



BRIEFING

Final Cabinet paper: Immigration Rebalance – determining the lists and sector agreements

Date:	23 March 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2122-3150

Action sought		
	Action sought	Deadline
Hon Kris Faafoi Minister of Immigration	Approve the lodgement of the Cabinet paper: <i>Immigration Rebalance – determining the lists and sector agreements</i>	24 March 2022

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Andrew Craig	Manager, Immigration Policy (Skills and Residence)	Privacy of natural persons	✓
Emily Kay	Senior Policy Advisor	Privacy of natural persons	

The following departments/agencies have been consulted
The Department of the Prime Minister and Cabinet, the Ministry of Education, the Ministry for Ethnic Communities, the Ministry of Foreign Affairs and Trade, the Ministry of Health, the Ministry of Housing and Urban Development, the Ministry of Transport, the Ministry for Pacific Peoples, the Ministry for Primary Industries, the Ministry of Social Development, the Office for Disability Issues, and the Treasury were all consulted on the Cabinet paper. The Industry Policy and Tourism Policy teams in Ministry for Business, Innovation and Employment were also consulted.

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 Withdrawn |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



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Purpose

This briefing provides you with a summary of the feedback received during Ministerial consultation on the Cabinet paper *Immigration Rebalance – determining the lists and sector agreements* and advises of the changes made to the paper as a result. It seeks your approval for lodgement of the final Cabinet paper as attached.

After lodgement, the paper will be considered at Cabinet Economic Development Committee (DEV) on 30 March 2022. Talking points to support consideration of the paper at DEV are attached.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Agree** to lodgement of the final Cabinet paper as attached in Annex Two.

Agree / Disagree

Privacy of
natural
persons

Andrew Craig
**Manager, immigration Policy (Skills and
Residence)**
Labour, Science and Enterprise, MBIE

23 / 03 / 2022

Hon Kris Faafoi
Minister of Immigration

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Feedback from Ministerial Consultation

Themes of feedback

1. Feedback throughout consultation has been supportive and constructive, with several areas where further assessment was warranted to refine proposals. There are no significant policy changes arising from consultation, but narrative and framing changes have been reflected as outlined in this paper.
2. In addition to the feedback received during meetings you conducted, written feedback was received from the offices of the Minister of Agriculture, Minister of Forestry, Minister for Oceans and Fisheries, Minister of Transport, Minister of Housing, Minister for Pacific Peoples and Minister of Workplace Relations and Safety. A table outlining all feedback from Ministerial consultation is attached as Annex One.
3. Ministers commonly raised points about how the sectors and occupations within their portfolio will fare with the proposals, and how the transition to the Rebalance can be managed. They were supportive of the Rebalance objectives, and generally expressed that the proposals for the lists and sector agreements were aligned with this intent.

Specific feedback and changes made to the paper

Confidential advice to Government

- [Redacted]
5. We have progressed further work and recommend that taking into account international qualifications which are considered to be equivalent to those recognised by the New Zealand Qualifications Authority (NZQA) is a suitable way to differentiate where a chef is skilled. This will limit hiring of migrant chefs without formal qualifications (and only experience) or with qualifications that do not meet the expectations of NZQA. This higher standard for entry will address the issue of chefs displacing New Zealanders in less skilled positions and reduce opportunities to use the chef role primarily as a residence pathway, without completely restricting the possibility of hiring from overseas. Confidential advice to Government
- [Redacted]

Placement of some health roles within the green list

7. The Minister of Health and Associate Minister of Health queried whether nurses and midwives could be provided a fast track to residence rather than work to residence path within the green list. We raised this topic with the Ministry of Health and were aligned in the view that due to retention concerns post-residence, these roles were better placed on a work to residence path, which will still provide certainty and support to attract migrant workers into these roles. We have not changed the placement of these roles. The Ministry of Health provided data which shows that the retention rate of internationally qualified nurses is lower than domestically trained nurses.

