



## COVERSHEET

<b>Minister</b>	Hon Kris Faafoi	<b>Portfolio</b>	Immigration
<b>Title of Cabinet paper</b>	Border Exceptions Referred to Cabinet	<b>Date to be published</b>	7 March 2022

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
June 2021	Border Exceptions Referred to Cabinet	Office of the Minister of Immigration
8 June 2021	Border Exceptions CAB-21-MIN-0212	Cabinet Office

### Information redacted

**YES** /  **NO** [select one]

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Information has been withheld under the following grounds:

- International Relations
- Confidential advice to Government
- Free and frank opinions.

## In Confidence

Office of the Minister of Immigration

Cabinet

## Border exceptions referred to Cabinet

### Proposal

- 1 This paper seeks agreement to decisions made in principle by the Ministerial Group for Border Exceptions at their meeting on 1 June 2021.

### Background

- 2 Exceptions to border restrictions are assessed by the Ministerial Group for Border Exceptions (Border Ministers), led by the Minister of Immigration, before being put forward for Cabinet approval [CAB-20-MIN-0466].
- 3 Border Ministers met for the seventh time on 1 June 2021 and considered border class exceptions for the following groups:
  - 3.1 early childhood, primary and secondary teachers;
  - 3.2 dairy farm workers;
  - 3.3 veterinarians;
  - 3.4 Australians transiting New Zealand.
- 4 Ministers also considered border exception proposals to increase the cap on replacement cargo crew servicing the Pacific; and to enable family reunification for onshore temporary visa holders working in teaching.
- 5 Ministers agreed to increase the cap on replacement crew for foreign-flagged fishing vessels consistent with their authority under CAB MIN 2020-0453. The minute from meeting seven is attached as Appendix A.

## Border exceptions referred to Cabinet for approval

### *Workforce class exception for teachers*

- 6 Border Ministers agreed to refer to Cabinet a class exception for up to 300 qualified teachers in early childhood education and in State and State-integrated schools (plus their partners and dependent children). This exception will help address the workforce gap that cannot be filled by current numbers of graduating and returning teachers.
- 7 Early childhood education teachers employed in a low decile service (health deprivation index 8-10) and school teachers who meet at least one of the

## IN CONFIDENCE

following criteria will be prioritised and eligible to be included in the workforce class exception:

- 7.1 Employed in a Decile 1, Decile 2 or Decile 3 New Zealand State or State-integrated school/kura; OR
  - 7.2 Employed in any “hard to staff” State or State integrated school/kura; OR
  - 7.3 The position being filled is a science, technology, engineering and mathematics role; OR
  - 7.4 Teachers that were already working in New Zealand but who left the country and are now unable to return due to the border closure will also be able to apply if (if they are able to return to the role they had been working in).
- 8 The Ministry of Education will manage and prioritise the allocation of these 300 exceptions and will report back to the Minister of Education about the prioritisation criteria and implementation approach.

### *Family reunification for onshore temporary visa holders who are teachers*

- 9 The creation of a border class exception for teachers will enable teachers to travel to New Zealand with their partners and dependent children. This is likely to create an anomaly between those entering under the proposed exception and teachers already living and working in New Zealand on temporary work visas who are unable to have their families join them onshore due to the border restrictions.
- 10 Teachers are unlikely to meet the salary threshold to qualify for the family reunification border exception for highly skilled workers.
- 11 There are around 400 teachers onshore who have not previously supported partners and dependent children to come to New Zealand. Some of these may have family offshore that they wish to support to travel to New Zealand.
- 12 Border Ministers agreed a border exception for the partners and dependent children of temporary visa holders who are working as teachers in Early Childhood Education services or schools.

### *Workforce class exception for dairy farm workers*

- 13 Dairy farmers have identified a workforce shortage of dairy farm workers for the upcoming 2021/2022 season. This reflects ongoing workforce challenges in the industry. Current estimates from the sector identify between 1,500-2,000 vacancies across a range of dairy production roles.
- 14 The proposed border class exception for up to 200 dairy farm workers across three cohorts will supplement the domestic workforce and provide critical support for the upcoming calving season (refer Table 1).

