



COVERSHEET

Minister	Hon Kris Faafoi	Portfolio	Immigration
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List of documents that have been proactively released

Date	Title	Author
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Information redacted

YES

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Some information has been withheld for the following reasons:

- Confidential advice to Government
- Free and frank opinions
- International relations
- Legal professional privilege



Cabinet

Minute of Decision

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Class Exceptions to Border Restrictions: Decisions for Cabinet Approval

Portfolio **Immigration**

On 16 November 2020, Cabinet:

Background

- 1 **noted** that:
 - 1.1 on 9 November 2020, Cabinet agreed that the Ministerial Group considering proposals for class exceptions to border restrictions be led by the Minister of Immigration and comprise the Minister for COVID-19 Response, the Associate Minister of Finance (Hon Dr Megan Woods), the Minister for Economic and Regional Development, the Minister for Social Development and Employment, and the Minister for Māori Development [CAB-20-MIN-0466];
 - 1.2 the Ministerial Group has approved in principle critical workforce class exceptions for Cabinet approval, with conditions, for 2,000 Recognised Seasonal Employer (RSE) workers and up to 60 shearers;
- 2 **noted** that the Ministerial Group also noted the extension of the employment period covered by the critical health worker border exception until 31 March 2021;

Confirming decisions taken by the Ministerial Group

- 3 **agreed** to approve a critical workforce class exception for 2,000 RSE workers, with the following conditions:
 - 3.1 RSE workers will only be allowed to enter from Pacific Island countries that have committed to and have a plan agreed with New Zealand to:
 - 3.1.1 repatriate currently stranded RSE workers who wish to return home; and
 - 3.1.2 repatriate all further workers at the end of their contract;
 - 3.2 only experienced RSE workers (that, is, people who have worked in New Zealand for at least one season as an RSE worker) can enter through this exception, to realise the benefits of an experienced and skilled workforce;

- 3.3 workers will be deployed to and moved around regions and employers where there are the most critical workforce needs to meet harvest requirements that have not been able to be filled despite industry efforts to attract and utilise the onshore workforce;
- 3.4 only employers who make the following commitments for the upcoming season will be able to access offshore workers through the border exception:
- 3.4.1 ensure all RSE workers (currently onshore and those arriving through the exception) will be fully employed until they are repatriated;
 - 3.4.2 make arrangements to share their RSE workers with another RSE employer growing a different crop or in a different region;
 - 3.4.3 cover the cost of managed isolation and quarantine (MIQ) in government facilities, and will not charge this cost to RSE workers, either directly or indirectly;
 - 3.4.4 pay workers for 30 hours per week while they are in MIQ;
 - 3.4.5 not to deduct RSE workers' wages for flights between Pacific countries and New Zealand more than they would in a 'normal' year, or what has already been approved by the Labour Inspectorate as actual, reasonable and verifiable;
 - 3.4.6 not to increase deductions for RSE workers for living costs (e.g. accommodation and transport) beyond last season's deductions, or what has already been approved by the Labour Inspectorate as actual, reasonable and verifiable;
- 3.5 employers who are found not to meet these commitments and/or trigger compliance action will lose access to current workers (who will be supported to other employment arrangements) and their RSE accreditation;
- 3.6 the industry formally commits to produce, and report back on, time-lined and action-focused plans to:
- 3.6.1 ensure RSE workers (currently onshore and those arriving through the exception) are kept fully employed for the full length of their contracts;
 - 3.6.2 address known barriers to attracting domestic labour supply, including through partnerships for and with Māori and iwi, with a commitment to make their best endeavours to:
 - 3.6.2.1 increase the proportion of their New Zealand workforce, including increasing the number of longer-term sustainable roles for New Zealand workers;
 - 3.6.2.2 increase the provision of accommodation and transport for New Zealand workers; and
 - 3.6.2.3 increase the provision of training to upskill New Zealand workers for horticulture and viticulture work;

- 4 **directed** officials to ensure that these workers are able to enter New Zealand and complete managed isolation before 1 March 2021;

- 5 **noted** that allocating space in MIQ for this group from mid-January to mid-March 2021 will limit opportunities for other critical workers and New Zealanders to enter New Zealand during this period;

Free and frank opinions

- 7 **noted** that Pacific Island countries have expressed interest and readiness to resume participation in the scheme, and that the Ministry of Foreign Affairs and Trade considers a number of countries are in a position to meet the criteria to guarantee repatriation of workers when their contracts end;

Outstanding decisions: additional RSE border exception choices

- 8 **noted** that the Ministerial Group deferred some specific decisions on the RSE border exception for further discussion at Cabinet;

Remuneration requirement

- 9 9.1 **noted** the criterion in paragraph 3.2 above that only experienced RSE workers can enter through this exception and that therefore the RSE workforce will be an experienced workforce;
- 9.2 **agreed** to require employers to pay no less than the living wage (currently \$22.10/hour) to RSE workers covered by the border exception;

Recovering MIQ costs

- 10 **directed** officials to work with industry to cover the cost of funding for translation services required to support the MIQ process for workers who do not speak or read English proficiently;
- 11 **noted** that there is broader work underway on charging for critical workers that may result in the MIQ fees changing over the period of time that RSE workers enter New Zealand, but that it is important for industry to give clarity upfront about the costs involved in participation;
- 12 **noted** that if Cabinet agrees that RSE employers should cover the cost of providing translation services and a higher level of fee for MIQ services, then this would set a precedent for other class exception cohorts;
- 13 **agreed** to recover a higher level of cost for MIQ services from all employers of critical workers, based on the average cost, currently estimated to be \$4,722 per person, through a contract with the employer or industry group;
- 14 **agreed** that the MIQ fees should be paid up front by employers of critical workers;
- 15 **noted** that the Minister of Immigration will be receiving advice on policy or processing changes to address any delays in granting visas for the onshore migrant workforce to work in the horticulture and viticulture industries;

Shearer border exception

- 16 **agreed** to approve a critical workforce class exception to up to 60 shearers contracted by or through a New Zealand Shearing Contractors Association approved employer, and with more than two years' shearing experience, with the following conditions:
- 16.1 continued work on a detailed workforce plan addressing the shortage of local shearers; and
 - 16.2 evidence of continued commitment to training and upskilling New Zealanders;
- 17 **directed** officials to ensure that these shearers are able to enter New Zealand and complete managed isolation before 1 March 2021;

Critical health workers

- 18 **noted** the extension of the employment period covered by the critical health worker border exception category to 31 March 2021;

Next steps

- 19 **invited** the Minister of Immigration to report back to Cabinet on 23 November 2020 on the outcome of further discussions with the industry on the RSE proposals, and on a communications plan.

Michael Webster
Secretary of the Cabinet
