



Report

Date: 6 November 2020

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Cabinet paper – Support for foreign nationals from 1 December 2020

Purpose of the report

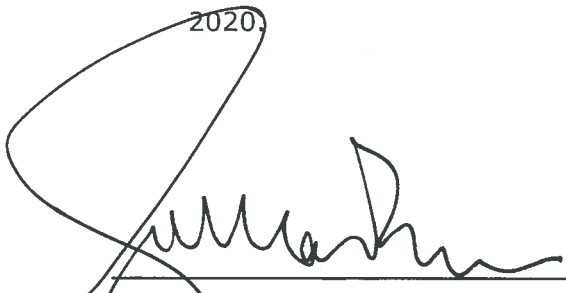
- 1 The attached draft Cabinet paper:
 - 1.1 seeks a decision on whether government support should continue to be provided to foreign nationals in hardship from 1 December 2020
 - 1.2 pending the above decision, seeks approval to provide Emergency Benefit to foreign nationals who are in hardship from 1 December 2020, by enacting section 64 of the Social Security Act 2018 (the Act).
- 2 We seek your feedback on this draft Cabinet paper by Monday 9 November 2020.

Recommended actions

It is recommended that you:

- 1 **note** that the temporary *Assistance for Foreign Nationals Impacted by COVID-19 Programme*, administered by the Department of Internal Affairs, is due to end on 1 December 2020
- 2 **note** that the attached draft Cabinet paper seeks a decision from Cabinet on whether or not the New Zealand government should provide support to foreign nationals in hardship from 1 December 2020, and if so, recommends for this to be done by the Ministry of Social Development providing Emergency Benefit to foreign nationals
- 3 **note** that there are a number of significant risks with this proposal that must be carefully considered


4 **provide** officials with feedback on the draft Cabinet paper by Monday 9 November 2020.



Simon MacPherson
Deputy Chief Executive
Policy

6/11/20

Date



Hon Carmel Sepuloni
Minister for Social Development and
Employment

8/11/20

Date

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Background

- 3 As at September 2020, there were about 277,000 temporary student, visitor, and work visa holders in New Zealand. A subset of these foreign nationals is experiencing hardship and remain stranded in New Zealand due to the impacts of COVID-19. Foreign nationals are generally not eligible for Ministry of Social Development (MSD) assistance due to their temporary visa status.
- 4 In response to this, the temporary *Assistance for Foreign Nationals Impacted by COVID-19 Programme* (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). On 7 September 2020, Cabinet agreed to extend the Programme by two months, to 30 November 2020 [CAB-20-MIN-0436 refers].
- 5 The Programme has been providing the following assistance to foreign nationals in serious hardship:
 - in-kind assistance, such as through the provision of food vouchers (provided by NZRC)
 - case management (provided by NZRC)
 - direct payments for expenses such as accommodation (provided by DIA).
- 6 Over 10,000 people have been supported through the Programme to date, with a total spend of \$18.3 million. From 1 July to 21 October 2020, the majority of people who received assistance from the Programme resided in Auckland, Bay of Plenty and Hawke's Bay.
- 7 Between 28 October 2020 and 4 November 2020, just over 200 new people had assistance approved through the Programme.

A decision needs to be made on whether some form of government support for foreign nationals should continue after the Programme ends

- 8 The Programme was intended to be a short-term solution to an uncertain situation, and is due to end on 30 November 2020. Decisions need to be made about whether financial support from the government should continue to be provided to foreign nationals after the programme ends, and what this support would look like should it be agreed to.
- 9 These decisions should consider the evolving impacts COVID-19 has had on flights, repatriation and employment since the Programme was established. For example:
 - 9.1 Commercial flights and pathways are available to most destinations globally and have improved since the initial lockdown period in April 2020. However, there is still a degree of uncertainty around international travel, including regular cancellations of flights, challenges for some travellers in meeting the higher cost of travel, and difficulties meeting the transit requirements for current flight paths.
 - 9.2 The employment outlook in New Zealand is currently better than initially predicted. 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.
- 10 The New Zealand government is not obliged to provide financial support to this group in the majority of cases, as foreign nationals are expected to have the funds and/or employment to support themselves for the duration of their stay and to return home at the end. However, Cabinet may wish to consider:
 - 10.1 The exceptional circumstances of COVID-19.

- 10.2 Foreign relations, such as consideration of New Zealand's relationship with Pacific Island nations and the fact that welfare assistance has not been extended to New Zealanders stranded in other countries in the majority of cases.
- 10.3 The flow on impacts of foreign nationals in hardship on NGOs, friends and family who are New Zealand citizens and other government agencies that may be approached for assistance in the absence of formal support mechanisms.
- 11 We understand that there is an oral item at Cabinet on 9 November 2020 on the Recognised Seasonal Employer scheme. The draft Cabinet paper will be updated to reflect this oral item if needed.

