



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Economic Development Committee: Period Ended 24 June 2022

On 27 June 2022, Cabinet made the following decisions on the work of the Cabinet Economic Development Committee for the period ended 24 June 2022:

Out of scope

Out of scope

DEV-22-MIN-0133

**Agreement Between New Zealand and the
Kingdom of Spain on Mutual Recognition and
Exchange of Driving Licences: Approval for
Signature**

CONFIRMED

Portfolios: Foreign Affairs / Transport

Out of scope

Michael Webster
Secretary of the Cabinet



Cabinet Economic Development Committee

Minute of Decision

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Agreement Between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences: Approval for Signature

Portfolios Foreign Affairs / Transport

On 22 June 2022, the Cabinet Economic Development Committee:

- 1 **noted** that under a unilateral Driver's Licence Arrangement, Spaniards are exempt from sitting New Zealand driver licensing theory and practical tests to convert their Spanish licences to New Zealand licences;
- 2 **noted** that New Zealanders do not have reciprocal recognition of the status of their licences in Spain;
- 3 **noted** that the text of an agreement with Spain providing for reciprocal recognition has been concluded in the English and Spanish languages and is equally authentic in both, although the English text will prevail in the case of any differences of interpretation;
- 4 **approved** the text of the *Agreement between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences* (the Agreement), attached as Annex I to the paper under DEV-22-SUB-0133, subject to any minor or technical changes arising from translation and verification;
- 5 **agreed** that New Zealand sign the Agreement;
- 6 **noted** that Agreement will be brought into force by the exchange of written notification via diplomatic channels;
- 7 **noted** that no changes to legislation are required to bring the Agreement into force;
- 8 **noted** that there are no direct financial implications arising from the Agreement;
- 9 **noted** that the Minister of Foreign Affairs has determined that the Agreement is not a major bilateral treaty of particular significance, and therefore is not subject to the Parliamentary Treaty Examination process;
- 10 **authorised** officials to bring the Agreement into force through an exchange of diplomatic notes.

Janine Harvey
Committee Secretary

Present: (see over)

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon David Parker
Hon Poto Williams
Hon Damien O'Connor
Hon Stuart Nash
Hon Michael Wood
Hon Meka Whaitiri
Hon Kieran McAnulty
Rino Tirikatene, MP
Dr Deborah Russell, MP

Officials present from:

Office of the Prime Minister
DPMC

Proactively released by the Minister of Foreign Affairs

[In Confidence]

Offices of the Minister of Foreign Affairs and Transport

Chair, Cabinet Economic Development Committee

Approval for signature of the *Agreement between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences*

Proposal

- 1 This paper proposes that Cabinet approve the text, and authorise the signature and entry into force of the *Agreement between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences* ("Spain DLA").

Relation to government priorities

- 2 Approval of the Spain DLA is an operational decision but one that requires Cabinet consent as it is an international arrangement.

Background

- 3 Driver's Licence Arrangements (DLAs) allow for New Zealanders to convert their New Zealand licence to a participant country's licence without sitting theory and practical tests. New Zealand enters into these arrangements with countries assessed to have a similar licensing system. We have 24 DLAs, including with several other members of the European Union.
- 4 In June 2021, Prime Minister Jacinda Ardern and Spanish President Pedro Sánchez agreed to conclude a DLA for mutual recognition of New Zealand driver's licences in Spain. Prime Minister Ardern is planning to travel to Madrid around 30 June and has given in-principle approval to sign the Spain DLA as part of a deliverables package.
- 5 New Zealand and Spain have finalised negotiations on the Spain DLA, which would allow New Zealanders in Spain to convert their New Zealand driver's licence to a Spanish one, without sitting theory and practical tests. The Spain DLA is **attached** at Annex I.
- 6 In 1999, New Zealand unilaterally recognised driver licences issued by a number of overseas jurisdictions (Spain included) for the purpose of converting their driver licence to a New Zealand driver licence without requiring applicants to pass tests. Many of the early exempt countries were given in recognition that the driver licensing standards in these countries are generally comparable to those in New Zealand. Although a number of the exempt countries had also recognised New Zealand licences, no attempt was made at the time to secure formal DLA reciprocity.
- 7 New Zealand's preference is for driver licensing instruments to be finalised at a non-binding level, as this allows for simpler process requirements in our domestic system.

Spanish legal requirements, however, mean that the Spain DLA must be concluded at treaty level. Despite its treaty form, the substance of the Spain DLA remains broadly similar to non-legally binding DLAs.

- 8 The Spain DLA will be brought into force by the exchange of written notification via diplomatic channels.

