



## Immigration Policy Changes

### Purpose

1. This paper presents policy options for changes to current immigration policy made under the Cook Islands Immigration Act 2021 and Cook Islands Immigration Regulations 2023.

### Background

2. The Cook Islands Immigration Act came into force in late 2021. It introduced an immigration framework, where high level provisions are set out in legislation, while more detail is set out in regulations.
3. The Cook Islands Immigration Regulations first came into force to provide guidance for permanent residence applicants. They were expanded to include more detail as to work, visitor and study permits and requirements, and brought into force in April 2023.
4. As these new regulations have been implemented, some issues have arisen in practice that need addressing in policy or regulatory change. Some new proposals for change have also been suggested to respond to demand.
5. This paper sets out the proposed amendments. All policy and regulation changes will be accompanied by amendments to the standard operating procedures, application forms and website information.

### Recommendations

6. It is recommended that:
  - a. additional employment is enabled through a policy change that allows the applicant to vary the conditions of their primary employment permit, and show:
    - i. a valid employment contract for each additional position
    - ii. approval from the primary employer and sponsor
    - iii. all the original conditions and criteria of the permit will continue to be met.
  - b. the fee for a variation on conditions for additional employment will be waived for twelve months after this policy change
  - c. a new one-year Retiree Visa and Permit is added to regulations that allows a stay for those who show:
    - i. evidence of receiving ongoing pension payments into a bank account that is accessible in the Cook Islands
    - ii. valid medical and travel insurance eligible for their whole stay in the Cook Islands
    - iii. a long-term rental agreement or similar to show a commitment to stay.
  - d. policy is amended so that no fee can be enforced on any visitor class visa or permit extension that is 62 days or less
  - e. policy and regulations are amended to allow applications for one-year International or Government Worker visa and permit for a cost of \$320 per application

- f. regulations are amended to enable Australian passport holders a 90-day visitor visa and permit on arrival
- g. mandatory breaks and limitations on permit renewals are removed from the criteria.
- h. enable the continuation of a renewal fee of \$60 per annum for Resident Spouse visa and permit.

## Additional employment

### Current policy

- 7. To ensure that employees are fully engaged and to address labour shortages, businesses have requested to have clarity around the ability for employees to undertake further employment in accordance with the new regulations.
- 8. There are various visas and permits that enable work, but the key component of them is that the applicant has an offer of employment or contract that meets the minimum terms and conditions required by the Employment Relations Act 2012.
- 9. Some work visas and permits require that the prospective employer has publicly advertised the position and failed to fill it with a suitable Cook Islander or permanent resident under the same terms and conditions offered to the international worker.
- 10. As long as the individual applicant can show that they meet these criteria for each of the jobs they do, then the legislation does not prohibit additional employment.

### Proposal

- 11. To enable additional employment, the worker would need apply to Immigration and ask for a variation of conditions on their work permit and show they could still continue to meet the work conditions of the primary work – i.e. the role that enabled them to receive the work permit initially.
- 12. Immigration, in considering the additional employment change in conditions application would need to take into account the number of hours the worker was compelled to work each week was not excessive or exploitative.
- 13. As Immigration fees are determined by the effort required to process an application, it is recommended that an additional fee is added to the regulations for the consideration of ‘variation of conditions.’ This fee would recognise the processing time required to assess the individual’s circumstances and ability to undertake additional employment. However, it is recommended that this fee is waived for the first twelve months following the policy change to accommodate current labour shortages.
- 14. The new immigration legislation has formalised ‘Sponsorship’, which differs from previous practice. The intention of Sponsorship is to ensure that the individual has sufficient funds, support, and adequate accommodation while they are in the Cook Islands. The sponsor must guarantee that they will look after the individual to ensure that they meet the conditions of their visa and permit, including that they will leave the Cook Islands once their permit expires.
- 15. If the person needs to work more hours to support themselves in the Cook Islands, then questions may be raised about whether the sponsor is fulfilling their obligations. If a sponsored person wishes to take up additional employment, the sponsor should be consulted on the change in conditions to ensure that worker is undertaking this work at their own volition and not because they need more income to survive.

16. The period for additional employment would need to be tied to the primary role. The clock on the permit starts ticking from the time the person arrives in the Cook Islands and would not be extended to align with additional employment contracts.

### **Requires**

17. Once approved, the policy text needs to be published on the Immigration website. To impose a fee requires regulation change but allow for a quick implementation of this policy, it is recommended that applying for additional employment be free of charge for the first twelve months after approval and publicising. This would allow for regulation fee changes to be approved, and for current labour shortages to be addressed.