Table 1

	Role	Salary	Number
Cohort 1	Assistant Dairy Farm Manager	Earning above \$92,000 per annum	150
Cohort 2	Dairy Herd Manager	Earning above \$79,500 per annum	
Cohort 3	Dairy Farm Assistant	Earning at or above the median wage per annum	50

- 15 On 31 May, Cabinet agreed to a border class exception for 150 dairy farm workers (plus their partners and dependent children) for cohorts 1 and 2, until April 2022 [CAB-21-MIN-0196].
- 16 Border Ministers agreed a further border exception for cohort 3 for the 2021/22 season. This acknowledges that some areas face acute labour shortages which are taking a toll on farmers and their livestock.
- 17 The Ministry of Primary Industries will work with Dairy NZ and Federated Farmers to establish a process for prioritising workers entering New Zealand under this class exception.
- 18 The Government wants to support industries to transition away from the reliance on temporary migrant labour. Consistent with this, the Ministerial Group for Border Exceptions have directed officials at the Ministry of Primary Industries and the Ministry of Social Development to work with the dairy industry on measures to attract and match New Zealanders to entry-level roles in the dairy industry.

*Veterinarians*

- 19 Border Ministers agreed to a class exception for 50 early to mid-career general practice veterinarians (plus partners and dependent children) earning at or above \$85,000 per annum. This is consistent with Cabinet’s decision on 31 May 2021 [CAB-21-MIN-0196].

*Australians transiting New Zealand to return to Australia*

- 20 Quarantine free travel has led to the removal of “red” flights between New Zealand and Australia. There are a number of New Zealanders stranded in countries (e.g. Papua New Guinea, Solomon Islands) where the only viable or feasible route home is through Australia requiring managed isolation and quarantine (MIQ) in Australia. Australia has a similar situation for their citizens in countries such as Samoa and Tonga where the only transit route is through New Zealand and there is a need to undertake MIQ in New Zealand.
- 21 Border Ministers agreed a new border exception to allow for up to 30 travellers per month (until the end of 2021) nominated by Australian Department of Foreign Affairs and Trade to enter New Zealand and complete MIQ here.

*Increase the cap on replacement cargo crew servicing the Pacific*

- 22 On 9 December 2020, Border Ministers approved the creation of the border exception category to enable replacement cargo crew to spend 14 days in a New Zealand MIQ facility, before joining a ship that operates exclusively in the Pacific region. This category commenced on 1 February 2021 and is capped at 200 persons over a 12-month period.
- 23 The current cap is insufficient to meet industry needs to support the safe flow of goods on cargo vessels to support Pacific Island economies, which are already under stress due to COVID-19. To address this Border Ministers agreed to increase the cap on replacement cargo crew servicing the Pacific from 200 to 550.

**Border exceptions approved by Border Ministers**

*Replacement crew for foreign-flagged fishing vessels*

- 24 In December 2020, Border Ministers approved a border exception replacement fishing crew on foreign-flagged vessels operating in international waters as an addition to the Government approved programmes list. They also agreed to a cap of up to 50 persons every six months (subject to review by the Ministry of Foreign Affairs and Trade).
- 25 This exception enables New Zealand to comply with its international obligations including the Convention for the Conservation of Antarctic Marine Living Resources; United National Convention on the Law of the Sea and regional fisheries management organisations.
- 26 Under international law, foreign vessels are subject to the exclusive jurisdiction of their flag state. They cannot be required to use New Zealand workers on the vessel when operating outside of New Zealand. In addition, the International Maritime Organisation has called upon all governments to facilitate crew changes as required.
- 27 The Ministry of Foreign Affairs and Trade has completed its review and advised that the current cap of 50 is insufficient to meet demand over the coming six months.
- 28 On 1 June 2021, Border Ministers agreed to increase the cap from up to 50 persons to up to 160 persons every six months. This is consistent with their authority under CAB-21-MIN-0453.

*MIQ capacity and border settings going forward*

- 29 Three of the proposals in this paper are for class exceptions for early to mid-career groups earning below twice the median wage i.e. veterinarians, dairy farm managers, and teachers. We are also hearing that this is a wider problem in the economy (e.g. accountants).
- 30 With increased capacity in MIQ and growing pressure in areas of skill shortages, we expect to see more requests for border exceptions for early to

mid-career groups who earn under the salary threshold (currently \$106,080 per annum) to be eligible under other critical worker pathway.

- 31 When MIQ space was at a premium, class exceptions offered a high degree of control over border entry and enabled Ministers to place conditions on sectors to improve pay and conditions. However, these are costly to administer and tend to favour particular sectors/occupations.
- 32 Officials will shortly provide advice to the Minister of Immigration on options for more expansive border settings, which may include ways to support early to mid-career groups of workers to enter New Zealand and to address family reunification for other groups of onshore temporary visa holders.

### **Implementing the border exceptions**

- 33 Individuals and their families approved for entry into New Zealand under these border exceptions will book space in managed isolation through MIAS. There is currently good availability of MIAS vouchers, though we anticipate seeing demand rise in the lead-up to Christmas.
- 34 Changes to border exceptions are implemented by the Minister of Immigration through certifying changes to Immigration Instructions.

