

Chair
Cabinet

SUPPORT FOR FOREIGN NATIONALS IN HARDSHIP FROM 1 DECEMBER 2020

Proposal

- 1 This paper seeks Cabinet agreement to continue to provide financial support to foreign nationals who are in hardship in New Zealand through the provision of Emergency Benefit via the Ministry of Social Development (MSD) from 1 December 2020, following the end of the *Assistance for Foreign Nationals Impacted by COVID-19 Programme* on 30 November 2020. This proposal requires an increase in spending of approximately \$16 million gross (the operating balance impact is approximately \$14 million net).
- 2 This proposal will require issuing written approval to MSD under section 64 of the Social Security Act 2018 in my role as Minister for Social Development and Employment.

Executive summary

- 3 At the beginning of the COVID-19 outbreak in New Zealand, there were some 381,000 temporary work, student and visitor visa holders in New Zealand (referred to as foreign nationals throughout this paper). Due to the impacts of COVID-19, some foreign nationals became stranded in New Zealand and were experiencing hardship.
- 4 In response to this, on 15 June 2020, Cabinet agreed that the Department of Internal Affairs establish a temporary *Assistance for Foreign Nationals Impacted by COVID-19 Programme* (the Programme) [CAB-20-MIN-0283 refers]. The Programme was established on 1 July 2020 as a joint initiative between the Department of Internal Affairs (DIA) and the New Zealand Red Cross (NZRC) and is due to end 30 November 2020. The Programme has been providing in-kind assistance to foreign nationals in hardship, such as through the provision of food vouchers, and has also assisted with direct payments such as rent payments to landlords (though no cash payments are made to applicants). Over 11,000 people have been supported through the Programme, with a total spend of \$22.3 million to date.
- 5 The provision of the Programme was intended to be a short-term solution to an uncertain situation. Now that more is known about the impacts of COVID-19 and the current Programme is due to end 30 November 2020, a decision is needed on whether to continue to provide financial support for foreign nationals from 1 December 2020. §9(2)(b)(ii)
[REDACTED]
- 6 Since the establishment of the Programme, the impacts of COVID-19 on flights, repatriation and employment has changed and continues to evolve. For example:
 - 6.1 Commercial flights and repatriation are available to most destinations globally and have improved since the initial lockdown period in March and April 2020. At present, there are commercial flights or non-scheduled/repatriation flights to all of the top ten nationalities being supported by the Programme. However, there is still a degree of uncertainty around international travel, including regular cancellations of flights, higher cost of travel and difficulties meeting the transit requirements for current flight paths.

- 6.2 The current employment outlook in New Zealand is better than initially expected, with the Treasury forecasting a peak in unemployment of 7.8 percent in 2022, which is both lower and later than the earlier forecast peak of 9.8 percent in the September 2020 quarter (issued in May 2020). Some foreign nationals who may have been initially out of work due to the impacts of COVID-19, may now be better able to find employment and support themselves.
- 7 From March 2020 until present, some foreign nationals have returned to their home countries and some have chosen to stay and work, study or travel in New Zealand while supporting themselves. There are currently (as at November 2020) some 267,000 temporary work, student and visitor visa holders in New Zealand.
 - 8 A subset of foreign nationals are still experiencing hardship and remain stranded in New Zealand. Some foreign nationals are unable to return to their home countries for reasons such as there are no flights operating, pre-departure testing, border requirements or limited capacity in quarantine facilities available in their home countries. Some foreign nationals have also been impacted by employment and labour market changes, while others have experienced unforeseen events that have contributed to hardship, such as significant medical events.
 - 9 I propose that the New Zealand government continues to provide support to foreign nationals who are in hardship in New Zealand from 1 December 2020 after the closure of the current Programme. Should Cabinet agree to this proposal, MSD can provide Emergency Benefit to those in hardship under section 64 of the Social Security Act 2018 (the Act).
 - 10 Foreign nationals are generally not eligible for assistance under the Act due to their temporary visa status.¹ There is a provision in section 64 of the Act that allows MSD to pay the Emergency Benefit to any person, regardless of residency status, if there is an epidemic management notice in effect and I provide written approval for this.
 - 11 MSD considers that a process to implement Emergency Benefit for foreign nationals could be implemented by 1 December 2020. However, due to timeframes, this would be a basic model of assistance providing the equivalent main benefit rate (eg Jobseeker Support, Sole Parent Support, Supported Living Payment) only.
 - 12 Under this proposal, foreign nationals would be eligible for Emergency Benefit if they were in hardship, have taken reasonable steps to find alternative means of supporting themselves (including exhausting options to return home through commercial or repatriation flight options) and meet all other Emergency Benefit criteria. The rate of assistance will be limited up to the rate of analogous benefit only, due to the legal parameters that only allow for Emergency Benefit to be paid to foreign nationals if section 64 of the Act is used. The payment would be subject to all usual benefit rules and settings, including income and cash asset tests, obligations and abatement regimes under the Act.
 - 13 I propose that this payment would be available for three months, from 1 December 2020 to 28 February 2021 (inclusive) and paid weekly. This time period reinforces the temporary nature of support, s9(2)(f)(iv), s9(2)(g)(i)
 - 14 MSD has estimated that funding of approximately \$16.068 million is required to provide for the costs of the proposal that I seek Cabinet agreement to. This is approximately \$14 million

¹ Section 19 of the Social Security Act 2018 states that a person is not entitled to receive a benefit if they are lawfully resident or present in New Zealand only by virtue of holding a temporary entry class visa.

net increase to the Crown operating balance.² This is based on approximately 5,800³ foreign nationals over three months being supported through the Emergency Benefit. There is also a projected underspend in the DIA Programme of approximately \$14 million in 2020/21 that will be returned to the Crown. Due to the current Programme's underspend of approximately \$14 million and the increase of \$16 million required for the Emergency Benefit proposal, it is expected that the net impact on the Crown operating balance will be minimal overall.

