



COVERSHEET

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| Minister | Hon Michael Wood | Portfolio | Immigration |
| Title of Cabinet paper | Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No 2) 2022 | Date to be published | 8 August 2022 |

List of documents that have been proactively released

| Date | Title | Author |
|--------------|---|---------------------------------------|
| June 2022 | Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No 2) 2022 | Office of the Minister of Immigration |
| 23 June 2022 | Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No 2) 2022 LEG-22-MIN-0110 Minute | Cabinet Office |

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE's and MFAT's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

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Office of the Minister of Immigration
Cabinet Legislation Committee

**Immigration (Visa, Entry Permission, and Related Matters)
Amendment Regulations (No 2) 2022**

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the *Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No 2) 2022* (the Amendment Regulations).

Executive Summary

- 2 Cabinet has taken several decisions on matters of immigration policy that need to be reflected in the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010* (the Regulations). These decisions relate to:
 - 2.1 the 2022 Immigration Fee and Levy Review [CAB-22-MIN-0121 refers].
 - 2.2 Improving the System for Refugee Family Reunification [DEV-21-MIN-0262 refers]
- 3 The proposed amendments also include some minor corrections to the fee and levy rates, which were identified while the amendment regulations were being prepared. I have approved these under my delegation from Cabinet [CAB-22-MIN-0121 refers] as they reflect the intended policy direction of the Review.
- 4 I am seeking Cabinet's agreement to waive the 28-day rule in respect of the amendments to waive fees for the Refugee Family Support Category visa so these changes, which confer only benefits, can come into force on 1 July 2022.

Policy

- 5 The Amendment Regulations give effect to recent Cabinet policy decisions on the 2022 Immigration Fee and Levy Review and improving refugee family reunification.

2022 Immigration Fee and Levy Review

- 6 Cabinet agreed on 11 April 2022 to bring immigration fees and levies closer to an appropriate level of cost recovery, through rate increases for most visa products that apply from 1 August 2022 [DEV-22-MIN-0076 and CAB-22-MIN-0121 refer].

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- 7 Subsequent to Cabinet decisions, I have approved, under my delegation from Cabinet, further changes to fee and levy rates necessary to finalise the amendment regulations. These corrections (detailed in Appendix One) are required in order to:
- 7.1 Remove fee or levy increases for visa products intended to be outside the scope of the review on the basis that they are already, or are soon to be, redundant. These categories are:
 - 7.1.1 *Expression of interest and Approval in principle* related to border exceptions under COVID-19 immigration instructions, which will largely be redundant by 1 August 2022 with reopening of border
 - 7.1.2 *Student visa (submitted by education provider)* which was closed in 2021 following improvements to the standard student pathway
 - 7.2 Apply fee and/or levy increases for visa products intended to be inside the scope of the review but were unintentionally excluded. These categories are:
 - 7.2.1 *Entertainment industry accreditation (first and subsequent years)*
 - 7.2.2 *Employees of Relocating Business Category* resident visa
 - 7.2.3 *Family Category* resident visa
 - 7.2.4 *Residence from Work Category* resident visa
- 8 I have also confirmed the intended treatment of three remaining visa categories that were not explicitly referenced in Cabinet's decisions on the 2022 Immigration Fee and Levy Review (the Review), for which no increase is still the right outcome. These are:
- 8.1 *2021 Resident Visa*, which will be closed by 1 August 2022
 - 8.2 *Variation of conditions* under COVID-19 immigration instructions, which will largely be redundant by 1 August 2022 with reopening of border
 - 8.3 *Pitcairn Islanders resident visa*, where an explicit Crown subsidy (with an immaterial impact) would align treatment with Cabinet's decision to subsidise other key Pacific residence visas
- 9 These changes referenced in paragraphs 7 and 8 have no fiscal impact. They simply correct the list of fee and levy rates that was attached to the original Cabinet paper, to reflect what was already included in the calculation of the fee and levy rate increases proposed through the Review.
- 10 I am therefore proposing Schedules 4 and 6 of the *Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010* (the Regulations) are

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replaced with updated schedules that reflect the immigration fee and levy rates agreed by Cabinet, adjusted for the corrections above.

