

TERMS OF USE

Use and access to the Batch ETA System by Carriers and their Representatives

Effective: 6 December 2024

1. DEFINITIONS

1.1. **Act** - the Immigration Act 2009.

1.2. **Authenticated User** – an individual who has been granted access to the Batch ETA System by MBIE in accordance with clause 6.

1.3. **Authenticated User Request** – a request in the form prescribed by MBIE requesting Authenticated User access for nominated persons to the Batch ETA System.

1.4. **Batch File** – a file structure containing multiple line-items of Regulation 23C Persons, required by MBIE to process Crew ETAs.

1.5. **Batch ETA System** – the system provided by MBIE to enable the Carriers and Carrier Representatives to request Crew ETAs and receive Crew ETA decisions.

1.6. **Carrier Representative** – a representative authorised by one or more Carriers to make Crew ETA requests pursuant to regulation 23J of the Regulations.

1.7. **Carrier Representative Form** – the form prescribed by MBIE for the appointment of Carrier Representatives.

1.8. **Debtor Details Form** – the form prescribed by MBIE for the appointment of a debtor contact person(s) or business unit nominated by the Provider in accordance with clause 8.6.

1.9. **Debtor Account** – the account for the Provider in MBIE’s financial system, from which invoicing is managed.

1.10. **Fees** – the fees for requesting a Crew ETA as set out in the Regulations.

1.11. **MBIE** – the Ministry of Business, Innovation and Employment, the Department responsible for the administration of the Act.

1.12. **Regulations** - the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010.

1.13. **Primary Contact** – the Requesting Party’s primary contact for communications appointed in accordance with clause 4

1.14. **Primary Contact Form** – the form prescribed by MBIE for appointment of Primary Contacts.

1.15. **Provider** – has the meaning given in clause 8.1.

1.16. **Proxy** – has the meaning given in clause 8.1.

1.17. **Regulation 23C Person** - a person identified in Regulation 23C of the Regulations.

1.18. **Requesting Party** – has the meaning given in clause 2.2.

1.19. **Terms defined in Act and Regulations** – terms defined in the Act and Regulations have the same meanings in these Terms of Use unless specifically provided otherwise.

2. PURPOSE OF THE TERMS OF USE

2.1. Carriers (defined in section 4 of the Act) must ensure Regulation 23C Persons who seek to travel visa waiver to New Zealand hold a valid Crew ETA in accordance with the Regulations prior to boarding a Craft for travel to New Zealand.

2.2. These Terms of Use set out the process between MBIE and any Carrier or Carrier Representative requesting a Crew ETA on behalf of a Regulation 23C Person in accordance with clause 23J of the Regulations. In these Terms of Use the requesting Carrier or Carrier Representative is referred to as the **Requesting Party**.

2.3. These Terms of Use represent a memorandum of understanding between the Requesting Party and MBIE for the purposes of regulation 23J of the Regulations. By registering for, accessing and using the Batch ETA System the Requesting Party agrees to comply with these Terms of Use.

3. GENERAL RESPONSIBILITIES – MBIE

3.1. MBIE will provide the Requesting Party the ability to request Crew ETAs electronically through the Batch ETA System, subject to the Requesting Party's compliance with these Terms of Use.

3.2. MBIE will communicate with the Requesting Party through the Primary Contact nominated by the Requesting Party using the Primary Contact Form.

4. GENERAL RESPONSIBILITIES – PRIMARY CONTACTS

4.1. Each Requesting Party must nominate one or more Primary Contacts who hold overall responsibility for the Requesting Party's use and access of the Batch ETA System.

4.2. Primary Contacts must:

- Be available to be contacted by MBIE in relation to Batch ETA System matters;
- Nominate new Authenticated Users of the Batch ETA System on behalf of their Requesting Party by making an Authenticated User Request;
- Ensure their Authenticated Users submit Batch Files with reasonable care and that Authenticated Users are familiar with Batch File submission procedures. Guidance documents for Authenticated Users are provided by MBIE when Authenticated Users are granted access to the Batch ETA System;
- Immediately advise MBIE of any of their Authenticated Users of the Batch ETA System that no longer require access;
- Immediately advise MBIE of any changes to their Debtor Contact or Carrier Representatives;
- Immediately advise MBIE if they are no longer a Primary Contact for their Requesting Party.