Comment

Costs and Benefits for New Zealand

- 9 The Spain DLA will have no effect on New Zealand's current licence system and is unlikely to be of interest to New Zealanders outside of Spain.
- 10 This is not a major development in the bilateral relationship. Reciprocal recognition of New Zealand driver's licences in Spain is an administrative improvement, which is a long-standing ask of the approximately 1,000 New Zealanders living in Spain.
- 11 The New Zealand Embassy in Madrid regularly receives requests for a reciprocal agreement on driver's licences from the New Zealand community in Spain. New Zealanders in Spain are currently able to drive on their New Zealand licence for six months and then are required to sit a practical test at the sum of around €600 (approximately NZ\$990). Due to the nature of the test, and the difficulties the Spanish system has in translating it into English, many people require repeated attempts to pass it, resulting in a costly bureaucratic system for New Zealanders to navigate.
- 12 The Minister of Foreign Affairs has approved a bilateral treaty waiver for this Agreement, and therefore it is not subject to the Parliamentary Treaty Examination process as set out in Standing Order 405.

Implementation

- 13 The Spanish system requires New Zealand to process licence verification requests through an automated system. Waka Kotahi is pursuing this as part of a broader piece of work as part of its Digital Strategy to automate their general data licensing system. In the interim, Waka Kotahi will adopt the Spanish Directorate-General for Traffic's web-app to process requests. We anticipate there is likely to be considerable early interest, and that following this early rush, requests are likely to be sporadic only.

Financial Implications

- 14 There are no direct financial implications for Waka Kotahi to adopt the Spanish Directorate-General for Traffic's web-app process. There are no other direct financial implications for the Crown in entering into this DLA.

Legislative Implications

- 15 There are no legislative implications.

Consultation

- 16 The Ministry of Foreign Affairs and Trade has prepared this paper in consultation with Te Manatū Waka Ministry of Transport and Waka Kotahi NZ Transport Agency.

Communications

- 17 The DLA is expected to be signed during the Prime Minister's visit to Madrid.

Proactive Release

- 18 We propose to release this Cabinet paper, with some parts withheld under section 6(a) of the Official Information Act 1982, within 30 business days of Cabinet confirming its decision.

Recommendations

The Minister for Foreign Affairs and the Minister of Transport recommend that the Committee:

- 1 **Note** that under a unilateral Driver's Licence Arrangement, Spaniards are exempt from sitting New Zealand driver licensing theory and practical tests to convert their Spanish licences to New Zealand licences;
- 2 **Note** that New Zealanders do not have reciprocal recognition of the status of their licences in Spain;
- 3 **Note** that the text has been concluded in the English and Spanish languages and is equally authentic in both, although, the English text will prevail in case of any differences of interpretation;
- 4 **Approve** the text of the *Agreement between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences*, which is attached to this paper at Annex I, subject to any minor or technical changes arising from translation and verification;
- 5 **Agree** that New Zealand sign the *Agreement between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences*, as part of the deliverables package for Prime Minister Ardern's proposed travel to Madrid around 30 June 2022;
- 6 **Note** that the *Agreement between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences* will be brought into force by the exchange of written notification via diplomatic channels;
- 7 **Note** that no changes to legislation are required to bring the Spain DLA into force;
- 8 **Note** there are no direct financial implications arising from the Spain DLA;
- 9 **Note** that the Minister of Foreign Affairs has determined that the Spain DLA is not a major bilateral treaty of particular significance and therefore is not subject to the Parliamentary Treaty Examination process;

- 10 **Authorise** officials to bring the Spain DLA into force through an exchange of diplomatic notes.

Authorised for lodgement

Hon Nanaia Mahuta

Minister of Foreign Affairs

Hon Michael Wood

Minister of Transport

Annex I: Agreement between New Zealand and the Kingdom of Spain on Mutual Recognition and Exchange of Driving Licences

AGREEMENT BETWEEN NEW ZEALAND AND THE KINGDOM OF SPAIN ON MUTUAL RECOGNITION AND EXCHANGE OF DRIVING LICENCES

New Zealand and the Kingdom of Spain, hereinafter referred to as “the Parties”:

With the aim of improving safety and facilitating international road traffic between both Contracting Parties;

Considering that the rules and signals governing road traffic in both States comply with the Vienna Convention on Road Traffic of 8 November 1968, and that the categories of driving licences, as well as the conditions and tests required to obtain them, are comparable in both States and broadly consistent with the provisions of Directive 2006/126/EC on driving licences;

Have agreed the following:

Article 1

The Parties mutually recognise driving licences issued by the State authorities to those legally resident in these countries, provided they are valid and in accordance with the clauses established under this Agreement and its Annexes I and II.

Article 2

The holder of a valid driving licence issued by one of the Parties may temporarily drive motor vehicles of the category covered by the licence within the territory of the other Party for a period specified in its national legislation, provided he or she meets the minimum age requirement laid down by the latter Party.

Article 3

Upon expiry of the period specified in the preceding paragraph, the holder of a current and valid driving licence issued by one of the States who takes up legal residence in the other State in accordance with this State's internal rules, may obtain an equivalent driving licence from his or her country of legal residence in compliance with the table of equivalence set out in Annex I. All licences held by current residents may be exchanged until the date of entry into force of this Agreement. Licenses issued after its entry into force may only be exchanged when they have been issued by the State where the applicant legally resides.