### **Financial Implications**

- 35 There are no direct financial implications of this paper. However, there are indirect costs to the Crown from operating MIQ facilities.

### **Legislative Implications**

- 36 No changes to law or regulations are proposed. The Minister of Immigration will certify changes to Immigration Instructions in order to implement decisions.

### **Impact Analysis**

- 37 Changes to Immigration Instructions do not require a Regulatory Impact Statement (RIS).

### **Population Implications**

- 38 We know that some communities, particularly the elderly, Māori and Pasifika are more at risk of severe illness from COVID-19 due to age or underlying health conditions. The ongoing border restrictions (and associated managed isolation requirements) support the ability of our healthcare system to meet the ongoing health needs of priority communities, especially Māori and rural communities.

### **Human Rights**

- 39 The key human right impacted by the border restrictions generally is the right of New Zealand citizens to enter New Zealand (as affirmed in s.18 (2) of the

New Zealand Bill of Rights Act 1990). Free and frank opinions

### Consultation

- 40 This paper was prepared by the Ministry of Business, Innovation and Employment. The following agencies were consulted: Ministry of Foreign Affairs and Trade, the Ministry of Education, the Ministry of Primary Industries, the Ministry of Social Development.
- 41 These proposals were discussed by the Border Ministers at our 1 June meeting.

### Communications

- 42 I intend to make a public statement announcing the new border exceptions which will be managed by my office.
- 43 The full criteria for all border exceptions will be published online by Immigration New Zealand and communicated to immigration stakeholders.

### Proactive Release

- 44 This paper will be proactively released following Cabinet consideration and once the proposed border exceptions are in place.

### Recommendations

- 45 The Minister of Immigration recommends that Cabinet:

#### *Early childhood, primary and secondary teachers*

- 46 Agree to a class exception for up to 300 teachers (plus their partners and dependent children) over the next 12 months, including certificated early learning teachers and qualified teachers in State and State-integrated schools with the following eligibility criteria:
- i. Employed in a Decile 1, Decile 2, or Decile 3 New Zealand State or State-integrated school/kura OR
  - ii. Employed in any "hard to staff" State or State-integrated school/kura OR
  - iii. The position being filled is a science, technology, engineering, and mathematics role OR
  - iv. Teachers that were already employed in New Zealand but who left the country and are now unable to return to their positions due to the border closure OR
  - v. Certificated early childhood education teacher employed in a low decile service (as measured by the health deprivation index 8-10).

- 47 Agree that the Ministry of Education will manage and prioritise the allocation to schools and early childhood education services; nominate the teachers to Immigration New Zealand by 30 June 2022; and report further to the Minister of Education about the prioritisation criteria and implementation approach.

*Family reunification for onshore temporary visa holders working in teaching*

- 48 Agree to establish a border exception for the partners and dependent children of temporary visa holders who are working as teachers in Early Childhood Education services or schools.

*Dairy farm workers*

- 49 Agree to the following two class exceptions for dairy farm workers:
- 49.1** a class exception for up to 150 dairy farm workers (plus their partners and dependent children) in management roles earning above \$79,500 per annum for Dairy Herd Manager roles and above \$92,000 per annum for Assistant Dairy Farm Manager or 2IC managerial roles, up until April 2022 [CAB MIN 2021-0196]
  - 49.2** and 50 dairy farm assistants (plus their partners and dependent children) earning at or above the median wage in regions with acute shortages (e.g. Southland and Otago), up until April 2022.
- 50 Note Border Ministers directed officials at the Ministry of Primary Industries and the Ministry of Social Development to undertake further work with the sector to attract New Zealanders to the entry-level dairy farm assistant roles.

*Veterinarians*

- 51 Note that on 31 May, Cabinet agreed to a class exception for up to 50 general practice veterinarians (plus partners and dependent children) earning at or above \$85,000 per annum, over 12 months [CAB MIN 2021-0196]

*Australians transiting New Zealand*

- 52 Agree to create a new border exception to allow for up to 30 travellers per month (until the end of 2021) nominated by Australian Department of Foreign Affairs and Trade to enter New Zealand and complete MIQ here, <sup>International relations</sup>

*Replacement cargo crew servicing the Pacific*

- 53 Agree to increase the cap to allow up to 550 replacement cargo crew servicing the Pacific to complete 14 days MIQ in New Zealand until 31 January 2022.

*Replacement crew for foreign-flagged fishing vessels*

- 54 Note that Border Ministers agreed to increase the cap from up to 50 persons to 160 persons every six months on replacement international fishing crew for foreign-flagged fishing vessels operating in international waters (as identified by the Ministry of Foreign Affairs and Trade) to the Government-approved programmes list.