Improving the System for Refugee Family Reunification

- 11 On 8 December 2021, Cabinet Economic Development Committee approved the drawing down of funding for the Budget 2020 initiative Improving the System for Refugee Family Reunification, which included waiving fees for the Refugee Family Support Category (RFSC) visa from 1 July 2022 [DEV-21-MIN-0262 refers]. The aim of this initiative is to reduce financial burdens on sponsors and applicants by moving some immigration-related costs under the RFSC to the government (including the costs for any medical assessments, international and domestic flights, and visa application fees).
- 12 I am therefore proposing changes to the *Immigration (Visa, Entry Permission and Related Matters) Regulations 2010* to reflect these changes, including amending:
 - 12.1 Schedules 4 and 6, to remove the fee and levy rates for RFSC visa, including the sponsoring refugee's registration fee
 - 12.2 Schedule 5, to add RFSC applicants to the list of people exempt from paying prescribed fees or levies
 - 12.3 Section 26AA, to remove the prescription of fees for registration under the RFSC.

Timing and 28-day rule

- 13 I recommend different parts of the Amendment Regulations come into force on different dates. This reflects the different implementation considerations for each part.
 - 13.1 Amendments to give effect to waiving fees for the RFSC visa should come into force on 1 July 2022, as previously agreed by Cabinet.
 - 13.2 Amendments to fee and levy rates following the 2022 Immigration Fee and Levy Review should come into force from 11.59pm on 31 July. This has been brought forward 1 minute from the original 1 August date to align with the timing for Step 5 of border reopening under the Reconnecting New Zealand strategy.
- 14 To meet the requirements of the 28-day rule for the fee and levy changes that will adversely affect some parties, the Amendment Regulations will need to be approved and gazetted by 3 July 2022.
- 15 A waiver of the 28-day rule is sought for amendments to give effect to waiving fees for the RFSC visa. This is necessary to implement beneficial changes for refugee family reunification in a timely manner.

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Compliance

- 16 The proposed regulations comply with each of the following:
- 16.1 the principles of the Treaty of Waitangi
 - 16.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
 - 16.3 the principles and guidelines set out in the Privacy Act 2020
 - 16.4 relevant international standards and obligations
 - 16.5 the Legislation Design and Advisory Committee's Guidelines on Process and Content of Legislation.

Regulations Review Committee

- 17 There are no anticipated grounds for the Regulations Review Committee to draw the Amendment Regulations to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

- 18 The Amendment Regulations were certified by the Parliamentary Counsel Office (PCO) as being in order, for submission to Cabinet.

Impact Analysis

2022 Immigration Fee and Levy Review

- 19 A Stage-2 Cost Recovery Impact Statement (CRIS) for the 2022 Immigration Fee and Levy Review was submitted at the time that policy decisions were made [DEV-22-MIN-0076 refers] and will be published on MBIE's website. The MBIE Regulatory Impact Assessment Panel considered the CRIS and assessed it as partially meeting the CRIS quality criteria. The assessment highlighted the high degree of uncertainty and data limitations as primary factors for the assessment, but noted that these issues could be mitigated through monitoring and further work ahead of the next fee and levy review.
- 20 The Climate Implications of Policy Assessment (CIPA) team was consulted and confirmed that the CIPA requirements did not apply to this proposal as the threshold for significance was not met.

Improving the System for Refugee Family Reunification

- 21 There was no impact analysis provided for the policy paper associated with these decisions, on the basis that there were no legislative or regulatory implications.
- 22 The Treasury's Regulatory Impact Analysis team has determined that the proposal to waive applications and sponsorship fees for the Refugee Family

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Support Category is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

Publicity

2022 Immigration Fee and Levy Review

- 23 MBIE has developed a communications strategy to ensure that affected visa applicants will be informed of the fee and levy changes.

Improving the System for Refugee Family Reunification

- 24 MBIE has developed a communications strategy to ensure that refugee communities will be informed of the changes.

Proactive release

- 25 I intend to proactively release this paper and its associated minute with any appropriate redaction where information would have been withheld under the Official Information Act 1982.
- 26 In addition, I propose to release any other documents that supported the two sets of policy decisions, with any appropriate redactions.

