



BRIEFING

Confirming RSE border exception details

Date:	23 April 2021	Priority:	Urgent
Security classification:		Tracking number:	MPI: B21 - 0290 MBIE: 2021 34-18

Action sought		
Hon Chris Hipkins Minister for COVID-19 Response	Confirm details of the RSE border exception following industry consultation	Deadline
Hon Kris Faafoi Minister of Immigration		27 April 2021
Hon Damien O'Connor Minister of Agriculture and Trade and Economic Growth		

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Fiona Duncan	Director Food, Skills and Science Policy	Privacy of natural persons	✓
Ruth Isaac	General Manager, Employment, Skills and Immigration Policy, MBIE	Privacy of natural persons	✓
Privacy of natural persons	Manager, Allocation and Supply MIQ Policy, MBIE		

The following departments/agencies have been consulted
Ministry for Foreign Affairs and Trade

- Minister's office to complete:**
- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Confirming RSE border exception details

Date:	23 April 2021	Priority:	Urgent
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Purpose

This paper seeks confirmation of details for the Recognised Seasonal Employer (RSE) border exception following consultation with industry.

Recommended Action

MPI and MBIE recommend that you:

Timing and size of cohorts

- a **Note** Border Exception Ministers agreed to an ongoing critical workforce class exception for RSE workers to enter New Zealand in cohorts of up to 150 RSE workers every 16 days from July 2021, but agreed to support earlier cohorts if the sector can bring them earlier. ✓

Noted
- b **Note** that industry has indicated it thinks it can work more quickly with Pacific Island countries to get workers into New Zealand earlier than July ✓

Noted
- c **Note** that MBIE is unsupportive of an accelerated timeframe, due to the likelihood that industry will be unable to meet the timeframes required, which would result in MIQ incurring costs and potentially some places not being used ✓

Noted
- d **Note** that MIQ advises that if this border exception is announced on 27 April, 15 June is the earliest possible date MIQ could receive RSE workers, given additional risks are created by reduced planning time, and that a cohort size exceeding 150 RSE workers cannot be safely accommodated by MIQ at any time ✓

Noted
- e **Agree**, for clarity, to confirm the maximum number of RSE workers that can be facilitated by MIQ remains 150 RSE workers arriving together (i.e. one cohort) every 16 days ✓

Agree / Disagree
- f **Note** that if industry wants to bring workers in mid-June, it will need to meet these minimum timeframes:
 - I. 2 weeks in advance (1 June) – confirm the maximum number of workers arriving and have all visa applications submitted
 - II. 4 weeks in advance (15 May) – confirm the country of origin for the flight

Noted

- g **Note** that these minimum timeframes are risky, and if industry does not meet the above MIQ timeframes, MIQ places will be lost and reallocated to other travellers for the 16 day period

Noted

Conditions

- h **Note** that Border Exception Ministers agreed to the conditions set out in Annex One

Noted

- i **Note** that industry 'does not accept' that the \$22.10 per hour minimum rate should apply to non-border exception RSE workers, and say that wages having been increasing for all workers

Noted

- j **Agree** that RSE employers employing border exception workers will need to pay a minimum of \$22.10 per hour to:

EITHER:

- I. RSE workers covered by the border exception only
(recommended by industry);

Agree / Disagree

OR

- II. All the RSE workers they employ (including RSE border exception workers and existing RSE workers from the start a new contract) (recommended by officials and previously agreed by Border Exception Ministers)

Agree / Disagree

- k **Agree** to reflect industry feedback by making some minor wording changes to the conditions:

- I. Industry will present a repatriation plan, working alongside MFAT and Pacific Island countries, that will *to the extent possible* repatriate existing and border exception RSE workers
- II. Requested the removal of references to the 'living wage' (given that \$22.10 per hour is specified)
- III. Accepted industry responsibility to allocate and move workers to where they are most needed, but requested flexibility so that workers do not have to move 'regions' when it is not needed

Agree / Disagree

MIQ costs

- l **Note** that industry does not accept the estimated additional MIQ costs per RSE worker (high end of the estimate range is \$1110) and have asked for a detailed justification of these costs

Noted

- m **Agree** to confirm that additional MIQ costs to support RSE workers will be recovered from industry

Agree / Disagree

- n **Note** that MIQ is preparing separate advice to the Minister for COVID-19 Response on costs and will communicate final costs and provide an explanation to industry

Noted

MIQ twin –share arrangements

- o **Note** that industry consider that all RSE workers should be in twin-share rooms for mental health and cost reasons