- 15 If the proposal to provide Emergency Benefit to foreign nationals from 1 December 2020 to 28 February 2021 is agreed to, decisions will also be required in early 2021 regarding ongoing support for foreign nationals. Officials will continue to monitor the situation regarding foreign nationals in hardship New Zealand and will report back in 2021 with next steps.

Background

The Programme was initially established in response to the immediate impacts of COVID-19 as a transitional mechanism to support foreign nationals in hardship

- 16 On 15 June 2020, Cabinet agreed that DIA establish a temporary *Assistance for Foreign Nationals Impacted by COVID-19 Programme* (the Programme), under which non-governmental organisations (NGOs) would be contracted to deliver in-kind assistance to foreign nationals experiencing serious hardship due to COVID-19 [CAB-20-MIN-0283 refers]. For the provision of the Programme, hardship means that people are unable to meet their reasonable day-to-day costs with their income, savings, and support from family and/or friends (however, they may retain sufficient funds for flights and other costs associated with returning to their home country).
- 17 The Programme was intended to be a transitional mechanism, filling a gap left as New Zealand's immediate emergency response to COVID-19 wound down and responsibility for supporting the needs of New Zealanders shifted from regional Civil Defence and Emergency Management (CDEM) Groups, back to relevant government agencies.
- 18 The Programme was established on 1 July 2020, as a joint initiative between DIA and the NZRC. Cabinet originally directed that the Programme run for a period of up to three months. However, on 7 September 2020, Cabinet agreed to extend the Programme by two months, to 30 November 2020. The extension recognised that ongoing uncertainties about international travel had limited the opportunities for foreign nationals to return home, and that the resurgence of COVID-19 in New Zealand in August 2020 may have increased the level of hardship being experienced by some [CAB-20-MIN-0436 refers]. A new appropriation of \$37.6 million was approved by Cabinet to meet the costs associated with providing in-kind assistance under the Programme.

Information on current Programme expenditure and parameters

- 19 Over 11,000 people have been supported through the Programme to date, with a total spend of \$22.3 million. Around 5,000 foreign nationals have been declined for support. People from Pacific countries make up about 46 percent of those approved for support, reflecting ongoing border restrictions and limited flight options across the Pacific. Around 40 percent of those approved hold Recognised Seasonal Employer Limited (RSE) visas. The majority of people

² This is the net impact on the Crown operating balance due to benefits being taxable. The \$16 million figure is the gross impact.

³ This is an estimate of the total number of adults supported through the Emergency Benefit proposal. The actual number of Emergency Benefit grants may be less than this due to some people being paid a couple rate of benefit, in which only one person in the couple is considered the primary beneficiary and one rate of benefit is paid in respect of the couple.

who have received assistance from the Programme reside in Auckland, Bay of Plenty and Hawke's Bay. The Programme is providing a range of assistance due to the needs of this group, including food, accommodation, utilities and medical care.

20 As at 13 November 2020:

20.1 total Programme expenditure was approximately \$22.3 million (59 percent of budget).

s9(2)(b)(ii)

20.2 s9(2)(b)(ii)

20.3 for the month of October 2020, the average number of newly supported foreign nationals per week was 541 people per week.

21 Appendix One provides further information on the number of people assisted through the Programme, by visa type, country, region and type of assistance.

22 Broad Programme parameters were established by Cabinet in June 2020, with Joint-Ministers given Power to Act to modify these if required. The established Programme features are:

22.1 eligibility is limited to individuals (across all classes of temporary visa holders except sponsored visas) assessed as experiencing serious hardship and as having exhausted all other avenues of potential support, including possible consular assistance from their own Government

22.2 individuals are permitted to retain savings at a level deemed appropriate to fund their travel home

22.3 support is in-kind only, no cash payments are made

22.4 assistance is limited to meet urgent and immediate needs relating to food, accommodation, household goods, clothing, heating and utilities, communication, petrol and travel to airport to leave New Zealand or to a new location for employment purposes

22.5 health costs are met in exceptional circumstances to cover serious medical emergencies, including those that may occur from pregnancy, pre-natal and birth care, and

22.6 special provisions are in place for people in New Zealand as part of the RSE scheme.

23 Assistance is provided for a maximum of four-weeks at a time (eg one month of rent paid). The underpinning premise for the Programme is that, wherever possible, foreign nationals should be working towards finding an alternative means of financial support while in New Zealand or making arrangements to return to their home country. Additional verification is undertaken if an individual applies for a second four-weeks of assistance (eg to assess whether they have sought consular assistance, or other forms of support).

24 The NZRC is also using a case management support model and providing wrap-around support to foreign nationals seeking assistance through the Programme, which includes a complex needs unit for more intensive support. Around 373 high and complex needs cases have been managed to date (33 of which relate to medical cases), 40 of which remain active as at 4 November 2020.

