled job or offer, the regional location of the job offer, work experience and identified skills shortages.

⁹Quarantine-free travel zones refer to low-risk countries with which New Zealand has quarantine-free travel arrangements. New Zealand citizens or residents returning to New Zealand from a quarantine-free travel country do not need to stay in a Managed Isolation and Quarantine (MIQ) facility or to self-isolate. Before 3 May 2022 when the government removed the MIQ's exemption application process, the quarantine-free countries included Samoa, Tokelau, Vanuatu, Cook Islands, Niue, Nauru, Tuvalu, American Samoa and Australia. Currently, New Zealand has no mandatory requirements for any arrivals to enter MIQ. Detailed information about the Quarantine-free Travel Zone is available from: <https://www.immigration.govt.nz/about-us/covid-19/border-closures-and-exceptions/you-are-in-a-quarantine-free-travel-zone>.

¹⁰Detailed information about border exemption is available from: <https://www.immigration.govt.nz/about-us/covid-19/border-closures-and-exceptions/entry-to-new-zealand/how-to-request-to-travel>.

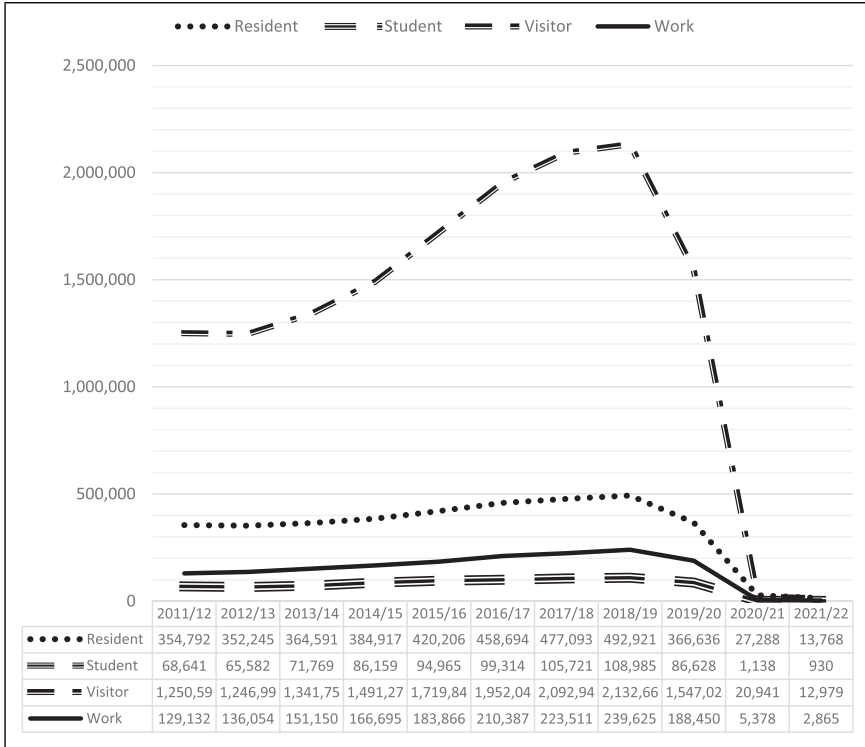


Figure 1. Migrant arrivals by major visa type, 2011/2012 to 2021/2022. Source: INZ Statistics: www.immigration.govt.nz/documents/statistics/statistics-arrivals-by-month.

resident, student and temporary work visas during the past two years of COVID-19 all dropped from historically high rates to the lowest. This means that immigration had been stopped with no meaningful flow across the borders until 13 March 2022 when the border was re-opened for eligible travelers.

New Zealand’s border sanitization policy to stem the outbreak of COVID-19 included not only border closure and restrictions but also border exemption, namely, the management of individual cases in special circumstances. It should be acknowledged that border control and border exemption and relaxation of visa extension in New Zealand were part of the emergency plan made by the government to deal with complicated immigration issues during the COVID-19 pandemic (e.g. see Chan, 2021). Firstly, the New Zealand government established an Epidemic Management Notice, which took effect on 2 April 2020, to deal with immigration-related matters. This means that migrants with temporary visas that were to expire on or before 1 April 2020 could apply for visa

extension (Lane Neave, 2020). This allowed visa holders to maintain their legal status and address the challenges of visa expiry. In addition, an interim temporary visa that is valid for a period of six months was issued to applicants to allow them to stay until a decision can be made on their full extension application.