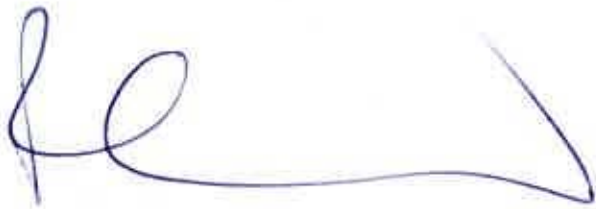
Noted

- p **Note** that the MIQ facilities that will be used can only accommodate 112 workers in double rooms, so a cohort of 150 will not be possible if industry refuses to accommodate some RSE workers in each cohort in single occupancy rooms ✓

Noted

- q **Note** that MIQ will offer to work with industry so single occupancy room costs can be averaged out across employers to avoid disadvantaging any particular employer ✓

Noted



Ruth Isaac
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23 / 4 / 21

Privacy of natural persons

Fiona Duncan
Director - Food, Science and Skills Policy
Policy and Trade

MPI
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Manager, Allocation and Supply MIQ Policy, MBIE

23 / 4 / 21



Hon Chris Hipkins
Minister for COVID-19 Response

30 / 4 / 21

Hon Damien O'Connor
Minister of Agriculture, and Trade and Economic Growth

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Hon Kris Faafoi
Minister of Immigration

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Background

1. On Monday 19 April 2021, Border Exception Ministers with Power to Act agreed to an ongoing critical workforce class exception for RSE workers to enter New Zealand in cohorts of up to 150 workers every 16 days from July 2021 and through to at least March 2022 (see Annex One for full set of decisions).
2. Border Exception Ministers noted that the Minister of Immigration, Minister of Agriculture, and Minister for COVID-19 Response, in consultation with industry, will confirm the details of the RSE worker class exception. This paper seeks confirmation of the details, after feedback from industry on the conditions for the border exception and their ability to get workers in earlier than July.

Industry want to bring RSE workers in to New Zealand in June

3. Border Exception Ministers agreed to support earlier cohorts of RSE workers if the sector could confirm that they could bring workers in earlier than July 2021.
4. Industry feedback and officials' comment on the timing of the first RSE border exception cohort is summarised below:

Industry feedback (verbatim)	Agency comment / recommendation
<p>We do not accept the 56-day timeline and believe that this can be tightened up especially with the Pacific Island recruitment process.</p> <p>We seek agreement to accelerate the timeline as much as possible for the first few flights. This would also help to meet the Ministers' expectations of early movement, as expressed both on Tuesday and last Friday.</p>	<p>Industry consider that recruitment can happen more quickly than Pacific Island countries have indicated. These timeframes are outside of our control, and therefore officials cannot offer assurances that this is possible. MFAT advises that early conversations with Vanuatu indicate that they may be able to accommodate a quicker timeline.</p> <p>MIQ advise that a minimum of 8 weeks of lead-in time (that is 15 June if announced on 27 April) is required to prepare for the arrival of RSE workers (see Annex Two for more detail).</p> <p>If industry wants workers to arrive on 15 June, MIQ and INZ advise the following timeframes need to be met:</p> <ul style="list-style-type: none"> • 4 weeks in advance (15 May) - confirm country of origin for the flight • 2 weeks in advance (1 June) – confirm maximum number of workers arriving and have all visa applications submitted <p>Officials note that these timeframes do not allow room for error (for example, some visas may not be approved if there are issues to follow up). Officials therefore recommend that it is clear to industry that MIQ places will be re-allocated to other travellers for the 16 day period if industry does not meet the MIQ timeframes (i.e. a use it or lose it arrangement). Industry will also be responsibility for project management and coordination of the border exception implementation (i.e working with Pacific Island countries, getting visa applications in, booking flights). INZ and MIQ will be responsible for their bits of the process.</p>

Size of cohorts

5. In addition, officials understand that there has been some discussion of accommodating potentially larger cohort sizes than 150 RSE workers in June.
6. Officials recommend you confirm that the maximum size of cohorts that MIQ can safely accommodate is 150 RSE workers arriving together every 16 days, even if there were spare rooms available in the MIQ system. This is determined by the ability of facilities to safely receive and process arrivals, including:
 - a. processing through airport functions,
 - b. transporting workers from the airport,
 - c. health checks and check in on arrival at the facility,
 - d. providing COVID-19 testing on day 0/1, day 3 and day 12,
 - e. providing other health and wrap-around services on a regular basis, and
 - f. allowing for cleaning of rooms between cohorts.
7. The health resource needed to manage RSE workers is significant because of their higher health needs (as experienced with the first group). Our health workforce is already under strain throughout the country and therefore imposes a hard limit on our ability to receive larger groups with complex needs.
8. In addition, the current health workforce is resourced to support a COVID environment and illnesses. While low-risk for COVID, a significant number of workers had other illnesses that required other health services like GPs and hospitalisation. The health workforce is not currently resourced to manage this on an on-going basis, so work is being done to up-resource where required.