Since the establishment of the Programme, the impact of COVID-19 on flights, repatriation and employment has changed and continues to evolve

Flights, repatriation and consular assistance

- 25 Commercial flights and pathways are available to many destinations globally and have improved since the initial lockdown period in March and April 2020. Some nations have also provided repatriation flights for their citizens who were stranded in New Zealand. At present, there are commercial flight routes or planned non-scheduled/repatriation flights to all countries of the top ten applicant nationalities being support by the Programme. However, there is still a high degree of uncertainty and fluidity around international travel. This includes: regular cancellations of flights; changing pre-departure testing and border requirements of countries offshore that can also restrict entry of their own nationals; difficulties meeting the transit requirements for current flight paths; and challenges for some travellers in meeting the higher cost of travel.
- 26 Flight pathways are particularly challenging to the Pacific, where many countries have operated one-off flights/non-regular flights from New Zealand. These flights often operate at capped capacity s6(a) and are subject to change at short notice if New Zealand's COVID-19 Alert Levels increase. For instance, Pacific countries (including Samoa, Tonga and Solomon Islands) have had limited flight options in recent months, owing to New Zealand's recent COVID-19 resurgence. s6(a)
- Travel to parts of South and South East Asia is also challenging, with only indirect flight pathways s6(a)
- 27 Like New Zealand, offshore foreign missions in New Zealand have a right to provide consular assistance to their citizens who may require support, s6(a)

The current employment outlook in New Zealand

- 28 The current employment outlook in New Zealand is better than initially expected. The latest evidence suggests that the labour market impacts caused by COVID-19 will be most marked in the short to medium terms (through to 2024), with the Treasury forecasting a peak in unemployment of 7.8 percent in 2022, which is both lower and later than the earlier forecast peak of 9.8 percent in the September 2020 quarter (issued in May 2020).
- 29 Some foreign nationals who may have been initially out of work due to the impacts of COVID-19, may now be better able to find employment and support themselves. In particular, the horticulture and viticulture industries are predicting a shortage of seasonal labour for the upcoming season. This includes jobs such as fruit picking, packing, thinning and other roles that generally require no experience or are easily trainable. Recent immigration changes are aimed at allowing onshore migrants to take up these seasonal roles through the Supplementary Seasonal Employer (SSE) visa. Onshore migrants (including both RSE and SSE visa holders) who were out of work during the low-season winter months are expected to more easily find employment from this month, particularly in the key seasonal work regions of Northland, Bay of Plenty, East Coast, Nelson and Southland. However, while seasonal work is available, there may still be some barriers to foreign nationals taking up this work (such as relocation costs, family considerations or medical reasons).

- 30 Other immigration changes have extended the RSE scheme by six months for workers who are still in New Zealand and unable to return home, as well as allowing more flexible hours and roles for those RSE workers still in New Zealand. Work is also underway exploring options to vary the conditions for RSE workers to assist them into work, such as into the horticulture and viticulture industries.
- 31 Officials have also been working to help facilitate greater utilisation of RSE workers, which includes engaging with the sector to encourage them to coordinate movements of RSE workers (when workers are willing to move), and considering whether further changes could be made to immigration settings to enable further sharing of RSE workers between employers..

Continuation of the current Programme is not possible

32 The provision of the Programme was intended to be a short-term solution to an uncertain situation. The Programme has provided support to eligible foreign nationals in hardship for five months and has reinforced the expectation that foreign nationals are taking all reasonable steps to either find an alternative means of supporting themselves or are making plans to return home.

33 s9(2)(ba)(i) [REDACTED]
[REDACTED] s9(2)(g)(i) [REDACTED]
[REDACTED]
[REDACTED]

34 Now that more is known about the impacts of COVID-19 regarding flights, repatriation and employment and the current Programme is due to end 30 November 2020, I am proposing that an alternative form of support for foreign nationals is available from 1 December 2020.

Providing no support to foreign nationals carries a range of risks

- 35 There is no legislative requirement for the New Zealand government to provide financial support to foreign nationals in the majority of cases, as they are generally expected to have the funds and/or employment to support themselves within New Zealand.
- 36 There is an option to not continue to provide support for foreign nationals. This clearly signals that foreign nationals are expected to support themselves or plan to return to their home nations.
- 37 However, deciding to provide no further support may have implications such as:
- 37.1 those foreign nationals who are in hardship and who cannot return home may be pushed further into hardship s9(2)(g)(i) [REDACTED]
[REDACTED]
 - 37.2 with no support provided, foreign nationals may face increased barriers to entering employment or having the ability to arrange travel to their home nations
 - 37.3 NGOs, community-based organisations, sponsors and friends and family may be approached to support foreign nationals and face increased demand as a result of this decision, causing a range of flow on effects to New Zealand families and organisations

37.4 s6(a) [Redacted]

38 While there are more employment opportunities than expected and flights are available to most nations, there will be a group of foreign nationals in a range of circumstances that mean that they cannot return to their home nations and are in hardship. Additionally, some foreign nationals have experienced significant medical and other events, limiting their ability to fly home and support themselves financially. Regardless of whether or not Cabinet agrees to continue support to foreign nationals, there will be a group of foreign nationals who remain in New Zealand and who will likely continue to face hardship.

39 The DIA, NZRC, MSD (even though MSD would not be providing support) and other agencies will still likely be approached by foreign nationals who require assistance after 30 November 2020.