## **Retiree visa and permit**

### **Current policy**

18. There is currently no explicit option for retired people to enjoy an extended stay in the Cook Islands. Those persons of retirement age can already stay as visitor visa and permit holders. They could arrive in the Cook Islands and stay for 90 or 31 days (as a New Zealander or non-New Zealander respectively). They then have the option of extending their first visitor stay and can then apply for a long-term visitor after that. The maximum a New Zealand visitor could stay without leaving the Cook Islands is 12 months, and a non-New Zealander, 8 months.

### **Proposed policy**

19. The proposal is to create a Retiree Visa and Permit, in the visitor class of visas and permits. Each permit would allow a one-year stay, with the option to renew each year if the criteria were met.
20. The proposed criteria for this visa and permit is:
  - medical and travel insurance is a mandatory requirement
  - a long-term rental agreement or similar is necessary to show a commitment to stay
  - the sufficient funds requirement can be met through evidence of receipt of a pension that is credited to a bank account that is accessible in the Cook Islands (i.e., not tied up in investment funds or locked accounts)
  - the applicant cannot undertake paid work, but they are able to volunteer for no reward or gain
  - there is no requirement to leave the Cook Islands after a set period of time before the visa and permit can be renewed.
21. As the age of retirement varies around the world, from 50 years to 67, criteria for this visa and permit should not be pinned to age, but to receipt of a pension. This would mean that Immigration staff would need to assess official pension payments from legitimate providers for the person to qualify.
22. Retirement age also varies between genders in some countries, with women receiving their pension before men. To be consistent, the criteria would need to be met by each individual applicant, rather than per couple. This may result in some couples needing to wait until both parties are receiving a pension to be eligible to benefit from this visa and permit.
23. There are some risks to implementing a specific Retirement visa and permit. The most significant risk is related to ongoing health costs. As people age, they often require more regular medical support.

24. To avoid imposing costs on the public health system, all applicants for this retirement visa must show valid and comprehensive medical and travel insurance that will continue to cover them throughout the period of their stay. The practicality of obtaining insurance for persons of older age may prevent them from being eligible for this visa and permit, but the risk of high public health costs is too significant to remove this requirement.
25. The provision to allow volunteer work mirrors that of other visitor visas and permits. With a long-term stay, however, there may be a risk of exploitation resulting in retirees doing full time hours for no reward. Volunteer positions would need to be closely monitored by officials to ensure this practice does not happen.
26. A final risk to consider is the requirement for retiree visitors to have a long-term rental agreement to show their intention to stay in the Cook Islands for an extended period. There is a current significant housing shortage in the Cook Islands. Requiring a rental agreement as criteria may further reduce the number of houses available for work permit holders who have been brought to the Cook Islands to support the economy. Officials will need to monitor the number of applicants for this retirement visa and permit to ensure that the volume does not impact housing availability for workers.

#### **Requires**

27. As this is a new visa and permit, it will require amendment to Schedule 5 in the regulations. Due to the length of the visa and permit, there is no equivalent visitor class visa that could match these criteria.
28. In the interim, before regulations are made, retired people who meet the current visitor visa and permit criteria can still stay for up to 12 months or 8 months at a time and can be marketed to as such.

#### **Visitor extension fee**

##### **Current policy**

29. Visitors to the Cook Islands are granted a permit on arrival, free of charge. New Zealand passport holders are granted a 90 day stay, and other passport holders are granted a 31 day stay. If they wish to extend their visitor permit and stay longer, they can apply for a visitor permit extension and pay the requisite \$470 fee. The extension provides for a further stay of either 31 or 90 days.
30. The issue is that some people are extending their stay but only staying a few more days longer than their original visa and permit allows, meaning that the \$470 fee is a large undertaking.

##### **Proposal**

31. To prevent people from being discouraged by the cost, it is proposed to remove the fee for visitor visa and permit extensions of less than 62 days past the original permit end date.
32. This could only occur once per visit – the person would not be allowed to keep extending their permit day by day free of charge.
33. The end date would also have to be strictly enforced, and it made clear to the person that they must leave the Cook Islands by the end of their extended period or risk becoming unlawful.
34. The benefit of this proposal is that it would allow those who had a visitor class visa and permit, to extend their visit by an additional month and contribute to the economy.

##### **Requires**

35. Once approved as policy, this could be implemented straight away. For completeness, the Fees schedule of the Regulations should be amended to reflect that there is no payment for extensions of 62 days or less, at the same time as the regulations are amended for the other proposals in this paper.

## Work visa and permit fees

### Current policy

36. The International Worker visa and permit costs \$960 per application. If approved, the worker can stay and work for up to 3 years.
37. The issue is that this cost is seen as prohibitive to some, and a large outlay to pay upfront. This may be a risk if an employee only wants to stay for one or two years. If an employer pays the application fee, this is a lot of money if the employee subsequently leaves their employment within months.