Industry has sought changes to some of the conditions

9. Border Exception Ministers agreed that the same conditions will apply to this border exception as to the previous RSE border exception, with these changes:
 - a. **Add:** Only countries approved by the Ministry of Health to be low COVID-19 risk can participate in the border exception
 - b. **Add:** Industry to coordinate and report on a repatriation plan, alongside MFAT and Pacific Island countries, prioritising workers who have been in New Zealand for a long time
 - c. **Add:** The horticulture and viticulture sectors are to report back to Ministers by October 2021 on their workforce transition plans and progress to date.
 - d. **Remove:** only experienced RSE workers can enter through the border exception.
 - e. **Add:** Require employers who employ border exception workers to also pay a minimum hourly rate of \$22.10 or the market rate (whichever is highest) to all RSE workers that they employ
10. Industry have largely accepted the conditions, but request the following changes:

Industry feedback	Agency comment / recommendation
<p>Industry request removal of references to the 'living wage' and clarification that the \$22.10 is to apply to the RSE workers entering under this programme and not be extended any further.</p> <p>Industry also asked that Ministers be made aware of the general movement in wages across large parts of the sector.</p>	<p>Officials recommend you agree to remove reference to 'living wage' but confirm that the \$22.10 per hour minimum rate will also apply to any new contracts with existing RSE workers employed by RSE border exception employers.</p> <p>The requirement should not have a substantive impact on RSE border exception employers if, as claimed, wages have increased.</p>

To the extent possible, clarify that industry will present a repatriation plan to repatriate workers acknowledging that they cannot do repatriation alone.	Officials recommend you accept this minor change.
Accepted industry responsibility to allocate workers to areas of most need, but did not want movement across 'regions' to be required when it was not needed	Officials recommend you accept the removal of the requirement to move across regions, but that industry retain responsibility for determining that RSE workers are deployed to where they are most in need, which may include moving across regions
Industry sought confirmation that countries eligible (subject to repatriation plan) include Fiji, Samoa, Vanuatu, Solomon Islands and Tonga.	Officials confirmed to industry that the only RSE country that is currently ruled out due to COVID-19 status is Papua New Guinea. Officials will monitor the situation in Fiji and update industry on its status.

Industry have requested MIQ flexibility

11. Industry has also provided feedback on MIQ arrangements, in particular questioning higher costs. Officials' comments and recommendations are set out below:

Industry feedback (verbatim)	Agency comment / recommendation
<p>The extra \$1,150 is not accepted. We are yet to receive a breakdown of these costs, but we can see no justification for this additional impost. Note we can standardise welfare packs and so there should be no costs here.</p> <p>We also request a copy of the MIQ report on RSE MIQ so as to better understand and be able to explain any cost increases.</p>	<p>MIQ has sent separate advice to the Minister for COVID-19 Response on RSE border exception cost recovery (briefing 2021 3426 refers).</p> <p>We recommend employers pay the full RSE costs. MIQ will provide an explanation to industry outlining the higher costs as requested.</p>
<p>Is it possible for Christchurch to be used for the first few flights to support the work available in the South Island?</p>	<p>MIQ officials confirm that this is not possible because:</p> <ul style="list-style-type: none"> • Christchurch facilities will be at capacity in their ability to accommodate complex groups between July and October. • Some groups can only be isolated in Christchurch (such as the Antarctic groups). • MIQ maintain a large contingency in Christchurch to accommodate returnees in the event that quarantine free travel with Australia is suspended. • There would be significant cost involved in changing regions part way through the border exception.
<p>All workers coming in on this programme should be in double rooms. Most of the workers have never been isolated in a hotel room in their lifetime, and the health and safety risks, along with the cultural</p>	<p>Given Auckland's health workforce is under strain and Christchurch is hosting other complex groups, Hamilton is the best option to accommodate RSE workers. Hamilton facilities allow for only 112 people to be accommodated in double rooms. In addition, there are 129 single rooms.</p>

insensitivity, of doing so under this programme are significant. In addition, the extra costs of using single rooms cannot be sustained.	MIQ is confident that it can put in place arrangements to support the mental health of RSE workers in single rooms who would struggle with 14 days of isolation. For example, it may be possible to have 'bubble buddies' for workers in adjacent single rooms so they have a companion throughout their stay.
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Next steps

12. Officials are working with the Minister of Immigration's office towards an announcement on Wednesday 28 April. Officials note an announcement should be made as soon as possible if Ministers want to maximise the possibility of a June cohort.
13. MBIE will provide the Minister of Immigration with Immigration instructions for certification once the details of the exception are confirmed.

