



## COVERSHEET

<b>Minister</b>	Hon Michael Wood	<b>Portfolio</b>	Immigration
<b>Title of Cabinet paper</b>	<i>Decisions on border exceptions referred to Cabinet</i>	<b>Date to be published</b>	19 August 2022

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
February 2022	<i>Decisions on border exceptions referred to Cabinet</i>	<i>Office of the Minister of Immigration</i>
21 February 2022	<i>CAB-22-MIN-0043 Minute</i>	<i>Cabinet Office</i>

### Information redacted

**YES / NO**

Any information redacted in this document is redacted in accordance with MBIE'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.

Some information has been withheld for the reason of free and frank opinions.

[In Confidence]

Office of the Minister of Immigration  
Cabinet

## Decisions on border exceptions referred to Cabinet

### Proposal

- 1 I seek Cabinet's agreement to bring forward:
  - 1.1 three class exceptions for workers in the wine, red meat and seafood sectors, to open for applications on 21 February to enable workers to enter New Zealand as soon as possible to assist with seasonal peaks;
  - 1.2 new and extended class exceptions for dairy farm assistants, qualified 'able-bodied seafarers' (for Cook Strait ferries) and advanced manufacturing specialists, to open for applications on 13 March to address critical workforce shortages and supply chain constraints for essential goods and services more quickly; and
  - 1.3 the addition of sports events approved by Border Exception Ministers to the government-approved events lists from 13 March, to enable sports teams to come to New Zealand for high level fixtures in April.

### **The *Reconnecting New Zealanders* strategy sets out a phased opening of the border to migrant workers**

- 2 Our *Reconnecting New Zealanders* strategy (RCNZ) will help to alleviate the workforce shortages that many sectors have been experiencing due to the border closures. In the immediate future, the following groups can enter New Zealand on the medium-risk pathway and self-isolate from:
  - 2.1 Step 1 on 27 February, workers who hold a border exception can enter from Australia;<sup>1</sup>
  - 2.2 Step 2 on 13 March, workers who hold a border exception can enter from the rest of the world;
- 3 We have also agreed to simplify and expand the border exception for 'other critical workers' through implementation of a 1.5 times the median wage bright line test as part of Step 2. At this time, open Working Holiday Schemes will also open for offshore applications [CAB-22-MIN-0008].
- 4 Class exceptions and additions to government-approved lists will continue to provide a pathway for entry for a limited number of critical workforces that do not meet the expanded 'other critical worker' pathway. Caps on class exceptions are required in the short term in order to manage volumes as we

---

<sup>1</sup> From Step 1 people who are exempt from the border restrictions are also allowed to enter New Zealand and self-isolate, i.e., New Zealand citizens and residents.

transition through RCNZ. Class exceptions will be phased out from the middle of the year as we move towards a fully reopened border.

- 5 As part of decisions on RCNZ, Cabinet delegated authority to Border Exception Ministers to agree expanded class exceptions and additions to government-approved lists [CAB-22-MIN-008].
- 6 Cabinet also agreed that expanded border exceptions were to be implemented as part of Step 3, from 12 April 2022 while noting that these exceptions could be in place no earlier than mid-March 2022 [CAB-22-MIN-008]. Free and frank opinions [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Class exceptions for three primary sector workforces with peak seasonal demand are needed in New Zealand as soon as possible**

- 8 Border Exception Ministers met on 16 February to consider proposals for class exceptions and additions to government-approved lists. A minute of our decisions is attached at Appendix One.
- 9 The package of class exceptions included proposals for workers in the wine, red meat, and seafood sectors. Due to pressing and imminent seasonal peaks, the wine, red meat, and seafood sector workers are needed in New Zealand as soon as possible. Waiting for Step 3 will have major impacts on export revenue and product quality (which risks negatively impacting New Zealand’s international reputation and ongoing access to premium markets). It also creates job security risks to the New Zealanders working in roles further down the supply chain.
- 10 Border Exception Ministers agreed to seek Cabinet approval to bring these workers into New Zealand as soon as possible, with applications to open from 21 February. A summary of each of these three proposals, along with the case for expedited entry is set out below.