8. It was also raised that dentists could be included on the green list. We revisited the evidence provided by the Ministry of Health and maintain the view that there is not sufficient evidence that there is a shortage in the wider sector rather than solely district health boards. We have not added this role to the green list at this time. There will be no limitation to recruitment of migrant workers into dentist roles by the Rebalance changes, and the two times median wage residence pathway for residence may be available depending on pay rates. Confidential advice to Government

Placing some heavy vehicle inspectors and certifiers on the green list

9. The Minister of Transport requested clarification about whether heavy vehicle inspectors and heavy vehicle engineers would be included on the green list based on the roles currently included. We conferred with INZ on this and have determined that Heavy Vehicle Inspectors are included within the diesel motor mechanics occupation on the work to residence path of the green list (as they were on the Long Term Skill Shortage List).
10. Heavy vehicle engineers are not included in the roles on the green list. It appears they would best fit under the ANZSCO occupation of 'Vehicle Body Builder'. We understand that heavy vehicle engineers are highly specialised and well paid, therefore, like dentists they will not be restricted from coming into New Zealand under the Rebalance changes and depending on pay rates may have a path to residence through the two times median wage work to residence path. Confidential advice to Government

Ministers did not raise issues about treatment of dairy farmers, but this may be raised in future

11. At this stage we are not proposing a sector agreement for dairy roles, as this does not appear to be justified by the situation of the sector and the past use of migrant workers. This position is supported by Ministry for Primary Industries (MPI), but we agree that further consideration of immigration settings may be required once the sector has completed its workforce resilience plan, and once MBIE's skilled residence review work has been progressed to see if there is in fact a gap for a residence pathway for migrant dairy workers. We understand that the dairy sector is requesting further border exceptions even though existing places are yet to be filled.

Ministers wanted assurances that settings have sufficient flexibility to support changes in the labour market

12. The Minister of Agriculture, Minister of Forestry, and Minister for Oceans and Fisheries requested that the final paper reflects the ability of the Rebalance changes to be responsive to sector needs. We have edited the paper to more strongly indicate that there is an intention to review and alter the green list and sector agreements in future in line with areas of rigorous work on sector labour force needs such as Industry Transformation Plans (ITPs).

Considering how family violence issues may affect partners of migrants

13. Ministers raised concerns that the Rebalance changes agreed in December 2021 which remove automatic work rights for partners of most temporary work visa holders may increase partners' vulnerability to family violence. The specific concern is that this removes the ability to exercise financial autonomy, unless the partner can attain a job paying above median and get an Accredited Employer Work Visa (with an allowance to work less than 30 hours). This is an existing issue within the immigration system, but it could become more of an issue with the Rebalance changes.
14. There is an existing Victims of Family Violence Visa which gives victims of family violence their own visa status independent of their New Zealand partner. This can provide temporary work rights for six months, or if they prove they are unable to return to their home country due to financial incapacity or social stigma, temporary work rights for up to nine months followed by residence.

15. We could progress work to extend the eligibility criteria for this visa category to include partners of temporary migrants. This would address some, but not all issues in this area. Further work will be progressed on this, ideally as part of partnership review which is currently scheduled to take place in 2023. If you prefer, this work can be brought forward
16. We have included an outline of this issue in the impacts section of the Cabinet paper, which identifies that you have directed work to ensure partners of migrants are suitably supported by immigration settings to proceed within the next 12 months.

Considering how proposals impact Māori and Pacific people

17. The Minister for Pacific People was keen to understand more about how proposals for Pacific programmes align with the aspirations of Pacific countries and Pacific people in New Zealand. This work will be progressed as sector agreements develop and will take into account factors including the appetite and preparedness of sectors to facilitate such programmes, as well as strategic goals for Pacific people onshore and Pacific countries. We have provided some further details in the Cabinet paper and will continue to work alongside the Ministry for Pacific Peoples in this work.
18. The Minister for Māori Development was interested in further detail about how the proposals impact Māori, especially proposals for the Meat Processing, Seafood, and Construction and Infrastructure sectors. Overall, the Rebalance proposals gear immigration settings to provide improvements and more opportunities for the domestic workforce. **Confidential advice to Government**
[REDACTED]
[REDACTED] As work on sector agreements progresses, we will explore further how the sector agreements ensure this for the domestic workforce and especially Māori. We have also updated the Cabinet paper to reflect that relevant Māori entities will be consulted on sector agreements in each case.
19. We will also monitor to ensure that migrants are not being recruited into higher skilled, higher paying roles at the expense of promoting or recruiting New Zealanders and will reflect this as we develop communications materials.