### Proposal

38. The proposal is to offer an alternative one-year visa and permit of \$320 per application. International workers would still need to meet the criteria of the permit, fundamentally, that they have a legitimate employment contract.
39. At the end of each year, the worker would need to renew their visa and permit for \$320 fee and show that they continued to meet the criteria. At the discretion of Immigration, these renewals may be less involved than the initial application in terms of character and health requirements if the applicant was able to confirm that there were no changes to the information provided the previous year.
40. There could still be an option for a three-year permit for those who wanted a permit relating to a three-year employment contract.

### Requires

41. As the regulations state that the permit may be granted for up to three years, no regulation amendments are necessary to affect this change. Once approved, it can be publicised and implemented. It is recommended, however, that the fees schedule in the regulations is amended for clarity to show the one-year fee option.

## Australian passport holders

### Current policy

42. Visitors do not need to apply for a visa to travel to the Cook Islands as they are granted a permit on arrival. They can extend this permit once to double their period of stay allowed and can also apply for a long-term visitor permit of 6 months in addition to time already spent in the Cook Islands.
43. New Zealand passport holders who meet the criteria for entry are eligible on arrival to stay as visitors to the Cook Islands for 90 days. This carries over a special status for New Zealanders, that recognises the relationship between the Cook Islands and New Zealand, and that New Zealanders make up the bulk of visitor numbers.
44. All other passport holders from any other country can stay as visitors for 31 days. This includes Australian passport holders, who make up a sizeable proportion of visitors to the Cook Islands.

### Proposal

45. To encourage tourism and longer stays from Australian citizens, it is proposed to increase the visitor permit time limit for Australian passport holders to 90 days, the same as New Zealanders currently receive.

#### Requires

46. It would require a change to regulation 37 and to Schedule 5 of the regulations to add Australian passport holders to the New Zealand visitor visa and permit criteria and receive a 90 day stay on arrival. The change could not be done in policy alone as it would be contrary to regulations and could cause confusion at the border. Any vagueness around this could also lead to challenges from other nationalities who request 90-day visitor stays.

#### Mandatory breaks and limitations on permit renewals

47. Most visas and permits limit the time that can be spent consecutively onshore and require the holder to leave the Cook Islands for a period before they can apply for a new visa and permit of the same type.
48. The following table shows the total period one can spend in the Cook Islands before being required to go offshore, the set period before a new permit of the same type can be applied for again, and the limit on the number of times each permit type can be held consecutively while onshore:

	Maximum period	Break required	Permit limit
International Worker	6 years	1 year <sup>a</sup>	2
International Adult Student	6 years	N/A	6
International Researcher	3 years	6 months	1
International Intern	1 year	5 years	1
New Zealander Visitor	12 months <sup>b</sup>	6 months	2
International Visitor	8 months <sup>b</sup>	6 months	2
Long Term Visitor	8-12 months <sup>c</sup>	6 months	2
Special Spouse	6 years	1 year	2
Special Entrant	180 days	N/A	1 per year

<sup>a</sup> Must be offshore 1 month total per 36 months | <sup>b</sup>Includes 1x Long Term Visa and Permit | <sup>c</sup>Varies with NZ or International Visitor

#### Proposal

49. To encourage longer stays in the Cook Islands and to ease the compliance burden, it is proposed to remove restrictions on the number of consecutive visas and permits a person can hold, and to remove the required offshore break that is required. Applicants would still need to show that they met the criteria for the visa and permit with each renewal and pay the required fee.

#### Requires

50. Implementing this change requires removal of the criteria in regulations where applicable.

**\$60 per annum renewal fee for Resident Spouse visa and permit.**

**Current policy**

51. The Resident Spouse visa and permit has a fee of \$470 for an endorsement of five years. The eligibility criteria is a genuine relationship of 5 years or more. Standard application conditions apply, including demonstrating sufficient funds.

**Proposal**

52. To maintain the renewal fee of \$60 per annum for those visa and permit holders whom are transitioning from the previous Cook Islands Resident permit.