Similarly, continuing to provide temporary support may have a range of unintended consequences

40 Providing support to foreign nationals addresses some of the issues above with regard to further hardship, employment, demand on other organisations and New Zealanders, and New Zealand's strategic interests. Even so, the provision of support will not address these issues entirely. Deciding to provide support also carries implications, namely:

40.1 s9(2)(g)(i) [Redacted]

40.2 s6(a) [Redacted]

40.3 s9(2)(g)(i) [Redacted]

40.4 the mechanism of support being Emergency Benefit carries a range of risks that are discussed in further detail later in this paper.

I propose MSD provide Emergency Benefit to foreign nationals in hardship by using section 64 of the Social Security Act 2018

41 Taking the above factors into consideration, the timing constraints, the welfare implications and the lack of viable temporary alternatives available, on balance, I seek Cabinet's agreement to continue providing financial support for foreign nationals in hardship by using section 64 of the Act to provide Emergency Benefit to foreign nationals from 1 December 2020.

42 Eligibility for Emergency Benefit is similar to that of the current Programme and has some natural alignments in that people must be in hardship and taking all reasonable steps to find alternative means of supporting themselves, including making arrangements to return home.

Emergency Benefit is a type of main benefit provided on a discretionary basis that can be paid to foreign nationals only if section 64 of the Act is used

- 43 Emergency Benefit is a discretionary income and asset-tested main benefit administered under the Act, provided for people that are in hardship and are not eligible for another benefit. It is generally paid at the rate of main benefit that the person otherwise would have been eligible for given their circumstances, such as the rate of Jobseeker Support, Sole Parent Support or Supported Living Payment.
- 44 Foreign nationals are generally not eligible for assistance under the Act, including Emergency Benefit, due to their temporary visa status.⁴ However, there is a provision in the Act that allows MSD to pay the Emergency Benefit to any person, regardless of residency status, if there is an epidemic management notice in effect and the Minister for Social Development and Employment gives written approval for this (section 64). Section 64 of the Act essentially allows for a group of people otherwise not eligible for Emergency Benefit, to be granted Emergency Benefit. All other criteria for Emergency Benefit still apply, as set out in section 63 of the Act. In this case, a foreign national's temporary visa status would no longer prohibit them from being granted Emergency Benefit under the Act. It does not apply to any other assistance provided for under the Act.
- 45 If Cabinet agrees to progress with this option, a few steps are required to enable section 64 of the Act to be used. The epidemic management notice has already been issued and is due to expire in December 2020. It is intended for this notice to continue to roll over. As this is in place, I would need to provide written approval under section 64(2) of the Act for MSD to grant Emergency Benefit to people who are not otherwise entitled to it. This notice can restrict the grant specifically to foreign nationals on specific temporary visa types.

MSD is able to implement Emergency Benefit provisions for foreign nationals from 1 December 2020, if Cabinet agrees to this

- 46 MSD has been assessing its ability to implement Emergency Benefit provisions for foreign nationals from 1 December 2020, if section 64 of the Act is used. MSD considers that a process to implement EB for foreign nationals could be implemented by 1 December 2020 if Cabinet agrees to this by 16 November 2020. However, due to timeframes and legal constraints, this would be a relatively high-trust, basic model of assistance providing the equivalent main benefit rate (eg Jobseeker Support, Supported Living Payment) only. This option carries a range of risks that are outlined further in this paper.
- 47 Section 64 of the Act allows for Emergency Benefit to be granted in respect of people otherwise deemed ineligible. All other remaining eligibility criteria for Emergency Benefit still apply. Eligibility for Emergency Benefit is similar to that the current Programme's eligibility settings and has some natural alignments in that people must be in hardship and taking all reasonable steps to find alternative means of supporting themselves.
- 48 Foreign nationals who are granted Emergency Benefit will have the same benefit rules and expectations applied to them as other beneficiaries. Assessing Emergency Benefit eligibility involves an assessment of the individual's circumstances to ascertain they type of main benefit they would have otherwise been eligible for, in this case, likely to be Jobseeker Support. Therefore, the same work and other conditions apply, as with other beneficiaries. For example, those who receive Emergency Benefit under this proposal will have an obligation to tell MSD if their circumstances change, such as if they enter employment.

⁴ Section 19 of the Social Security Act 2018 states that a person is not entitled to receive a benefit if they are unlawfully resident or present in New Zealand or are lawfully resident or present in New Zealand only by virtue of holding a temporary entry class visa.

49 The Emergency Benefit proposal comprises:

49.1 Emergency Benefit would be paid up to the rate of the analogous main benefit that the person would otherwise be eligible for (eg around \$250.74 for single foreign nationals and \$428.06 for a couple with children as it is expected most foreign nationals would be considered equivalent to Jobseeker Support). No other financial assistance would be paid as MSD is not legally able to pay anything other than Emergency Benefit under section 64 of the Act.

49.2 This proposal will support foreign national individuals and families who:

49.2.1 are foreign nationals and are lawfully residing in New Zealand and hold a valid temporary visa (work, student or visitor visas but excluding those on sponsored visas) and are not otherwise eligible for financial assistance under the Act

49.2.2 are in hardship as assessed through usual income and asset tests (current Emergency Benefit asset thresholds will allow for a reasonable amount of money for a person or family to purchase flights home)

49.2.3 have taken all reasonable steps to either find an alternative means of supporting themselves (by employment, consular assistance or by exhausting options to return home through commercial or repatriation flight options)

49.2.4 hold a New Zealand bank account and the required legal forms of identification.

49.3 The Emergency Benefit proposal is therefore similar to the eligibility criteria that has been used to assess foreign nationals ongoing support through the current Programme, but not the same, due to broader welfare system settings.