Sector agreements

A fifth sector agreement for globalised seasonal roles in the seasonal snow and adventure tourism sector is being progressed

20. We provided you a briefing (2122-3087 refers) which proposed a focussed sector agreement that allows for some below median wage recruitment of six roles in the tourism sector that are pivotal to the operation of high value snow and adventure tourism activities. You agreed to this proposal and we have updated the Cabinet paper to reflect this, as well as progressing an overview of the sector agreement proposal in consultation with tourism policy.

Overviews of the Sector Agreements providing more detail are provided as an appendix to the Cabinet paper

21. Further detail developed alongside other government agencies for the five sector agreements, as well as the work to come, is attached as an appendix to the Cabinet paper. These overviews inform Cabinet in further detail about how the sector agreements are developing and what the immigration settings and expectations for the sector may be. These are not the final details, and the Cabinet paper is updated to make this clear. While the broad features of these sector agreements have been discussed with relevant portfolio Ministers (e.g., the capped approach to Seafood), the draft specifics have been developed since material was provided to other Ministers.
22. The detail of these agreements will be refined in the coming weeks after Cabinet agreement to progress them, with more input from government agencies and portfolio Ministers (as

necessary) as indicated in the paper. Following this they will be consulted with sector peak bodies and unions, as well as other relevant entities in the sectors. We have also updated the Cabinet paper to clarify these next steps.

23. Ministerial feedback acknowledged that there are other Ministers with broad interests across most if not all sector agreements, such as the Minister of Social Development and Employment and Minister for Workplace Relations and Safety. These Ministers and the associated agencies will continue to be engaged as the sector agreements progress; this point is reflected in the Cabinet paper by outlining that education, employment, and training (EET) Ministers will be needed to support their progression.
24. We have also included further detail to reflect the work over coming months to progress the sector agreements and to clarify that the sector agreements are an expression of immigration policy settings, and not a legal instrument comparable to a pay equity settlement or similar.

We have revised some of the initial proposals for below median wage recruitment

25. In progressing the detail of sector agreements with other government agencies, we have determined that capping the amount of below median wage migrant recruitment from the outset for the care workforce, construction and infrastructure or snow and adventure tourism sectors is not a useful or easily workable mechanism.
26. In these sectors, the other immigration mechanisms, especially a minimum wage threshold below median and a stand down after a period paid below median, address the concerns and changes we are seeking to effect in these sectors to a sufficient extent. However, these sectors should be notified from the outset that if they do not meet expectations in future a cap could be applied, especially if their use of migrant labour grows to an unacceptable proportion. We have reflected this revision in the Cabinet paper and in the appendices.
27. The Meat Processing and Seafood sector agreements continue to include capped numbers of workers below median. This is more suitable in these seasonal sectors with surge workforce needs. This is comparable to the previous temporary work visa standdown policy which allowed people on roles below the median to stay for three years before departing New Zealand (but they would need to reapply for visas during that period). Given that there is no recruitment below median wage except through sector agreements where a more tailored approach can be considered, this previous policy is not being applied.
28. We have proposed stand down periods that would require workers paid below median wage to leave New Zealand after two years as part of both the Care Workforce and Construction and Infrastructure sector agreements. Workers would not need to renew their visas in the two-year period. This is a starting point for consulting with the sector and will increase the degree to which migrant workers are a less sustainable workforce solution than New Zealanders.
29. The Minister for Economic Development has forwarded you a briefing which suggests putting in place 'sinking lids' within sector agreements clearly signalling the long-term intention to move away from median wage labour and ensuring predictability. Where caps are not proposed, a minimum wage threshold can be used in a similar way by raising the threshold over time, and we will consider this as sector agreements are developed. The same briefing also recommended indexing the additional pay thresholds for ICT roles on the green list to the median wage to prevent devaluing over time. We have reflected this change in the green list in the Cabinet paper.