Consultation

- 27 This Cabinet paper was prepared by the Ministry of Business, Innovation and Employment (MBIE). The following agencies were consulted: NZ Customs Service, the Ministry of Education, the Ministry of Foreign Affairs and Trade, the Ministry for Pacific Peoples, the Ministry of Primary Industries, the Ministry of Transport, the Ministry for Ethnic Communities and the Treasury. The Department of the Prime Minister and Cabinet was informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that on 11 April 2022, Cabinet agreed to adjust immigration fee and levy rates following the 2022 Immigration Fee and Levy Review [CAB-22-MIN-0121 refers]
- 2 note that I have subsequently approved some minor changes to immigration fee and levy rates under my delegation from Cabinet [CAB-22-MIN-0121 refers] to reflect the intended policy direction of the Review
- 3 note that on 8 December 2021, the Cabinet Economic Development Committee approved the drawing down of funding for the Budget 2020 initiative *Improving the System for Refugee Family Reunification*, including waiving fees for the Refugee Family Support Category visa from 1 July 2022 [DEV-21-MIN-0262 refers]

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- 4 note that the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No 2) 2022 will give effect to the decisions referred to in recommendations 1 to 3 above
- 5 note that a waiver of the 28-day rule is sought:
 - 5.1 so that the regulations that give effect to the waiving of fees for the Refugee Family Support Category visa applicants and sponsors can come into force on 1 July 2022
 - 5.2 on the grounds that they will only confer benefits on the regulated parties.
- 6 agree to waive the 28-day rule so that the regulations that give effect to the waiving of fees for the Refugee Family Support Category visa can come into force on 1 July 2022
- 7 agree that the parts of the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No 2) 2022 will come into force at the following times:
 - 7.1 Amendments to give effect to waiving fees for the RFSC visa on 1 July 2022
 - 7.2 Amendments to fee and levy rates following the 2022 Immigration Fee and Levy Review from 11.59pm on 31 July.
- 8 authorise the submission to the Executive Council of the Immigration (Visa, Entry Permission, and Related Matters) Amendment Regulations (No 2) 2022.

Authorised for lodgement

Hon Michael Wood
Minister of Immigration

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Appendix One: Clarifications and corrections to fee and levy rates (approved by the Minister of Immigration)

| Fee/levy category | Clarification or Correction | Reason |
|--|--|---|
| Residence class visa application— 2021 Resident Visa | Confirm no change to fee | Will be closed by 1 August 2021 |
| Request, under COVID-19 immigration instructions, for agreement to person applying for variation of conditions imposed on <u>residence class visa</u> or <u>temporary entry class visa</u> | Confirm no change to fee | Will largely be redundant with reopening of border |
| Notification of expression of interest in applying for <u>residence class visa</u> where invitation to apply required by COVID-19 immigration instructions | Fee to remain at \$45, not increasing to \$50 | Will largely be redundant with reopening of border |
| Notification of expression of interest in applying for <u>temporary entry class visa</u> where invitation to apply required by COVID-19 immigration instructions | Fee to remain at \$45, not increasing to \$50 | Will largely be redundant with reopening of border |
| Request, under COVID-19 immigration instructions, for approval in principle for a person (and any spouse, partner, or dependent child of the person) to travel to New Zealand | Fee to remain at \$380; not increasing to \$430 | Will largely be redundant with reopening of border |
| Temporary visa application— student visa (submitted by education provider) | Fee will be removed from the schedule, rather than increasing to \$120 from \$110 | Category was closed at the end of 2021 |
| Applicant for resident visa— Pitcairn Islanders | Confirm no change to fee through Crown subsidy | Align treatment with other Pacific residence visas – recognising commitment to Pacific |
| Entertainment industry accreditation (under specific purpose or events immigration instructions)— <u>first year of accreditation</u> | Fees to increase to \$2200 from \$1960 (reflecting 12% fee increase) | Align treatment with most other visa services – category unaffected by AEWV changes |
| Entertainment industry accreditation (under specific purpose or events immigration instructions)— <u>subsequent year accreditation</u> | Fees to increase to \$620 from \$550 (reflecting 12% fee increase) | Align treatment with most other visa services – category unaffected by AEWV changes |
| Applicant for resident visa— Employees of Relocating Business Category | Levy to increase to \$3,150 from \$830 (reflecting 279% levy increase) | Align treatment with other business category residence visas |
| Applicant for permanent resident visa— Family Category | Levy to increase to \$1,550 from \$410 (reflecting 279% levy increase) | Align treatment with the alternative residence pathway (Family Category residence visa) |
| Applicant for permanent resident visa— Residence from Work Category | Levy to increase to \$3,150 from \$830 (reflecting 279% levy increase) | Align treatment with the alternative residence pathway (Residence from Work residence visa) |