49.4 The provision of Emergency Benefit is also subject to all usual benefit rules and settings, such as income and cash asset tests, obligations and abatement regimes under the Act. This includes the Emergency Benefit eligibility criteria as set out in section 63 of the Act. MSD also has discretion to make the grant of an emergency benefit subject to any conditions.

49.5 I propose the payment is available for up to three months from 1 December 2020, ending on 28 February 2021. This time period reinforces the temporary nature of support, s9(2)(f)(iv), s9(2)(g)(i)

Regardless of the date that a person is granted this assistance, it will cease on 28 February 2021 (ie some people may receive three months of assistance and others may receive just two weeks of assistance). An eligible person's payment would begin from the date that they apply.

49.6 Eligibility for Emergency Benefit will be assessed using a face-to-face appointment at a Work and Income service centre. Staff will sight identification, evidence of visa status, New Zealand bank accounts and other relevant information. On a consent basis, MSD will seek to confirm visa status with Immigration New Zealand to assess eligibility to Emergency Benefit. If people do not consent to this, they will not be granted Emergency Benefit as MSD cannot determine their eligibility. Processes for this verification are currently being developed. However, due to timeframes, no formal information sharing arrangement will be made between MSD and other agencies for the purpose of administering this support.

49.7 Foreign nationals who are clearly making choices to remain in New Zealand without taking reasonable steps to support themselves or return home (if that option is available) would have their application for Emergency Benefit declined.

- 50 In the provision of this support, MSD is developing an approach that will assess eligibility to Emergency Benefit and provide a level of employment support that ensures foreign nationals are given suitable employment information. However, this employment support does need to be consistent within the current legislative and funding frameworks, which provides for employment services and products for New Zealand residents and citizens only (such as the \$5k to Work grant, which assists with the costs of moving to take up a new job). As foreign nationals are not eligible for MSD's formal employment services and products, MSD is developing an approach that will consider what supports can be provided within the current legislative and funding frameworks. Such support may include referrals to publicly available employment websites, including the Work and Income Recruitment Tool. Additionally, information about immigration and visa changes to facilitate employment, particularly for RSE visa holders, will be available (refer to paragraphs 29 to 31 for further information.)
- 51 Providing a level of employment support will be part of the process of assessing the foreign national's eligibility to Emergency Benefit, given that someone must have exhausted all other possible resources (including work options) before going onto Emergency Benefit. MSD staff will be able to use their local labour market knowledge as part of these conversations to discuss the job opportunities that may be available in specific areas and industries. MSD is also considering opportunities to further collaborate with some community providers to provide broader social service support (non-financial) to foreign nationals, however further work is required to assess the scope and possibilities of this (paragraph 66 provides more information on this).

Implementing the proposal over three months is estimated to cost approximately \$16 million

- 52 MSD has estimated that funding of \$16.068 million in the 2020/21 fiscal year is required to provide for the costs of the proposal. Of this, approximately \$14 million is the net impact on the increase to the Crown operating balance. This cost reflects the adjustment needed to Vote Social Development to pay foreign nationals rates of Emergency Benefit over the three-month duration from 1 December 2020. s9(2)(f)(iv)

- 53 There is also a projected underspend in the DIA Programme of approximately \$14 million in 2020/21 that will be returned to the Crown. Due to the current Programme's underspend of approximately \$14 million and the increase of \$16 million required for the Emergency Benefit proposal, it is expected that the net impact on the Crown operating balance will be minimal overall.
- 54 Due to data limitations, this costing has involved a large number of assumptions. There is limited data regarding foreign nationals in New Zealand, particularly regarding those who may be in hardship and who may be eligible for Emergency Benefit under the proposed criteria. There is also ongoing uncertainty around flights and border restrictions which would affect the period recipients would require assistance for. The current Programme provides some insight into the number of people that can be expected to seek Emergency Benefit, but a range of unknown and changing factors may influence this number. Given these limitations, we have costed for an estimated 5,800 foreign nationals that may seek Emergency Benefit if implemented, over the three-month period.⁵

⁵ This is an estimate of the total number of adults supported through the Emergency Benefit proposal. The actual number of Emergency Benefit grants may be less than this due to some people being paid a couple

- 55 Costing this initiative in this way is consistent with how MSD has costed other initiatives related to the COVID-19 response but does mean that the month by month cost of the Emergency Benefit proposal is higher than the monthly spend of the current Programme.

Use of repatriation funding for foreign nationals to return home

- 56 Immigration New Zealand has provided assistance with the costs of repatriation for foreign nationals assessed as eligible for support under the current Programme. On 7 September 2020, Cabinet agreed to changes to appropriations for 2020/21 to allow the \$0.900 million underspend in the Integrity and Security of the New Zealand Immigration System appropriation to be used for assisting with the costs of repatriation for foreign nationals in hardship.
- 57 That funding has not been exhausted (as at 10 November 2020, only \$60,000 has been spent on repatriation assistance). The remaining funding could be used to assist with the costs of repatriation of foreign nationals assessed as eligible for the proposed Emergency Benefit, and who have insufficient funds to pay for their travel, on the basis of a referral from MSD. Immigration New Zealand is comfortable with this approach. Under existing immigration policy, funds used to assist with repatriation would need to be repaid as a prerequisite to further visas being granted to those who have been assisted with their outward travel.
- 58 As Cabinet agreement was sought to use this fund for foreign nationals assessed through the current Programme, I seek agreement for this remaining funding to be used to assist with the costs of repatriation for those assessed through the Emergency Benefit proposal. Through the Emergency Benefit assessment process, foreign nationals will be made aware that this is an option available to them if they are not able to meet the costs of their flight home.