Implementation

30. We have finalised the arrangements for implementation in the Cabinet paper, after working through these requirements with Immigration New Zealand. Some decisions on specific options are still to be taken, but these are not at a level needing Cabinet agreement.
31. The work visa settings for the median wage threshold, green list, Confidential advice to Government will come into effect through the Accredited Employer Work Visa which opens on 4 July 2022. At this time the 2021 median wage of \$27.76 per hour will also be introduced, along with changes to how an hourly rate is considered by Immigration New Zealand that better allows for the guaranteed wage packet of migrant workers.
32. The median wage threshold will only apply to the AEWV at this stage, with further consideration to be given to applying it to the Fishing Crew Work Visa in the context of the potential Seafood sector agreement. The median wage is updated for the immigration system each year in February, to reflect the most recent median wage determined by the Household Labour Force Survey.
33. The changes to require partners to obtain an AEWV without a 30-hour work requirement will come into effect from December 2022. Until that time, partners of all migrant workers will continue to receive open work rights (as it is currently available, to partners of migrant workers earning at or above median wage). Once the change comes into effect, partners of workers in green list roles will continue to be granted open work rights, but partners of other workers will need to have a job paying median wage or higher to obtain an AEWV. If they cannot, or chose not to, they can apply for a Visitor Visa based on their partnership.
34. After their final agreement by Cabinet in June, sector agreements will also be implemented from July, as needed (Meat Processing and Seafood may not need migrant workers until later in the year). Further detail on the implementation of sector agreements will be provided in June.
35. The green list will be operational from implementation of the job checks in June. Employers will not need to advertise these roles and applications for work visas will be prioritised above other accredited employer work visa applications. The skilled residence application for people in green list occupations will be available from September 2022 to people both in New Zealand and offshore. It is not possible for the application to open earlier in line with the rest of the proposals in July due the volume of change being implemented within Immigration New Zealand leading up to July, in particular related to Reconnecting New Zealand work programme. That there is a fast-track to residence path opening on this date can be communicated when the policy is announced (and that there will be a quicker than normal SMC turnaround on applications). Green list migrants can decide to obtain and travel on a work visa before September, or wait to apply directly for residence from offshore from September.
36. The new residence pathway will be provided through a new channel to apply for the existing Skilled Migrant Category (SMC), separate to the existing points-based SMC application. It will be available to people who:
 - a. Have an ongoing job offer that they are qualified for in one the listed occupations from an accredited employer
 - b. Are aged 55 or younger (aligned the SMC Age limit)
 - c. Meet the English language requirements set out in the Skilled Migrant Category
 - d. Meet standard health and character requirements for residence.
37. In addition to the above requirements above, people on the 'work to residence' green list will have to show that they have worked in a listed occupation for at least two years.

38. The applications of people applying for residence based on a Green List role would be prioritised above any other SMC applications. Additionally, the new sub-category will allow people to apply directly for SMC. The normal SMC process of an expression of interest followed by an invitation to apply will not be required.
39. The total application fee and immigration levy for the SMC is currently \$3,310 for someone applying from outside New Zealand. You are currently consulting Ministerial colleagues on new interim fee and levy levels to be in place from August this year. The current proposal for the Skilled Migrant Category fee and levy to be capped at \$5,000. As part of the skilled residence review there will be an opportunity to rebase costs based on updated policy settings, and consider the creation of differential fees for the green list, highly paid and (currently) points based channels.
40. The skilled residence review will also consider options to streamline health and character requirements where appropriate, and whether to increase English language requirements. Any changes would also be applied to the green list pathways.

The finalised Cabinet paper and next steps

41. We have made some minor editorial changes throughout the Cabinet paper to improve clarity and brevity where possible. We are aware that the terminology for the green list, including the terms 'green list' and 'work to residence path' may not be the best fit for communicating the Rebalance changes and will work with your office on this detail to support announcements.
42. If there are no further changes, with your agreement, the Cabinet paper can be lodged for consideration at the Cabinet Economic Development Committee meeting on 30 March 2022. Talking points to support consideration of the paper will be provided to you by Monday, 28 March.

Annexes

Annex One: Table of feedback from Ministerial consultation.

Annex Two: Final version of the Cabinet Paper (includes both tracked change and clean versions, and an appendix with sector agreement details).