The visa extension was also applied to various work-related visa categories.¹¹ In September 2020, a six-month extension was issued for all employer-assisted work visas,¹² Supplementary Seasonal Employer (SSE) Work Visas,¹³ Recognised Seasonal Employer (RSE) Limited Visas¹⁴ and visas for religious workers (including their partners and dependents), fish crew, and partners and dependents of employer-assisted work visa holders. The second six-month extension was issued in December 2020 for all employer-assisted work visas, Working Holiday Visas and visas for fish crew. In June 2021, the Working Holiday Visas, SSE Work Visas and Recognised Seasonal Employer (RSE) Visas received a further six-month extension. The last visa extension took place in October 2021 covering all Working Holiday Visas and SSE Work Visas that were set to expire between December 2021 and June 2022 were extended for a further six months. As for Post-study Work Visas, they can be extended for up

¹¹Detailed information about temporary visa extension is available from: <https://www.immigration.govt.nz/about-us/covid-19/in-new-zealand/visa-information/visa-extensions-and-visa-conditions>.

¹²Employer-assisted work visa includes various visa categories, including the Essential Skills Work Visa, Work to Residence Visa, Special and Skilled Work Visa for China, Indonesia, South Korea, Philippines and Vietnam, Special Category Work Visa for Japanese Interpreters and Thai Chefs, Employer-specific Work Visa granted under section 61 of the Immigration Act 2009, Silver Fern Practical Experience Visa and Religious Worker Work Visa.

¹³People who are already in New Zealand on a student or visitor visa can apply for Supplementary Seasonal Employer (SSE) Work Visas. This visa allows recognized employers to recruit temporary visa holders already in New Zealand to plant, maintain, harvest or pack crops when New Zealanders are not available to do the work. The SSE scheme is designed to help employers that have seasonal labor issues. The employer does have to go through an accreditation process. One can apply for this visa if they currently hold a visitor or student visa. Also, those who currently hold or have previously held a work visa (including a TRSE or SSE visa) may apply for this before 31 March 2022. The applicants' partner or dependent children cannot be included in this visa application. More details are available from <https://www.immigration.govt.nz/new-zealand-visas/apply-for-a-visa/about-visa/supplementary-seasonal-employer-sse-work-visa>.

¹⁴Recognized Seasonal Employer (RSE) Limited Visa allows people to come to New Zealand for a short time to work in the horticulture and viticulture industries. Maximum stay limits vary depending on the date of arrival in New Zealand. Applicants must be 18 years old and over. Those already in New Zealand who hold or have held a work visa, including people who have previously held SSE Visas, can also apply for this visa, if the application was made before 31 March 2022. Holders of this visa cannot apply for any other kind of visa, they must leave New Zealand before the visa expires, and cannot appeal to the Immigration and Protection Tribunal to stay in New Zealand. Partners or dependent children cannot be included in this visa application. Details of this visa category are available from <https://www.immigration.govt.nz/new-zealand-visas/apply-for-a-visa/about-visa/recognised-seasonal-employer-limited-visa>.

to two years if the applications were accepted before 26 November 2018 (Bonnett, 2021). It is worth noting that all these visa extensions were only applied to applicants who were in New Zealand.

The extension given to work visa holders was particularly flexible, especially for some low-skilled migrant workers. For example, the extended SSE Work Visa for seasonal migrant workers continued to have open work rights allowing visa holders to work in any sector.¹⁵ The conditions of the extended Working Holiday Visas were varied to allow holders to work under a Working Holiday Scheme in any employment except permanent employment. This flexibility is aimed at meeting recruitment needs, such as the demand for seasonal fruit pickers and dairy farm workers. It also intended to help people extend their visa periods for as long as possible; thus, buying time for them to meet the criteria for other visas and to arrange their travel home.

Apart from the visa extension policy, INZ also acknowledged that there may be circumstances to exempt some individuals from border restrictions and allow them to travel to New Zealand. The exceptions were only for people who had a critical purpose for traveling to New Zealand, and these apply only to the following: (1) essential health workers; (2) other essential workers specified by the New Zealand government; (3) Samoan and Tongan citizens making essential travel; (4) New Zealand-based partners and dependent children (aged 19 years and under) of a work or student visa holder who is in New Zealand and (5) critical humanitarian travel. To obtain exemption from the border restriction, applicants needed to meet the exception criteria and submit a request, and the approval for exemption was considered on a case-by-case basis⁹.

While it is humane to include all these visa extension and border exemptions into the sanitization policies, these extensions might not sufficiently respond to all the uncertainty and complexity created by the pandemic to the existing migration regime in New Zealand. The case-by-case approach to deal with border exemption applications might be inefficient to cope with the various requirements of a large population of temporary migrants. A detailed discussion of the impacts of the border closure and restrictions on different migrant populations are provided in the next section.