Implementation and consistency issues

- 59 Implementing the proposal to use section 64 of the Act and provide Emergency Benefit through the welfare system to eligible foreign nationals from 1 December 2020 carries a wide range of risks.

Implementation and operational risks

- 60 MSD is currently under a large resource constraint delivering COVID-19 related support and an increase in core business. This is set to increase further due to the usual surge in core business around the Christmas period but it is also compounded by the COVID-19 Income Relief Payment and wage subsidy payment ending, resulting in increased flows into the benefit system. MSD taking on the support mechanism for foreign nationals means diverting staff away from core business (income and employment support) at a time where overall demand for MSD assistance is at its highest. Granting Emergency Benefit requires specific and experienced capability in terms of staff, and these experienced staff will need to be diverted to deliver this.
- 61 Given the condensed timeframes for implementing the Emergency Benefit option, identification and visa verification through an information sharing or matching arrangement is not possible.
- 62 The risks around verification are mitigated by staff sighting identification, evidence of visa status, New Zealand bank accounts and other relevant information. On a consent basis, MSD will also seek to confirm visa status with Immigration New Zealand to assess eligibility to

rate of benefit, in which only one person in the couple is considered the primary beneficiary and one rate of benefit is paid in respect of the couple.

Emergency Benefit. Processes for this verification are currently being developed. Overall, the integrity risks are somewhat mitigated by the temporary nature of this Emergency Benefit option, and the fact that foreign nationals will not be eligible for any other kind of financial assistance from MSD.

Emergency Benefit provides a different level of support to the current Programme

- 63 The Programme has largely been able to meet the financial and other support needs of this group due to the flexibility to provide both in-kind assistance and wrap-around case management where needed. Emergency Benefit will not be able to meet these costs or support needs in the same way.
- 64 The payment would be a flat rate paid weekly, most likely the equivalent of Jobseeker Support (eg up to around \$250.74 for single foreign nationals and \$428.06 for a couple with children), and therefore people may not be able to meet their accommodation or other costs and could end up in further hardship. MSD would have no ability to assist with these other costs due to the legal parameters that restrict only Emergency Benefit to be paid to foreign nationals. Conversely, this may also mean that some people receive more assistance through Emergency Benefit, as they may have only received limited support through the Programme, such as food vouchers. Overall, the Emergency Benefit proposal would be more consistent with main benefit rates paid to New Zealanders.
- 65 Case-management will be limited compared to the current Programme (paragraphs 50 and 51 provide further information on this). MSD will not be able to provide the wrap-around support and complex case-management currently provided by the NZRC. This is due partly to the current capacity constraints on MSD in terms of case management volumes, but also due to the legal parameters in which MSD cannot provide other supports through the provision of Emergency Benefit. In practice this approach will be limited when compared to that provided for in the current Programme, however employment and broader social supports are being explored by MSD.
- 66 The Ministry for Pacific Peoples have outlined their concern around access and issues with Emergency Benefit for Pacific Peoples. As they represent the largest group of people accessing the current Programme, there is concern that the need for support, including wrap-around case management support, will not be met through the Emergency Benefit proposal. Additionally, English is a second language for the majority of Pacific Foreign nationals and most are also likely to face difficulties accessing or navigating technology. Without additional support to address these barriers to navigating the system, there is a risk that the support available may not be accessed, placing further burden on Pacific communities in New Zealand to meet this need. MSD is also considering opportunities to further collaborate with some community providers to provide broader social service support (non-financial) to foreign nationals, however further work is required to assess the scope and possibilities of this.

s9(2)(g)(i)

67 s9(2)(g)(i)

- 68 Generally speaking, New Zealand's welfare assistance for foreign nationals is more generous than what other countries are providing. Some countries s6(a) do not offer any support to foreign nationals stranded because of COVID-19 which impacts New Zealand nationals living overseas who are also not entitled to New Zealand welfare support.

69 s9(2)(g)(i)

There are a range of other issues regarding foreign nationals to note

Support for medical costs

- 70 The current Programme has met the medical costs of some individuals. Due to the legal limitations of providing Emergency Benefit, MSD is unable to provide support for the medical costs of foreign nationals.
- 71 This is a limitation of the Emergency Benefit proposal when compared to the current Programme. Following the end of the Programme, the provision of support for medical costs will default to status quo for foreign nationals. Generally, foreign nationals are not eligible for publicly funded health services and would be expected to meet these costs themselves, through insurance or through consular assistance. However, COVID-19 related healthcare is also available free-of-charge for anyone in New Zealand, regardless of a person's visa status.
- 72 Foreign nationals can also contact the nationwide Health and Disability Advocacy Service if any additional assistance is required. The Advocacy Service is free to access and provides advice on the options available.