*Winery workers (winemakers and cellar hand supervisors)*

- 11 Wine is New Zealand’s sixth largest export good, with annual wine exports valued at \$1.97 billion as of November 2021. In addition, the industry annually sells approximately \$500 million of wine in the domestic market. The success of the industry in international markets is the result of building a reputation for distinctive high-quality wines that proudly reflect their New Zealand origins.
- 12 Winemaking takes place between February and May, and all 10 of our wine regions rely on an experienced workforce of international vintage workers to assist in the safe production of New Zealand’s premium wine.

- 13 Due to seasonal changes, the 2022 Vintage has begun early in parts of New Zealand. In large part due to the sector's success in attracting local workers, this year approximately 50 percent of the workforce have never worked in a winery before. To ensure new workers' safety and the quality of the product, additional skilled and experienced workers are required to supervise this workforce.
- 14 Some highly experienced workers are able to enter through the 'other critical worker' (short term) pathway, however a class exception is required to allow assistant winemakers, cellar hand supervisors, and other vintage workers to enter as soon as possible.

*Meat processing workers*

- 15 The red meat industry's annual exports for 2020 totalled approximately \$9.2 billion and the sector employs over 24,000 staff, with 20,000 in direct processing roles. The majority of workers are New Zealanders, who are supplemented by small number of migrant workers, many of whom are sourced from the Pacific.
- 16 It is the peak time of year for red meat processing and worker shortages are already resulting in companies reducing capacity, ceasing night shifts and processing meat into lower value formats (e.g., whole carcasses instead of boned cuts). Reduced processing capacity would have flow-on animal welfare implications as a result of more animals remaining on-farm. Reduced meat volumes also mean reduced product choice and availability, and higher costs for domestic consumers. The industry estimates that the overall loss of productivity due to labour shortages in 2022 could amount to at least \$200m.
- 17 Industry indicates that there are currently between 1,500 and 2,000 vacancies. A class exception for 150 meat processing workers will go some way to alleviating the current labour shortage, therefore preventing the breakdown of supply chains, animal welfare issues, and loss of returns.
- 18 As many migrant workers in the meat sector come from the Pacific, the sector will try to make use of the low-risk Pacific pathway. The class exception will, however, be open to workers from elsewhere to provide flexibility in the event of logistical impacts on workers departing Pacific countries.

*Seafood processing workers*

- 19 Prior to COVID-19, the seafood sector relied on Working Holiday Scheme visa holders to take up roles in peak mussel and hoki processing season to supplement the New Zealand workforce. The absence of these workers is currently being felt across the sector.
- 20 Normally at this time of year, seafood processing operations would be running at full capacity (both a day and a night shift). The labour shortages being experienced mean that they are operating at a significantly reduced capacity. This is having a significant impact on revenue (for example, one operator advises staff shortages have resulted in a loss of \$20 million in revenue, and a reduction of 2,500 metric tonnes of productivity). As the seafood industry has significant Māori and iwi ownership (with approximately 27% of all quota

by volume and value owned by Māori) shortages are also impacting potential iwi shareholder return.

- 21 The seafood sector has made a significant effort to recruit domestically for these roles, however, it has not been able to attract sufficient candidates to meet its needs due to fierce competition for workers with other primary industries and the construction industry. A class exception for 150 seafood processing workers will help alleviate the most critical areas of labour shortage, and help prevent the breakdown of supply chains and loss of returns.
- 22 Unlike meat processing, the seafood sector does not have pre-existing relationships with the Pacific but is working hard to establish these and stand-up processes. The implication is that it will likely take longer to fill the 150 cap under this class exception than for the meat processing worker class exception.