The impacts of the border policies on temporary migrant workers

The pandemic-induced border control disrupted and impacted temporary migrants' personal lives and future plans in many negative ways. The border closure and national lockdowns suspended a large part of the local economy

¹⁵Detailed information about New Zealand border exemptions can be found in this parliament cabinet paper: Available from <https://www.mbie.govt.nz/dmsdocument/13028-covid-19-border-restrictions-exceptions-for-humanitarian-and-people-ordinarily-resident-proactiverelase-pdf>

and many employment activities. Many companies and businesses had to shut down or make their employees redundant. Although the termination of an employment agreement during the pandemic was not encouraged in New Zealand and was closely monitored by relevant authorities ([Employment New Zealand, 2022](#)), many temporary migrant workers experienced loss of employment and reduced working hours. Their economic well-being was affected; and the change of their employment status impacted their legal right to stay in New Zealand.¹⁶

In terms of low-skilled migrant workers, the majority of seasonal work visa holders was from various Pacific Island countries; they are an important workforce in New Zealand's horticulture and dairy farming industries. Many of them were unable to return to their countries and were separated from their families for significant period of time. There were also challenges for employers in the industries mentioned above because there was no way to secure sufficient labor to meet the demands of harvesting seasons. Although the government did permit employers of work visa holders to access a wage subsidy scheme, the access to welfare was nominal ([Collins, 2020, 2021](#)).

According to media reports, despite the border exemption policy, family unification for temporary migrant workers with partners and children during the pandemic was extremely difficult ([Radio New Zealand, 2021, 2022](#)). In addition, research findings also show how little the government considered the specific cultural needs of migrant groups from different cultural backgrounds in the formulation of the sanitization policy ([Collins, 2020, 2021](#)). For example, 1 News New Zealand reported a case that an Indian woman intended to join her future husband in Auckland with a culturally arranged marriage visitor visa but was blocked from getting on the plane. The reason was that they were betrothed which did not fit the description of a partner under New Zealand's current border laws. The COVID-19 Public Health Response (Air Border) Order 2020 defines a partner as a spouse, a civil union partner or a de facto partner of a New Zealand citizen. Since the couple had not registered to get married in New Zealand and had not lived together as a couple for at least one year, the woman did not fit into the definition of a partner based on New Zealand border laws. The central argument was that the woman obtained an eligible visa to enter New Zealand, but border decision was another matter because their situation did not meet the criteria of border exemption ([Miller, 2021](#)).

¹⁶Temporary migrant workers who lost their jobs during the pandemic have the following options: 1) If they are dismissed from their job within the 90-day trial period, they can apply for a Dismissed Worker Visitor Visa which would allow them to stay in New Zealand for three months, but they will not be able to work; 2) If they have already passed the 90-day trial period and they lost their jobs and cannot find a new job which complies with conditions of their visa condition and they are unable to leave New Zealand due to current travel restrictions, they must contact INZ for guidance regarding their options; and 3) Even if they are able to secure similar work as required by their visa conditions, they must apply for change or adjustment of the conditions of their current visa.

Conclusion

Like many other countries, the New Zealand government initiated and developed a sanitization policy to deal with border and immigration issues induced by the COVID-19 pandemic. What was special about the New Zealand case is the introduction of a policy enforcing border closure and restrictions on the one hand, and a policy allowing for exemptions from border restrictions to admit special cases or the most needed laborers to the country on the other. These policies added another layer to the complicated situation faced by migrants.

While border closures and restrictions were necessary to minimize the risk of COVID-19 transmission and protect the national population, such policies left many temporary migrant workers in limbo. The New Zealand government provided some support, such as being more flexible with work visas on a case-by-case basis and providing employers of migrant workers wage subsidies under the economic response package to COVID-19 (Collins, 2020, 2021). However, the impact of these initiatives on the migrant worker community was unclear. Moreover, the case-by-case approach might not fully address the needs and the complicated circumstances of the large population of temporary migrants.

The pandemic amplified the problematic features of New Zealand's immigration regime and policy. It has also demonstrated the key roles migrant workers played that helped New Zealand through the crisis. Migrants addressed the shortages of labor in health care and other essential industries, and they would continue to provide sustainable and essential services to New Zealand's recovery and post-pandemic development. As one of the desirable destinations for many skilled migrants, New Zealand should think carefully about what to do next in a highly competitive global market competing for skilled migrants. To maintain its competitiveness in attracting and retaining skilled migrants in the post-COVID-19 era, New Zealand should consider offering resident visas not only to needed migrant workers and professionals, but also to their immediate family members.

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