4.3. Primary Contacts should also note the responsibilities of Requesting Parties as noted below.

5. GENERAL RESPONSIBILITIES – REQUESTING PARTIES

5.1. The Requesting Party must register with MBIE by:

(a) if the Requesting Party is a Carrier:

- Nominating a person(s) as their **Primary Contact(s)** using the **Primary Contact Form**.
- Nominating a person or area of their business as their **Debtor Contact** using the **Debtor Details Form** and providing their email address for the purpose of transmitting electronic invoices for Crew ETA fees.
- At the Carrier's election, nominating any **Carrier Representatives** using the **Carrier Representatives Form**.
- Nominating one or more **Authenticated Users** using the **Authenticated User Request Form**.

(b) if the Requesting Party is a Carrier Representative:

- Nominating a person(s) as their **Primary Contact(s)** using the **Primary Contact Form**.

- If applicable, nominating a person or area of their business as their Debtor Contact using the **Debtor Details Form** and providing their email address for the purpose of transmitting electronic invoices for Crew ETA fees.
- Nominating one or more **Authenticated Users** using the **Authenticated User Request Form**.

5.2. Carrier Representatives must be nominated by a Carrier before they can register in accordance with the above.

6. AUTHENTICATED USERS

6.1. On receipt of an Authenticated User Request MBIE may:

- Grant access to the Batch ETA System to an Authenticated User. That person will be linked to the Requesting Party in the Batch ETA System.
- Refuse a nomination of an Authenticated User if it reasonably considers that the user is not suitable to access the Batch ETA System. If MBIE is considering refusing access to a nominated user, MBIE will request comment from the Requesting Party before making a final decision.

6.2. The Requesting Party must ensure that only Authenticated Users access the Batch ETA System and that Authenticated Users do not share their login details with any other person.

7. CREW ETA REQUESTS

7.1. Crew ETA requests must be made by Authenticated Users in the Batch ETA System by submitting a Batch File in the format advised by MBIE. The Requesting Party must ensure that all Crew ETA requests meet the requirements of regulation 23I of the Regulations.

7.2. The Requesting Party must not use the Batch ETA System to submit ETA requests for any person not employed or engaged in working or providing a service in or on the Carrier's Craft.

7.3. Two types of batch requests may be made:

- New requests – Batch Files that only contain Crew ETA requests for Regulation 23C Persons that do not currently have a valid Crew ETA
- Update requests – Batch Files that only contain Crew ETA requests for Regulation 23C Persons that do have valid Crew ETAs, but the request is to update passport information (e.g. a passport linked to a Crew ETA has been replaced by a new passport)

Update Batch Files must be separate to Batch Files containing new Crew ETA requests. Update Batch Files must contain the word "Update" in the batch reference field.

7.4. The Requesting Party must ensure that they have taken reasonable steps to ensure Crew ETA requests are not submitted for any Excluded Person (an Excluded Person is a person to whom section 15 or 16 of the Act applies). Any Crew ETA issued to an Excluded Person is invalid.

7.5 The Requesting Party must take reasonable steps to ensure the accuracy of all information included in a Crew ETA Batch File, including ensuring that any biographical information about the Regulation 23C Person is sourced directly from the person's passport.

7.6. The Requesting Party must ensure the correct Provider is selected when submitting a Batch File.

7.7. Once a Crew ETA Batch File has been uploaded to the Batch ETA System, MBIE may:

- Approve the Batch File to begin processing; or
- Ask the Requesting Party to provide further information before accepting the batch; or
- Reject the Batch File if MBIE believes it to contain errors or does not comply with these Terms of Use. In this case, MBIE will contact the Authorised User to advise of the rejection.

7.8. If a Batch File is approved for processing, MBIE may request the Requesting Party to provide further information before making a decision on any individual Crew ETA request within the batch. This may include:

- Providing a copy of a Regulation 23C Person's passport

- Providing further evidence or information that would allow MBIE to make a decision on the Crew ETA request

7.9. MBIE will notify the outcome of each Crew ETA request to the email address associated with each Crew ETA request within the Batch File.

7.10. The Requesting Party is responsible for advising the Regulation 23C Person of the Crew ETA decision, including (if the Crew ETA is approved):

- Of the period of validity of the Crew ETA;
- That a Crew ETA may only be used to travel to New Zealand for the purpose of fulfilling their role as a Regulation 23C Person. It must not be used to travel to New Zealand in a private capacity;
- When a Crew ETA ceases to be valid as provided in regulation 23N of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010;
- That a Crew ETA is linked to a particular passport and the Regulation 23C Person must notify the Carrier or Carrier Representative of any change in passport details so an updated Crew ETA can be obtained.

7.11. The Requesting Party must notify MBIE as soon as practicable after becoming aware of any information that may affect the validity of any Crew ETA, including because the Regulation 23C Person is an Excluded Person or if the person is no longer employed by or engaged in working or providing a service in or on a Craft of the Carrier's.