*Expediting entry for these workers*

- 23 If Cabinet agrees to bring forward implementation of these three class exceptions, the Ministry of Business, Innovation and Employment (MBIE) and Ministry for Primary Industries (MPI) will work together to enable the fastest possible entry of critical workers.
- 24 INZ will prepare Immigration Instruction at pace and in parallel, reprioritise resources (impacting other border exception visa processing), and use IT workarounds *Free and frank opinions* to facilitate the fastest possible visa processing. MPI will support employers and workers to coordinate applications, pre-departure testing, and travel arrangements. MPI is also working with MBIE to prioritise the processing of winery workers within the group of expedited class exceptions to ensure they can enter as soon possible.
- 25 If employers and workers submit their applications in a fast and timely fashion, MBIE inform me that the majority of these visas can be processed by 7 March. This is a best-case scenario, which halves the normal processing time for border exceptions and will involve immigration officers working overtime.
- 26 Expedited visa processing will mean that some of these workers will be eligible to enter New Zealand before Step 2 when self-isolation settings come into effect. This means these workers will need to enter a Managed Isolation and Quarantine (MIQ) facility.
- 27 MIQ has indicated that the primary sector group allocation for March to May could be brought forward to enable these workers to enter MIQ ahead of Step 2 of RCNZ. This is due to increased capacity following the shortening of the MIQ stay from 10 days to 7 days and the implementation of Step 1 of RCNZ. On that basis, MIQ advise that an additional 25 rooms can be allocated to primary industries in late-February, and an additional 50 rooms (on top of the 50 currently allocated) can be allocated in early March (prior to Step 2).

*Calculating pay rates for seafood and meat processing workers*

- 28 As both the red meat and seafood sectors structure their pay based on minimum base rates plus piece rates, employers will need to guarantee in employment agreements that each worker under these class exceptions is paid on average \$27 per hour over a pay period. In advice to Border Exception Ministers, officials noted that the red meat and seafood sectors would be unable to meet the wage threshold under current immigration settings, as these are laid out in terms of hourly rates or salaries, not accounting for piece rates.
- 29 Officials have developed a mechanism to ensure that the median wage requirement can factor in piece rates. In order to recognise piece rates, I propose that employee's guaranteed minimum remuneration for a pay period (as per their employment agreement) may be averaged over the number of hours worked in that pay period to determine the role's pay rate. I also propose that the pay period must be no longer than one month in order to prevent employers from moving to unreasonably long pay periods so that they can average their employees' pay over a longer period.

**I also propose bringing forward implementation of a limited number of other class exceptions to address workforce and supply chain constraints**

- 30 Outside of the three most pressing workforce class exception proposals, there are a number of other workforce class exceptions and additions to government-approved lists that I recommend be brought forward so processing can open from Step 2 from 13 March. These are:
- 30.1 up to 300 dairy farm assistants, plus partners and dependent children, for up to 12 months
  - 30.2 up to 30 qualified 'able-bodied seafarers', plus partners and dependent children, for up to 12 months, and
  - 30.3 government-approved sport events.
- 31 The advice to Border Exception Ministers noted that officials were aware of significant shortages of skilled workers in the manufacturing sector. We directed officials to provide a written proposal for consideration by round robin so that, if Border Exception Ministers approved the proposal, it could be considered by Cabinet as a priority for earlier implementation.
- 32 The proposal has identified that the workforce group that would most benefit from a class exception would be advanced manufacturing specialists. Advanced manufacturing specialist roles cannot be readily filled domestically due to a combination of:
- 32.1 growth in the demand for specialist advanced manufacturing skills as the sector increases its investment in advanced technologies and processes; and
  - 32.2 the lead time to train or upskill the local workforce to meet the immediate shortage, despite active efforts such as apprenticeship programmes and upskilling the existing workforce.

- 33 I recommend that Cabinet approve a class exception for up to 100 advanced manufacturing specialists, earning at least the median wage + \$1 per hour (currently \$28 per hour), to open for visa processing from 13 March (Step 2).
- 34 By bringing these class exceptions forward we will enable around 1,000 additional temporary workers to come to New Zealand to bolster our workforce across a range of essential industries. I do not anticipate that this will have a substantial impact on the overall volume of people travelling to New Zealand ahead of wider reopening of the border.

### **Financial implications**

- 35 There are no direct financial implications arising from this paper.

### **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, including a phased reopening of our border, have supported 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 generally impacted by the border restrictions 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). From Step 2 (less so from Step 1) of the Reconnecting strategy, MIQ capacity will no longer be a constraint on the ability of New Zealand citizens to return home on the medium-risk pathway. This means decisions on class exceptions for migrants entering from Step 2 no longer have implications for New Zealand citizens returning home.

### **Consultation**

- 40 This paper has been consulted with the Ministry for Primary Industries, Ministry of Transport and Ministry of Health. DPMC has been informed.
- 41 The fuller set of proposals considered by the Border Exception Ministers were reviewed and assessed by the Senior Officials Group on Border Exceptions.

