

In Confidence

Office of the Minister for Social Development and Employment
Chair, Cabinet Legislation Committee

Student Allowances Amendment Regulations (No 2) 2023

Proposal

- 1 This paper seeks Cabinet approval to submit the Student Allowances Amendment Regulations (No 2) 2023 to the Executive Council, which will waive the three-year residency stand-down period for student allowances for family members of those directly affected by the Christchurch mosques attack, starting study on or after 1 January 2024.

Policy

- 2 On 14 November 2022, Cabinet agreed to waive the three-year residency stand-down period for eligibility to student loans and student allowances for family members who are granted residence visas¹ between 15 March 2019 and 31 December 2024 through their relationship to holders of a Christchurch Response Visa, (or those who would have been eligible but who were already holding another residence visa), for study starting on or after 1 January 2024 [SWC-22-MIN-0191 refers].
- 3 Work to implement this policy highlighted the need to clarify eligibility settings to ensure that the policy could be implemented as intended.
- 4 On 26 June 2023, Cabinet agreed to rescind their above decision, and agreed to waive the three-year residency stand-down for student loans and allowances for people starting study on or after 1 January 2024, as long as they are [CAB-23-MIN-0259.01 refers]:
 - 4.1 granted a residence-class visa under the Immigration Act 2009 between 15 March 2019 and 31 December 2024, and
 - 4.2 a family member of a living person where that living person is:
 - 4.2.1 the holder of a Christchurch Response Visa, whether or not they reside in New Zealand; or

¹ MBIE has advised that residence-class visas (referred to as 'residence visas' in the original Cabinet agreement) include both resident visas and permanent resident visas.

IN CONFIDENCE

- 4.2.2 a New Zealand citizen, whether or not they reside in New Zealand, who:
 - 4.2.2.1 was a resident visa holder under the Immigration Act 2009 at the time of the Masjid Al Noor or Linwood Masjid terrorist attack on 15 March 2019 (the attack) and was eligible for a Christchurch Response Visa; or
 - 4.2.2.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - 4.2.2.3 would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or
 - 4.2.2.4 was granted New Zealand citizenship after holding a Christchurch Response Visa; or
 - 4.2.3 the holder of a permanent resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who:
 - 4.2.3.1 was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
 - 4.2.3.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - 4.2.4 the holder of a resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who held the resident visa at the time of the attack and who was eligible for a Christchurch Response Visa.
- 5 Cabinet also agreed that, for the purposes of the waiver, family members will be defined as partners, children (both dependent and non-dependent), grandchildren, parents, grandparents, siblings, aunts, uncles, nieces, nephews, first cousins (ie. a child of an aunt or uncle), parents-in-law, children-in-law, siblings-in-law, as well as step-children, step-parents and step-siblings [CAB-23-MIN-0259.01 refers].
- 6 While Cabinet agreement is sufficient to give effect to the eligibility settings for student loans, giving effect to the eligibility settings applying to student allowances requires an amendment to the Student Allowances Regulations 1998.
- 7 The attached Student Allowances Amendment Regulations (No 2) 2023 amends the Student Allowances Regulations 1998 to waive the three-year residency stand-down period for student allowances for family members of those directly affected by the Christchurch mosques attack, starting study on or after 1 January 2024, based on the clarified policy settings agreed to by Cabinet.

Timing and 28-day rule

- 8 The Student Allowances Amendment Regulations (No 2) 2023, if approved, will be submitted to the Executive Council for consideration on 24 July 2023, published in the New Zealand Gazette by 17 September 2023 to comply with the 28-day rule, and come into force on 16 October 2023. This will allow StudyLink time to receive and process applications for study starting on or after 1 January 2024.

Compliance

- 9 The Amendment to the Student Allowances Regulations 1998 (Amendment Regulations) comply, where applicable, with the following:
- 9.1 the principles of the Treaty of Waitangi;
 - 9.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 9.3 the principles and guidelines set out in the Privacy Act 2020
 - 9.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 10 The Amendment Regulations align with the Government's commitment to implement recommendations from the 'Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019' report.²

Regulations Review Committee

- 11 There are no grounds for the Regulations Review Committee to draw the Amendment Regulations to attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

- 12 The Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 13 The Treasury's Regulatory Impact Analysis team has determined that the proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement, on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities.

Publicity

- 14 Ministry of Social Development officials will work with the Collective Impact Board³ and community groups to develop a communications strategy to communicate the changes appropriately and sensitively.

² <https://christchurchattack.royalcommission.nz/the-report/>.

³ The Collective Impact Board brings together community and Government representatives to guide ongoing support services for the families and individuals directly affected by the Christchurch mosques attack.

Proactive release

15 I intend to proactively release this Cabinet paper within standard timeframes.

Consultation

16 The Ministry of Education, the Ministry of Business, Innovation and Employment, and the Ministry for Ethnic Communities have been consulted on this paper.

Recommendations

The Minister for Social Development and Employment recommends that the Cabinet Legislation Committee:

- 1 **note** that in November 2022, Cabinet agreed to waive the three-year residency stand-down period for student loans and student allowances for family members who are granted residence visas between 15 March 2019 and 31 December 2024 through their relationship to holders of a Christchurch Response Visa, or those who would have been eligible but who were already holding another residence visa, for study starting on or after 1 January 2024 [SWC-22-MIN-0191 refers];
- 2 **note** that the original decision taken by Cabinet in recommendation 1 above was rescinded on 26 June 2023 [CAB-23-MIN-0259.01 refers];
- 3 **note** that on 26 June 2023, Cabinet agreed to waive the three-year residency stand-down for student loans and allowances for people starting study on or after 1 January 2024, as long as they are [CAB-23MIN-0259.01 refers]:
 - 3.1 granted a residence-class visa under the Immigration Act 2009 between 15 March 2019 and 31 December 2024, and
 - 3.2 a family member (as defined in recommendation 4) of a living person where that living person is:
 - 3.2.1 the holder of a Christchurch Response Visa, whether or not they reside in New Zealand; or
 - 3.2.2 a New Zealand citizen, whether or not they reside in New Zealand, who:
 - 3.2.2.1 was a resident visa holder under the Immigration Act 2009 at the time of the Masjid Al Noor or Linwood Masjid terrorist attack on 15 March 2019 (the attack) and was eligible for a Christchurch Response Visa; or
 - 3.2.2.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or

IN CONFIDENCE

- 3.2.2.3 would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or
 - 3.2.2.4 was granted New Zealand citizenship after holding a Christchurch Response Visa; or
 - 3.2.3 the holder of a permanent resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who:
 - 3.2.3.1 was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
 - 3.2.3.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - 3.2.4 the holder of a resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who held the resident visa at the time of the attack and who was eligible for a Christchurch Response Visa;
- 4 **note** that on 26 June 2023, Cabinet agreed that family members for the purposes of recommendation 3 above, are defined as partners, children (both dependent and non-dependent), grandchildren, parents, grandparents, siblings, aunts, uncles, nieces, nephews, first cousins (i.e., a child of an aunt or uncle), parents-in-law, children-in-law, siblings-in-law, as well as step-children, step-parents and step-siblings [CAB-23-MIN-0259.01refers];
- 5 **note** that the Student Allowances Amendment Regulations (No 2) 2023 will give effect to the decisions referred to in recommendations above;
- 6 **authorise** the submission to the Executive Council of the Student Allowances Amendment Regulations (No 2) 2023;
- 7 **note** that the Student Allowances Amendment Regulations (No 2) 2023 will come into force on 16 October 2023 and that the changes will apply to periods of study starting on or after 1 January 2024.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development and Employment

IN CONFIDENCE