Foreign nationals who are in New Zealand as unaccompanied minors

- 73 There are a group of foreign nationals in New Zealand who are international students and minors attending New Zealand schools (generally intermediate or secondary school) in New Zealand (under 18 years of age). As at 1 October 2020, there were over 9,000 international students in schools. Generally, these minors do not have parents in New Zealand and live with a homestay family who receive a weekly allowance from the student's parents for caring for the child for the school year. These minors are currently eligible for assistance through the Programme.
- 74 Anecdotally, the Ministry of Education (Education) has heard that some homestay families may no longer be able to support these minors once the school year ends and if the biological family cannot afford to continue the payment, partly as a result of some of the broader impacts of COVID-19 on employment and families incomes. The minors cannot return to home countries due to issues such as lack of flights, but also due to the additional fact that they are often too young to travel alone (airline rules) to or transit through other countries and therefore will be denied departure/entry.
- 75 The proposal to provide Emergency Benefit to foreign nationals cannot extend to these minors due to their age and would likely be inappropriate to do so. s9(2)(f)(iv)

Foreign nationals with sponsored visas

- 76 Some foreign nationals on temporary visas have one or two sponsors as a condition of their visa. Sponsors undertake to provide financial and other supports to ensure the welfare of foreign nationals in New Zealand (eg accommodation, food and return travel costs) Sponsorship may be provided 'in-kind' or can take the form of cash assistance. A sponsor may be a New Zealand resident or citizen, a New Zealand registered company, an incorporated society or charitable trust, or a government agency. As at 11 October 2020,

there were 18,858 foreign nationals in New Zealand on temporary visas with sponsorship arrangements. Of these, approximately: 53 percent hold student visas; 34 percent hold visitor's visas; and 4 percent hold work visas.⁶

77 The current Programme has received requests for assistance from foreign nationals on sponsored temporary visas. These people have been declined for assistance on the basis that their sponsors are responsible for supporting them. However, some sponsors are finding it difficult to meet their sponsorship obligations in the current context because of a loss of income and/or the increasing support needs of the sponsored individuals.

78 s9(2)(g)(i) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] However, at this stage, those that remain on sponsored visas will not be eligible for Emergency Benefit through this proposal. s9(2)(g)(i) [REDACTED]
[REDACTED]

79 As a result of this, international students who are on sponsored visas will also not be eligible for Emergency Benefit. For some, there may be issues related to their visa conditions as some students are able to work on their sponsored student visas, while others have no work rights. Some sponsored students may be in the position where they cannot return home and are in hardship, are unable to seek work to support themselves due to their visa conditions and are also ineligible for Emergency Benefit.

s9(2)(f)(iv) [REDACTED]

80 s9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

81 s9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Transitional considerations

82 With the current Programme ending on 30 November 2020, transitioning the support mechanism for foreign nationals to MSD will have some implications.

83 All applications received up to 30 November 2020 will be processed and up to four weeks support provided to eligible applicants. This will need to be considered in terms of assessing eligibility to Emergency Benefit.

⁶ The remaining 9 percent of foreign nationals on sponsored visas are classed as being on an 'interim visa', which means that they have applied for a new visa and are awaiting a decision on the grant of a new visa.

Next steps

- 84 If the Emergency Benefit proposal is implemented, it will end on 28 February 2021. Decisions will be required in early 2021 regarding ongoing support for foreign nationals. Officials will continue to monitor the situation regarding foreign nationals in hardship in New Zealand and will report back to Cabinet in 2021 on next steps. s9(2)(f)(iv)

Consultation

- 85 This paper has been prepared by MSD in consultation with the Ministry of Education, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, Immigration New Zealand, Department of Internal Affairs, Ministry for Pacific Peoples, the Treasury and the Department of Prime Minister and Cabinet.

Financial implications

- 86 If Cabinet agrees to provide support to foreign nationals, MSD has estimated that funding of \$16.068 million in the 2020/21 fiscal year is required to provide for the costs of the proposal over a three-month period that I seek Cabinet agreement to. This is an approximately \$14 million net impact on the increase to the Crown operating balance. Due to data limitations and a range of unknown and changing factors, a large number of assumptions for this costing have been made.
- 87 The expenses incurred will be charged against the COVID-19 Response and Recovery Fund established as part of Budget 2020. There is also a projected underspend in the DIA Programme of approximately \$14 million in 2020/21 that will be returned to the Crown. Due to the current Programme's underspend of approximately \$14 million and the increase of \$16 million required for the Emergency Benefit proposal, it is expected that the net impact on the Crown operating balance will be minimal overall.

s9(2)(h)

- 88 s9(2)(h)

Legislative implications

- 89 The epidemic management notice has already been issued and is due to expire in December 2020. It is intended for this notice to continue to roll over. As this is in place, I will provide written approval under section 64(2) of the Act for MSD to grant Emergency Benefit to foreign nationals in hardship.

Regulatory impact and compliance cost statement

- 90 The Treasury has determined that the regulatory proposal in this paper is exempt from the requirement to provide a Regulatory Impact Statement (RIS) because it is intended to alleviate the short-term impacts of a declared emergency event of COVID-19 outbreak. This proposal is required urgently to be effective, making a complete, robust and timely impact analysis unfeasible.
- 91 The proposal replaces a similar existing scheme and extends the payments for three months up to and including 28 February 2020. Analysis in the cabinet paper concludes that this option is the most feasible in terms of administrative simplicity and resourcing.

Gender implications

- 92 There are no immediate gender implications resulting from this paper.

Disability perspective

- 93 There are no immediate disability implications resulting from this paper.

Publicity

- 94 Relevant agencies will prepare communications and publicity material in consultation with Offices, depending Cabinet agreement to continue to support foreign nationals from 1 December 2020.
- 95 MSD will proactively publish this paper. Any redactions made will be consistent with the Official Information Act 1982.