## Communications

- 42 Information about Cabinet's decisions on the class exceptions for winery workers and meat and seafood processing workers will be provided to the relevant sectors as soon as decisions are confirmed. My office will work with relevant Ministers' offices on any further announcements.
- 43 The full criteria for all border exceptions will be published online by INZ and communicated to immigration stakeholders.

## Proactive release

- 44 I propose to release this paper proactively. Any redactions made will be consistent with the Official Information Act 1982.

## Recommendations

I recommend that Cabinet:

- 1 **note** that as part of decisions on Reconnecting New Zealanders strategy, Cabinet delegated Border Exception Ministers authority to approve expanded class exceptions and additions to government-approved lists, to be in place from Step 3 on 12 April 2022 [CAB-22-MIN-0008];
- 2 **note** that on 16 February, Border Exception Ministers considered proposals for new and extended class exceptions, including requests to address acute seasonal demands in the primary sector, which would necessitate the workers entering New Zealand as soon as possible;

### *Workforce shortages in the primary sector*

- 3 **note** that while expanded settings for critical workers and reopened Working Holiday Scheme under Step 2 will go a considerable way to alleviate workforce pressures across the economy, significant worker shortages are expected to remain, particularly in the primary sector;

### *Class exceptions to address critical worker shortages in the wine, red meat, and seafood sectors*

- 4 **note** that due to pressing and imminent seasonal peaks, wine, red meat and seafood workers are needed in New Zealand as soon as possible;

### *Winery workers*

- 5 **note** that the most experienced and skilled winery makers are likely to meet the criteria to enter through the 'other critical worker' (short term) pathway, but that this will not provide the full range of workers needed to successfully deliver the 2022 vintage;
- 6 **agree** that the border class exception for up to 75 winery workers open for processing from 21 February so workers are able to enter New Zealand as soon as possible;



**IN CONFIDENCE**

*Red meat and seafood processing workers*

- 7 **agree** that the class exception for up to 150 meat processing workers, coming to New Zealand for up to 10 months, open for applications from 21 February so workers are able to enter New Zealand as soon as possible;
- 8 **agree** that the class exception for up to 150 seafood processing workers, coming to New Zealand for up to 10 months, open for applications from 21 February so workers are able to enter New Zealand as soon as possible;
- 9 **note** that Immigration New Zealand will reprioritise resources to facilitate the fastest possible processing of these border exceptions;
- 10 **note** that MIQ advises that an additional 25 rooms can be allocated to primary sector industries in late-February and an additional 50 rooms in early March;
- 11 **note** that MPI will provide MIQ with the names of workers who require MIQ space no later than 5 working days before date of travel (provided entry is not before 28 February 2022);

*Ensuring a guaranteed pay rate in the red meat and seafood sectors*

- 12 **note** that as the meat and seafood sectors structure their pay based on minimum base rates plus piece rates, employers will need to guarantee in employment agreements that each worker under the class exception is paid on average \$27 per hour over a pay period;
- 13 **agree** that, in order to recognise piece rates, the employee's guaranteed minimum remuneration for a pay period (as per their employment agreement) may be averaged over the number of hours worked in that pay period to determine the job's pay rate;
- 14 **agree** that the pay period must be no longer than one month;

*Bringing forward implementation of other class exceptions*

- 15 **agree** that the class exception for up to 300 dairy farm assistants (plus partners and dependent children), for up to 12 months, open for processing from 13 March (Step 2);
- 16 **agree** that the class exception for up to 30 qualified 'able-bodied seafarers', for up to 12 months, open for processing from 13 March (Step 2);
- 17 **agree** that the class exception for up to 100 advanced manufacturing specialists (plus partners and dependent children) for up to 12 months, earning at least the median wage plus \$1 per hour (currently \$28), open for processing from 13 March (Step 2);
- 18 **agree** that additions to the government-approved events list be implemented from 13 March (Step 2).