**Requires**

53. Implementation requires a change to Schedule 11 to add a new fee.

## Appendix 1: Proposed policy wording or regulation change wording

	Policy Change	Legislation Change
<b>Additional employment</b>	<p>Amend standard operating procedures and forms, then publicise the following policy:</p> <p><i>Any International Worker Visa and Permit holder can apply to Immigration to vary the conditions of your original work visa and permit, to allow you to undertake additional, concurrent employment.</i></p> <p><i>The applicant for additional employment must show:</i></p> <ul style="list-style-type: none"> <li>○ <i>a valid employment contract for each position</i></li> <li>○ <i>confirmation that your primary employer approves of each additional employment and that the conditions of the primary employment contract will continue to be met</i></li> <li>○ <i>{if you have a sponsor} confirmation that your sponsor approves of the uptake of additional employment and will continue to sponsor you</i></li> <li>○ <i>all other International Worker Visa and Permit criteria relating to your character, health and sufficient funds, and the original conditions of the permit will continue to be met.</i></li> </ul> <p><i>Your visa and permit will be valid until the end date of the original visa and permit.</i></p>	<p><b>Must:</b> Amend fees in Schedule 11, 12 months after implementing this as policy.</p> <p><b>Should:</b> Add wording to International Worker Visa and Permit criteria to clarify the requirements as listed in the policy change column.</p>
<b>Retiree Visa and Permit</b>	<p>A new visa and permit will need to be written into regulations. In the interim:</p> <ul style="list-style-type: none"> <li>○ standard operating procedure can be amended to allow staff to consider ongoing pension</li> </ul>	<p><b>Must:</b> Amend Schedule 5 to add a new visitor class visa and permit for retirees that allows for a one-year stay for those who show:</p>



	Policy Change	Legislation Change
	<p>payments to be considered as sufficient funds for any visitor class visa</p> <ul style="list-style-type: none"> <li>○ retired people can be marketed to using current Visitor Visa criteria, that allows a stay for 9-12 months.</li> </ul>	<ul style="list-style-type: none"> <li>○ ongoing pension payments into a bank account that is accessible in the Cook Islands</li> <li>○ medical and travel insurance eligible for the whole stay in the Cook Islands</li> <li>○ a long-term rental agreement or similar to show a commitment to stay</li> </ul> <p>The applicant cannot undertake paid work, but they are able to volunteer for no reward or gain.</p> <p>The Retiree Visa and Permit can be renewed indefinitely as long as criteria continue to be met.</p>
<b>Visitor Extension Fee</b>	<p>Amend standard operating procedures and forms accordingly, and then publicise the following on the Immigration website:</p> <p><i>There is no fee to extend a visitor class visa of any type if the required extension is no more than 31 days past the original end date of your first visitor permit.</i></p> <p><i>If you wish to extend your visit for longer than 31 days, or if you wish to extend your visit a second time, you will need to pay the required fee.</i></p> <p><i>The end date of your extended visitor visa will be strictly enforced. If you remain in the Cook Islands beyond this date without extending your visa and permit, you will become unlawful and be liable to removal.</i></p>	<p><b>Should:</b> Amend wording in Schedule 11 of the Regulations to state that the fee for extending a visitor visa and permit is only for extensions greater than 31 days.</p>
<b>International Worker and Government Worker visa and permit fees</b>	<p>Amend standard operating procedures and forms accordingly, and the publicise the following on the Immigration website:</p> <p><i>International Worker and Government Worker visas and permits can be obtained for a stay</i></p>	<p><b>Should:</b> Amend Schedule 11 of the regulations to include a one-year fee for International and Government Worker visa and permit applications.</p>

	Policy Change	Legislation Change
	<p><i>of up to three years in the Cook Islands, as long as you have a valid employment contract for this period. The cost for this is \$960 per application.</i></p> <p><i>Alternatively, you can now apply for a one-year International or Government Worker visa and permit if you meet the criteria, including that you have a valid employment contract for the duration of your intended stay. The cost for this is \$320 per application.</i></p> <p><i>If you continue to meet the criteria, you can renew your visa and permit after one year, for a further one-year visa and permit, at the cost of \$320.</i></p>	
<b>Australian Visitors</b>	This change cannot be made in policy.	<p><b>Must:</b> Amend regulations as follows:</p> <ul style="list-style-type: none"> <li>○ Regulation 37: Amend as per bolded text below. <ul style="list-style-type: none"> <li>A person without continuing rights who intends to travel to, enter, and stay in the Cook Islands as a visitor for less than 90 days (for New Zealand <b>and Australian</b> citizens), or 31 days (for those who are not New Zealand <b>or Australian</b> citizens), is exempt from the requirement to obtain a visa if the purpose of their visit is 1 or more of the following:</li> </ul> </li> <li>○ Schedule 5: Add 'Australia' or 'Australian' where applicable to the New Zealand Visitor Visa and Permit criteria.</li> </ul>
<b>Visa and permit limits</b>	This change cannot be made in policy.	<p><b>Must:</b> Remove all criteria that limits visa and permit renewals and requires offshore breaks before new applications can be made.</p>

	<b>Policy Change</b>	<b>Legislation Change</b>
<b>\$60 renewal fee</b>	This change cannot be made in policy	<b>Should:</b> Amend Schedule 11 of the regulations to include a new fee of \$60 per annum to renew the Resident Spouse visa and permit.