Recommendations

It is recommended that the Cabinet:

- 1 **note** that as a result of COVID-19 and the Alert Level 4 lockdown period, some foreign nationals (those on temporary work, student and visitor visas) became stranded in New Zealand and were experiencing hardship
- 2 **note** in response to this, on 15 June 2020, Cabinet agreed that the Department of Internal Affairs establish a temporary Assistance for Foreign Nationals Impacted by COVID-19 Programme (the Programme) [CAB-20-MIN-0283 refers]
- 3 **note** the Programme, run through the Department of Internal Affairs and the New Zealand Red Cross, has been running from 1 July 2020 and Cabinet has agreed it will end on 30 November 2020, and to date has assisted over 11,000 foreign nationals at a total cost of \$22.3 million
- 4 **s9(2)(ba)(i)** [REDACTED]
- 5 **note** since the establishment of the Programme, the impacts of COVID-19 on flights, repatriation and employment has changed and continues to evolve, but is largely better than expected

- 6 **note** that despite this, there are still foreign nationals who are in hardship and stranded in New Zealand due to a variety of circumstances, and will likely require further assistance following the end of the Programme
- 7 **note** a decision is required on further support for foreign nationals in hardship following the end of the Programme on 30 November 2020
- 8 **agree** to continue to provide financial support to foreign nationals who are in hardship in New Zealand through the provision of Emergency Benefit via the Ministry of Social Development from 1 December 2020 following the end of the *Assistance for Foreign Nationals Impacted by COVID-19 Programme* on 30 November 2020
- 9 **note**, Emergency Benefit can be made available to foreign nationals through using section 64 of the Social Security Act 2018
- 10 **note** that eligibility to Emergency Benefit under this proposal will comprise foreign nationals that:
- 10.1 are lawfully residing in New Zealand and hold a valid temporary visa (work, student or visitor visas but excluding those on sponsored visas) and are not otherwise eligible for financial assistance under the Act
 - 10.2 are in hardship as assessed through usual income and asset tests under the Social Security Act 2018
 - 10.3 have taken all reasonable steps to either find an alternative means of supporting themselves (by employment, consular assistance or by exhausting options to return home through commercial or repatriation flight options)
 - 10.4 meet all other Emergency Benefit eligibility criteria under Section 63 of the Social Security Act 2018
- 11 **note** the Emergency Benefit would be available to eligible foreign nationals for three months, from 1 December 2020 to 28 February 2021 (inclusive) and paid weekly, with the three month period reinforcing the temporary nature of support, s9(2)(g)(i)
- 12 **note**, Emergency Benefit would provide a weekly rate support of up to around \$250.74 for single foreign nationals and \$428.06 for a couple with children (it is expected most foreign nationals would be considered equivalent to Jobseeker Support)
- 13 **note** the payment of Emergency Benefit to foreign nationals is subject to all usual benefit rules and settings, including income and cash asset tests and abatement regimes under the Social Security Act 2018
- 14 **note** MSD can implement Emergency Benefit for foreign nationals for 1 December 2020,
- 15 **note**, if you agree to recommendation 8, the Minister for Social Development and Employment will issue written approval to MSD under section 64 of the Social Security Act 2018 to allow Emergency Benefit to be made available to foreign nationals in hardship
- 16 **note** Cabinet had previously approved funding for Immigration New Zealand's Integrity and Security of the New Zealand Immigration System appropriation to be used to assist

with the costs of repatriation for those assessed through the current Programme as having insufficient funds to pay for their travel [CAB-20-MIN-0436 refers]

- 17 **agree** that the remaining funding from Immigration New Zealand's Integrity and Security of the New Zealand Immigration System appropriation continues to assist with the costs of repatriation for those assessed through the Emergency Benefit proposal as having insufficient funds to pay for their travel
- 18 **note** there is a projected underspend in regard to the current Programme of approximately \$14 million that will be returned to the Crown, and that due to this and the increase of \$16 million required for the Emergency Benefit proposal, it is expected that the net impact on the Crown operating balance will be minimal overall
- 19 **agree** to increase spending to provide for the costs associated with the policy decision agreed in recommendation 8 above, with the following impact on the operating balance and net core Crown debt:

Funding Impact	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Operating Balance and Net Core Crown Debt Impact	\$14.251	-	-	-	-
Net Core Crown Debt Only Impact	-	-	-	-	-
No impact (tax revenue on benefit)	\$1.817	-	-	-	-
Total Operating	\$16.068	-	-	-	-

- 20 **approve** the following changes to appropriations to give effect to the policy decision agreed in recommendation 8 above:

Vote Social Development Minister for Social Development and Employment	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Benefits or Related Expenses:					
Jobseeker Support and Emergency Benefit	16.068	-	-	-	-
Total Operating	16.068	-	-	-	-

- 21 **agree** that the proposed change to appropriations for 2020/21 above be included in the 2020/21 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply
- 22 **agree** that the operating balance and net core Crown debt impact in recommendation 19 above of expenses incurred under recommendation 20 above be charged against the COVID-19 Response and Recovery Fund established as part of Budget 2020
- 23 **approve** that the Minister for Social Development and Employment has the authorised delegation to make minor and technical policy, design and implementation decisions regarding Emergency Benefit for foreign nationals

- 24 **note** decisions will also be required in early 2021 regarding ongoing support for foreign nationals and officials will continue to monitor the situation regarding foreign nationals in hardship New Zealand and will report back to Cabinet in 2021 on next steps.

Hon Carmel Sepuloni
Minister for Social Development and Employment