Authorised for lodgement

**IN CONFIDENCE**

**IN CONFIDENCE**

Hon Kris Faafoi

Minister of Immigration

**IN CONFIDENCE**

## Appendix One: Minute of decisions – meeting of Border Exception Ministers, 16 February 2022

On 16 February, Border Exception Ministers:

### *New and rolled-over class exceptions*

- a **Agreed** to a class exception for up to 30 qualified seafarers (plus partners and dependent children), for up to 12 months, to be nominated by the Ministry of Transport
- b **Agreed** to an additional class exception for up to 300 dairy farm assistants (plus partners and dependent children), for up to 12 months, earning at least the median wage plus \$1 (currently \$28 per hour)
- c **Agreed** to a class exception for up to 75 winery staff for up to six months, earning at least the median wage (currently \$27 per hour) in the following roles:
  - i. Winery supervisors
  - ii. Winemakers
  - iii. Assistant winemakers
  - iv. Cellar manager
  - v. Cellar hand supervisor
- d **Agreed** to a class exception for up to 150 meat processing workers, for up to 10 months, earning at least the median wage (currently \$27 per hour)
- e **Noted** that officials at MPI and MBIE were working with the red meat sector on a mechanism to ensure wage guarantees that factor in piece rates
- f **Agreed** that the Meat Industry Association be required to report to MPI and the Minister of Agriculture on progress against their workforce transition plan by April 2022
- g **Agreed** to a class exception for up to 150 seafood processing workers, for up to 10 months, earning at least the median wage (currently \$27 per hour)
- h **Noted** that officials at MPI and MBIE were working with the seafood sector on a mechanism to ensure wage guarantees that factor in piece rates
- i **Agreed** that Seafood New Zealand be required to report to MPI and the Minister for Oceans and Fisheries on progress against the Seafood Workforce Transition Plan by April 2022
- j **Agreed** to a class exception for up to 250 Pacific Manaaki scholars undertaking a course of study of at least nine months duration (plus partners and dependent children), to be nominated by MFAT's Manaaki New Zealand Scholarship Programme
- k **Agreed** to a renewal of the Polynesian Gateway class exception from 3 May 2022 until 3 November 2022 (for up to 100 travellers), to ensure settings are in place to support essential travel while there are ongoing uncertainties around international borders and travel

### *Expediting primary industry class exceptions*

- l **Agreed** to seek Cabinet's agreement to implement class exceptions for workers in the wine, red meat, and seafood sectors as soon as possible

### *Clarifying the wage requirement for deep-sea fishing crew class exceptions*

- m **Noted** that on 6 December, Cabinet agreed to renew two class exceptions for BATM and non-BATM fishing crew, for entry in 2022

## IN CONFIDENCE

- n **Noted** that the proposal prepared by the Ministry for Primary Industries included a wage requirement of the minimum wage plus \$5 per hour (currently \$20 + \$5 per hour), which is a \$1 increase on the previous class exception for deep-sea fishing crew support improvements in pay in the sector
- o **Noted** that this change to wage rates was omitted from the advice to Border Exception Ministers ahead of their previous meeting to consider class exception requests on 30 November 2021
- p **Agreed** that immigration instructions be updated to reflect the intended wage requirement of minimum wage plus \$5 per hour (currently \$25 per hour)

### *Additions to government-approved lists*

- q **Agreed** to add the Tourism New Zealand Strategic Media Programme to the government-approved programmes list to enable Tourism New Zealand to recommence activities to promote New Zealand in key international markets
- r **Agreed** to add the following Sport New Zealand nominated events to the government-approved events lists:
  - i. IWG Women in Sport Conference (November 2022)
  - ii. Ireland Rugby tour (June 2022)
  - iii. Super Rugby Pacific (April 2022)
  - iv. New Zealand Warriors fixtures
  - v. Breakers fixtures
  - vi. Phoenix fixtures

### *Update on the halal slaughterer border class exception*

- s **Noted** that on 6 December 2021, Cabinet agreed to a border class exception for up to 15 halal slaughterers who are earning at least 1.5 times the median wage, subject to assurances from the sector that the wage guarantee would be met and enforced, given the industry's use of piece rates in its pay structure [CAB-21-MIN-0517]
- t **Noted** that MBIE and MPI have proposed a solution to the sector, which is to append a wage guarantee to a worker's employment agreement, ensuring that the worker would be paid on average no less than 1.5 times the median wage (factoring in base pay and piece rates), and that the sector is yet to respond
- u **Noted** that expanding the 'other critical worker' border exception to workers earning 1.5 times the median wage bright line test will mean that the class exception is no longer necessary to ensure a pathway for entry to New Zealand for these workers
- v **Agreed** not to progress the class exception for halal slaughterers

IN CONFIDENCE