Article 4

A theoretical or practical aptitude test may be required when there are substantial grounds for doubting certain licence holders' knowledge or practical skills necessary to drive.

Article 5

As a prerequisite to the exchange, the competent authority of one Party may require the competent authority of the other Party to provide the relevant information as set out in Annex II to verify the authenticity of the driving licence.

Article 6

The provisions of this Agreement do not exclude the obligation to carry out the administrative formalities required under the legislation of each State for the exchange of driving licences. These may include completing an application form, producing a medical certificate, or paying the relevant fee.

Article 7

Upon obtaining the driving licence from the State of residence, the holder shall comply with the regulations of that country when renewing or checking his or her driving licence.

Article 8

The competent authorities for the exchange of driving licences are as follows:

In New Zealand: Waka Kotahi, New Zealand Transport Agency.

In the Kingdom of Spain: The Ministry of the Interior. Dirección General de Tráfico (Directorate-General for Traffic).

Article 9

The driving licence exchanged in one State shall be returned to the other State, as established by both Parties.

Article 10

The competent authority of the Party receiving the driving licence withdrawn as a result of the exchange shall inform the competent authority of the other Party if the document contains irregularities relating to its expiry date, authenticity or the information included therein.

Article 11

Both Parties shall exchange samples of their respective driving licences. Should either Party amend its sample licences, it shall send the new specimens to the other Party for its information, at least thirty (30) days prior to their implementation.

Article 12

Cooperation between the Parties implies respect for fundamental rights and, in particular, for the right to privacy and the protection of personal data, guaranteed through special frameworks for data protection. Likewise, the Parties shall ensure that the data collected under this Agreement are not used for purposes other than those stipulated herein, but rather, that their processing is suitable for achieving the legitimate objectives pursued by this Agreement, without exceeding in any case what is appropriate and necessary to achieve them.

In this respect, without prejudice to the requirements of the relevant procedures in the States, each Party shall ensure that data subjects are informed in a timely manner of their rights of access, rectification and deletion of their personal data, as well as of the maximum legal period

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within which such data may be retained. They shall also ensure the right of data subjects to have incorrect personal data rectified or any irregularly recorded data deleted.

Article 13

If one of the Parties amends its driving licence classes, it must send the other Party for its information the new issuing conditions and characteristics of the vehicles that can be driven with those classes at least thirty (30) days prior to implementation. The new table of equivalence shall subsequently be negotiated through diplomatic channels, and Annex I shall be amended with the consent of both Parties by written notification.

Article 14

This Agreement shall not apply to driving licences issued in either State resulting from the exchange of another licence obtained in a third State.

Article 15

In the event of a dispute between the Parties concerning the interpretation or implementation of this Agreement, it shall be settled by means of direct negotiations through diplomatic channels. The Party that requests the opening of negotiations for clarification or interpretation of the Agreement may suspend its implementation until the situation that prompted the dispute has been resolved by giving written notice through diplomatic channels.

Article 16

The present Agreement shall be concluded for an indefinite term and may be modified at any time by mutual written agreement. Either Party may terminate this Agreement by giving the other Party written notice through diplomatic channels. The termination shall take effect thirty (30) days after such notification.

Article 17

This Agreement shall enter into force sixty (60) days after the date of the last notification by the Parties through diplomatic channels of the completion of their respective domestic legal requirements for entry into force, and provided that the development of the technical software applications provided for in the Action Protocol in Annex II is ready for practical implementation within this period.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Signed in (place) on (date) in two original copies, one in English and one in Spanish, both texts being equally authentic.

For New Zealand

For the Kingdom of Spain

Annex I

Table of Equivalence between driving licences from New Zealand and the Kingdom of Spain

SPANISH LICENCES	NEW ZEALAND LICENCES					
	1	2	3	4	5	6
AM						
A1						
A2						
A ⁽¹⁾						X
B	X					
B+E						
C1						
C1+E						
C						
C+E						
D1						
D1+E						
D						
D+E						

New Zealand Class 2, 3, 4 and 5 licences and Spanish Class B+E, C1, C1+E, C, C+E, D1, D1+E, D, and D+E licences are not exchangeable.

Only full New Zealand licences may be exchanged.

(1) New Zealand Class 6 licences shall be exchanged for a Spanish Class A licence when the holder is at least 20 years old and has been in that class for at least two years.

Annex II

Action Protocol to the Agreement between New Zealand and the Kingdom of Spain on mutual recognition and exchange of driving licences

To confirm the authenticity of driving licences and ensure compliance with Article 5 of the Agreement, both countries' competent authorities shall develop an automated data exchange technical protocol, presented as an annex to this Agreement, specifying the technical details of the exchange and designed in accordance with criteria that guarantee the confidentiality, authenticity and non-repudiation of the operations.

This protocol shall be subject to review during the term of the Agreement in the event of technological constraints or changes in the information on driving licenses or applications exchanged.