- 55 Note that New Zealand's approach to border settings should be consistent with its international obligations and interests such as the Antarctic Treaty; the Convention for the Conservation of Antarctic Marine Living Resources; United National Convention on the Law of the Sea and regional fisheries management organisations

*Implementing the border exceptions*

- 56 Note that all of the individuals and their partners and dependent children(where applicable) who are eligible for the border exceptions above will be required to book space in managed isolation through Managed Isolation Allocation System.
- 57 Note that any new class exceptions require implementation by the Minister of Immigration through certifying changes to Immigration Instructions, which may require further work on detailed eligibility requirements for applying the exception and changes to online forms, ICT systems and business processes.

Authorised for lodgement

Hon Kris Faafoi

Minister of Immigration

**Appendices**

Appendix A: Minute of Ministerial Group for Border Exceptions Meeting on 1 June 2021

## Appendix A: Minute of Ministerial Group for Border Exceptions Meeting on 1 June 2021

### Border Ministers decisions on border exceptions, 1 June 2021

At the 1 June meeting, Border Ministers agreed to refer the following proposals to Cabinet:

#### *Early childhood, primary and secondary teachers*

- a Agree** to a class exception for up to 300 teachers (plus their partners and dependent children) over the next 12 months, including certificated early learning teachers and qualified teachers in State and State-integrated schools with the following eligibility criteria:
- vi. Employed in a Decile 1, Decile 2, or Decile 3 New Zealand State or State-integrated school/kura OR
  - vii. Employed in any “hard to staff” State or State-integrated school/kura OR
  - viii. The position being filled is a science, technology, engineering, and mathematics role OR
  - ix. Teachers that were already employed in New Zealand but who left the country and are now unable to return to their positions due to the border closure OR
  - x. Certificated ECE teacher employed in a low decile service (as measured by the health deprivation index 8-10).
- b Agree** that the Ministry of Education will manage and prioritise the allocation to schools and ECE services; nominate the teachers to Immigration New Zealand by 30 June 2022; and report further to the Minister of Education about its prioritisation criteria and implementation approach

#### *Family reunification for onshore temporary visa holders working in teaching*

- c Agree** to establish a border exception for the partners and dependent children of temporary visa holders who are working as teachers in ECE services or schools

#### *Dairy farm workers*

- d Agree** to the following two class exceptions for dairy farm workers:
- a** a class exception for up to 150 dairy farm workers (plus their partners and dependent children) in management roles earning above \$79,500 per annum for Dairy Herd Manager roles and above \$92,000 per annum for Assistant Dairy Farm Manager or 2IC managerial roles, up until April 2022 as per CAB MIN 2021-0196
  - b** and up to 50 dairy farm assistants (plus their partners and dependent children) earning at or above the median wage at time of application in regions with acute shortages (e.g. Southland and Otago), up until April 2022
- e Note** that Ministers directed officials at the Ministry of Primary Industries and the Ministry of Social Development to undertake further work with the sector to attract New Zealanders to the lower-skilled dairy farm assistant roles.

*Veterinarians*

- f Agree** to a class exception for up to 50 general practice veterinarians (plus partners and dependent children) earning at or above \$85,000 per annum, over 12 months as per Cab Minute 2021-0196

*Australians transiting New Zealand*

- g Agree** to create a new border exception to allow for up to 30 travellers per month (until the end of 2021) nominated by Australian Department of Foreign Affairs and Trade to enter New Zealand and complete MIQ here, International relations

*Replacement cargo crew servicing the Pacific*

- h Agree** to increase the cap to allow up to 550 replacement cargo crew servicing the Pacific to complete 14 days MIQ in New Zealand until 31 January 2022 and that these additional replacement crew will book space in managed isolation through MIAS

Confidential advice to Government,  
Constitutional conventions

*Next steps*

- j Note** that the individuals and their families who are eligible for the border exceptions above will be required to book space in managed isolation through Managed Isolation Allocation System.
- k Note** that any new class exceptions require implementation by the Minister of Immigration through certifying changes to Immigration Instructions, which may require further work on detailed eligibility requirements for applying the exception and changes to online forms, ICT systems and business processes.

Border Ministers agreed to the following proposal consistent with their authority under CAB MIN 2020-0453.

*Replacement crew for foreign-flagged fishing vessels*

- l Agreed** to increase the cap on replacement international fishing crew for foreign-flagged fishing vessels operating in international waters (as identified by MFAT) to the Government-approved programmes list from up to 50 persons to up to 160 persons every six months.