Annex One: RSE border exception details agreed by Border Exception Ministers

The information below depicts decisions taken by Border Exception Ministers on 19 April which reflect commitments and conditions carried over from the first RSE border exception cohort agreed plus a small number of amendments.

Size and timing

- an ongoing critical workforce class exception enabling RSE workers to enter New Zealand in cohorts of up to 150 workers every 16 days from July 2021 and through to at least March 2022.
- the number of RSE workers who can enter in October may be reduced to accommodate the agreed Antarctic programmes.

Participating Pacific Island countries

- RSE workers will only be allowed to enter from Pacific Island countries that:
 - have been assessed by the Ministry of Health as low COVID-19 risk countries
 - have committed to and have a plan agreed with New Zealand to:
 - repatriate currently stranded RSE workers who wish to return home; and
 - repatriate all further workers at the end of their contract;

Industry conditions

- 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;
- Industry to coordinate and report on a repatriation plan, in conjunction with MFAT and Pacific Island countries, prioritising workers who have been in New Zealand for a long time
- Industry to report to Ministers by October 2021 on their workforce transition plans and progress to date, including time-lined and action-focused plans to:
 - ensure RSE workers (currently onshore and those arriving through the exception) are kept fully employed for the full length of their contracts;
 - 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:
 - increase the proportion of their New Zealand workforce, including increasing the number of longer-term sustainable roles for New Zealand workers;
 - increase the provision of accommodation and transport for New Zealand workers; and
 - increase the provision of training to upskill New Zealand workers for horticulture and viticulture work;

Employer conditions

- Only employers who make the following commitments for the upcoming season will be able to access offshore workers through the border exception:
 - ensure all RSE workers (currently onshore and those arriving through the exception) will be fully employed until they are repatriated;

- make arrangements to share their RSE workers with another RSE employer, growing a different crop or in a different region;
 - 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;
 - pay no less than \$22.10/hour or the market rate (whichever is highest) to all the RSE workers that they employ.
 - pay workers for 30 hours per week while they are in MIQ;
 - 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;
 - 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;
- 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;

MIQ conditions

- MIQ fees should be paid up front by employers of critical workers;
- 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

Annex Two: MIQ preparation activities

- At a minimum, 8 weeks of lead-in time are required before RSE arrivals commence, but MIQ ops notes that any planning timelines will need to align with INZ timelines (currently 61 days) as there are likely to be flow-on and compounding impacts to MIQ if key tasks outlined by INZ are not completed on time.
- RSE workers will likely be going into facilities in Hamilton in the future, which has not previously dealt with a complex group. Before RSE workers arrive, we must:
 - Engage with Iwi appropriately and with enough notice for both parties. This will require particular attention as Iwi own and operate one of the MIFs in Hamilton
 - Engage with key stakeholders (e.g. DHB/Health) to develop a workforce plan to support the ongoing delivery of health services.
 - Undertake a public health risk assessment to determine the nature of wrap-around services needed and whether twin-share accommodation is possible.
 - Appropriately plan with partner agencies and groups for a long term MIQ workforce to support RSE delivery (not done previously). This includes:
 - Recruiting and contracting of workforce, specialist support likely required (additional health, translators, RSE well-being coordinator, etc.)
 - Developing a training plan and delivery for all new staff to work in MIQ environment, IPC, MIQ protocols, and upskill all staff on the complexities of dealing with group arrivals.
 - Developing a more robust pastoral care plan with Industry lead/employers – greater accountability to employers than was previously done.
 - Engage with Immigration NZ and offshore Embassies to develop and implement the pre-arrival education programme.
 - Work with Immigration NZ and offshore labour sending units to ensure non-COVID health checks and police background checks are completed prior to arrival in New Zealand.
 - Ensure the MIQ delivery teams have completed all planning and briefings before the operation starts.
- Enabling these steps to be undertaken properly will also ensure the welfare of the workers is properly considered and managed, which will help to mitigate any concern and risk around single occupancy.