7.12. If a Requesting Party becomes aware of an error in a Crew ETA issued to a Regulation 23C Person, the Requesting Party must notify MBIE immediately and follow any instructions provided by MBIE.

8. BATCH ETA SYSTEM SETUP AND CREW ETA FEES

8.1. Requesting Parties will be set up in the Batch ETA System as either:

- (a) an entity who can submit Crew ETA requests in their own name (**Provider**); or
- (b) a proxy acting on behalf of a Provider and submitting Crew ETA requests in the name of the Provider (**Proxy**). Proxies may act for one or more Providers and must select the Provider they are submitting Crew ETA requests for with each Batch File submitted.

8.2. Fees for Crew ETA requests will be invoiced to the name of the Provider selected with each batch. If a Proxy submits a Crew ETA request on behalf of the wrong Provider, the Proxy must advise MBIE of the error immediately after becoming aware of it.

8.3. MBIE will not apply Fees to Batch Files that are clearly marked in the batch reference field with the word "Update" and where MBIE is satisfied that the Batch File contained only genuine updates to existing ETAs.

8.4. MBIE will not consider submitting a new Batch File to correct errors in data from a previously submitted Batch File to be an Update batch and Fees will apply accordingly.

8.5. Whether a Requesting Party is setup as a Provider or a Proxy is at MBIE's discretion. In most cases, MBIE will set up Carriers as Providers and Carrier Representatives as Proxies. Only in exceptional circumstances and at MBIE's discretion, it may choose to allow Carrier Representatives to be setup as Providers.

8.6. MBIE shall create Debtor Accounts in MBIE's financial system in the name of the Provider of each batch. All invoices will be sent to the Debtor Contact associated with that Debtor Account. Invoices will reference all Crew ETA batch requests made in the name of the Provider during the invoicing period. MBIE will not split invoices based on Craft. Payment details will be included in the invoice.

8.7. Each Provider must:

- provide MBIE, in writing, with all information required by MBIE to enable MBIE to set the Provider up as a debtor in MBIE's financial system, including nominating an email address for invoices to be sent to (via the **Debtor Details Form**).
- advise MBIE of any changes or updates to this information as soon as possible.
- ensure MBIE is fully setup in the Provider's finance system before any invoices are received to ensure prompt processing of those invoices.

8.8. Each Provider shall:

- pay all **Fees** to the MBIE bank account listed on the invoice on or before the 20th day of the month following the month in which the invoice was issued;
- pay any bank charges or foreign exchange fees associated with payment of each invoice;
- provide remittance advice to MBIE advising which invoices have been paid. If no remittance advice is provided, MBIE may allocate funds to any of the Provider's outstanding invoices at its discretion.

8.9. If a Provider requires that a purchase order (or similar reference) be placed on a Crew ETA invoice, the Provider must arrange for Authenticated Users to place this reference in the "Batch Reference" field of each batch to ensure it appears on an invoice. MBIE will not manage purchase order numbers or similar references and will be unable to amend an invoice to include a purchase order/reference number if it is not included as described above.

8.10. Fees are not normally refundable, including where:

- A Crew ETA has not been used for travel to New Zealand;
- A Crew ETA has been refused;
- A Regulation 23C Person who holds a Crew ETA has not been permitted to travel to New Zealand or has been refused entry to New Zealand;
- An error has been made in a Batch File such as:
 - Failure to include the word "Update" in the batch reference for an update of ETA information for persons who hold current Crew ETAs;
 - Submission of a Batch File that includes both new and update Crew ETA requests;
 - Selection of an incorrect Provider when submitting a batch;
 - Entry of incorrect details for a Regulation 23C Person;
 - Where a duplication of a Batch File or duplication of a Regulation 23C Person's details have been submitted.

8.11. Any refund or credit of Fees is at the sole discretion of MBIE.

9. BUSINESS CONTINUITY PLANNING

9.1. In the event of a Batch ETA System failure, MBIE will implement, in a timely manner, appropriate business continuity processes to inform Carriers and Carrier Representatives.

9.2. The Requesting Party is responsible for the implementation of business continuity processes when requesting Crew ETAs in the event of a failure of their own systems.

10. ACTS AND OMISSIONS

10.1. The Requesting Party shall ensure that their Authenticated Users are adequately trained to undertake Crew ETA request processes, including use of the Batch ETA System.

10.2. The Requesting Party and MBIE shall ensure that their employees, contractors and agents are informed of security, privacy and confidentiality obligations with regard to information that may be generated or required under these Terms of Use and New Zealand's Privacy Act Principles.

10.3. The Requesting Party and MBIE shall ensure that there are policies in place covering the security and confidentiality of information that can be accessed using the Batch ETA System.

10.4. The Requesting Party and MBIE shall be responsible for the acts and omissions of their employees, contractors and agents.

11. MUTUAL CO-OPERATION AND CONSULTATION

11.1. There is a need for continuous and open communication between the Requesting Party and MBIE.

11.2. The Requesting Party and MBIE shall communicate whenever appropriate on matters covered by these Terms of Use and other matters of common interest.

11.3. The Batch ETA System may change over time and MBIE will ensure the Requesting Party is aware of any changes within a reasonable timeframe.

11.4. Where these Terms of Use require a person or party to advise or notify MBIE, that advice or notification should be sent to MBIE's designated Batch ETA email address (batcheta@mbie.govt.nz).

12. MAINTENANCE OF THESE TERMS OF USE

12.1. MBIE may vary these Terms of Use from time to time and will use reasonable endeavours to give advance notice of variations to Carriers and Carrier Representative. MBIE may consider suggestions from the Requesting Party for variation to these Terms of Use but is under no obligation to change these Terms of Use.

12.2. Should any disputes arise in relation to these Terms of Use, the Requesting Party and MBIE will, in good faith, endeavour to promptly resolve those disputes.

13. COSTS

13.1. The Requesting Party will meet its own costs related to and arising out of the use of the Batch ETA System.

13.2. For the avoidance of doubt:

- All operational and technical costs associated with integrating MBIE's Batch ETA System into the systems of the Requesting Party will be the responsibility of the Requesting Party.
- All training of Requesting Party's personnel in relation to the use of the Batch ETA System will be the responsibility of the Requesting Party.

14. PRIVACY

14.1. The parties will adhere to New Zealand's privacy principles within New Zealand's privacy legislation.

14.2. Before making Crew ETA requests on behalf of a Regulation 23C Person, the Requesting Party must:

(a) obtain informed consent from that Regulation 23C Person; and

(b) provide the Regulation 23C Person with a privacy statement that informs them of how MBIE collects, stores and uses their information as part of the Crew ETA request process. This information is available on the Immigration New Zealand website.

14.3. Where a Crew ETA request is refused, MBIE may inform the Carrier, Carrier Representative and/or Regulation 23C Person of the reasons for refusal to issue an ETA, where it considers the information is appropriate to share.

14.4. Contact information of Primary Contacts may be provided to persons who contact MBIE to request access to the Batch ETA System on behalf of the Requesting Party that the Primary Contact represents.

15. BREACHES OF THESE TERMS OF USE

15.1 MBIE will, from time to time, audit for any misuse of the Batch ETA System.

15.2 Where MBIE considers that the Requesting Party or an Authenticated User has breached these Terms of Use, MBIE will attempt to first engage with the Primary Contact of the Requesting Party to discuss the matter.

15.3 If the matter relates to issues of payment of Fees, MBIE will attempt to discuss the matter with the Debtor Contact and/or Primary Contact.

15.4 MBIE may take action it deems appropriate to ensure a matter is resolved or that the integrity of the Batch ETA System is maintained while a matter is being resolved. This may include (but is not limited to):

- Not permitting the Requesting Party or individual Authenticated User(s) to request further Crew ETAs while a matter is resolved.
- Requiring the Requesting Party to nominate new Primary Contact, Debtor Contact or Authenticated Users.
- Requiring a Primary Contact to provide information or take a specific action (for example to provide further training on the Batch ETA System to their Authenticated Users)
- Suspending access for a specific time period to the Batch ETA System for the Requesting Party or individual Authenticated User(s).

- De-registering a Requesting Party and/or revoking access to the Batch ETA System for individual Authenticated Users.

16. DE-REGISTRATION AND REVOCATION OF ACCESS

16.1. MBIE may de-register a Requesting Party and/or revoke access to the Batch ETA System for its Authenticated Users if MBIE is satisfied that:

- the Batch ETA System is not being actively used by the Requesting Party and any of their Authenticated Users (for example, no Authenticated Users have logged in and/or submitted any Batch Files within a reasonable time period);
- the Primary Contact of the Requesting Party is no longer engaged/employed by the Requesting Party or cannot be reached after reasonable attempts have been made to make contact;
- an Authenticated User is no longer engaged by the Requesting Party;
- an Authenticated User no longer requires access to the Batch ETA System for any reason;
- a Requesting Party or Authenticated User has breached these Terms of Use or is no longer suitable to access the Batch ETA System.
- A matter raised with the Requesting Party's Primary Contact(s) and/or Debtor Contact has not been resolved to MBIE's satisfaction after a reasonable time period has elapsed.