If it is decided that foreign nationals should continue to be financially supported by the government, we recommend this is done by allowing them to access Emergency Benefit

- 12 Foreign nationals are generally not eligible for assistance under the Act due to their temporary visa status.¹ 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 a domestic epidemic management notice in effect and the Minister for Social Development gives written approval for this enactment (Section 64). This section overrides every other provision in the Act, meaning that a foreign national's temporary visa status would no longer prohibit them from receiving Emergency Benefit under the Act.
- 13 If Ministers wanted to progress with this option, a few steps are required to enable section 64 of the Act to be enacted:
- 13.1 Cabinet agreement to the policy and its associated funding.
- 13.2 A domestic epidemic management notice has already been issued, which is due to expire in December 2020. However, we understand this notice will continue to be rolled over.
- 13.3 Now the domestic management epidemic notice has been issued, you can give written approval under section 64(2) for MSD to grant Emergency Benefit to people who are not otherwise entitled to it. This notice can restrict the grant to a subset of people, such as foreign nationals.
- 14 The attached draft Cabinet paper outlines the current state and provides further details on what this Emergency Benefit option would look like. The sections below highlight the key points in the draft Cabinet paper and provides additional information for your consideration.

Key points outlined in draft Cabinet paper

- 15 MSD has been assessing its ability to implement Emergency Benefit provisions for foreign nationals from 1 December 2020. MSD considers that a process to implement Emergency Benefit for foreign nationals could be implemented by 1 December 2020. If enacted, the eligibility criteria for this payment would roughly reflect the current Programme parameters and settings. That is, the eligibility for this form of Emergency Benefit will be based on targeting support to those who:
- 15.1 are foreign nationals and hold a valid temporary visa and are not otherwise eligible for financial assistance under the Social Security Act 2018
- 15.2 are in serious hardship (however, allowing for a reasonable amount of money for a person or family to purchase flights home)

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.

- 15.3 have taken all reasonable steps to either find an alternative means of supporting themselves (by employment, consular assistance etc)
- 15.4 are making plans to return home, or cannot return home due to a lack of commercial and repatriation flight options
- 15.5 hold a New Zealand bank account and legal form of identification.
- 16 However, the maximum rate of assistance will be limited to the rate of analogous main benefit only and no other assistance (such as for accommodation) could be provided, due to the legal limitations of section 64 of the Act.
- 17 The Cabinet paper proposes that this payment would be available from 1 December 2020 and paid weekly, with a duration period of three months, ending on 28 February 2021. An eligible person's payment will begin from the date they apply. Regardless of the date that a person is granted this assistance, it will cease on 28 February 2021 (ie some people may receive the full three months of assistance and other may receive a few weeks of assistance).
- 18 Other timeframes for this payment (eg 6 or 12 months) are also possible. We recommend that the discussion at Cabinet about this paper should also include consideration of what should happen after February 2021.
- 19 This initiative is estimated to cost about \$14 million, reflecting the adjustment needed to Vote Social Development to pay foreign nationals rates of Emergency Benefit over the three-month duration from 1 December 2020. This is a conservative costing, based on approximately 5,000 foreign nationals over three months seeking Emergency Benefit if implemented, though this is expected to be a maximum total over the three-month period. Costing this initiative conservatively is consistent with how MSD has costed other initiatives related to the COVID-19 response, but this does mean that the month by month cost of the Emergency Benefit proposal is higher than the monthly spend of the current Programme.
- 20 We are working with Treasury on the funding options for this cost.

There are risks with allowing foreign nationals to access Emergency Benefit, especially under the current timeframes

Operational risks for MSD

- 21 MSD is currently under a significant resource constraint delivering the COVID-19 Leave Support Scheme payments, the relief payment, support for New Zealanders stranded overseas and an increase in core business. This is set to increase further due to the usual surge in core business around the Christmas/New Year's period, but it is also compounded by the relief payment and wage subsidy payment ending, resulting in overall increased flows into the benefit system (although the number of people on Jobseeker Support has decreased over the past two weeks). There is also upcoming delivery pressure resulting from other high-priority work, manifesto commitments, Budget bids and business-as-usual processes due to re-start in 2021.
- 22 MSD taking on the support mechanism for foreign nationals means diverting staff away from core business (income and employment support) at a time where 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.

A high-trust model is required to meet implementation timeframes

- 23 The model of assistance used to allow foreign nationals to access Emergency Benefit will be basic and high-trust. Applicants will need to apply using a face to face appointment, where their ID/passport and a current and valid visa will need to be sighted. We will check that they have a New Zealand bank account, whether they can return home, and note that the grant will have an expiry date. There will be no formal verification involved – that is, the decision to grant or not grant Emergency Benefit to a foreign national will be based purely on declarations from the applicants and the sighting of the aforementioned documentation.

24 This could also present equity issues with New Zealanders accessing MSD's standard suite of assistance, as the verification requirements for a foreign national to receive Emergency Benefit could in some cases be less stringent than a New Zealander applying for financial assistance.

MSD's IT systems will not be perfectly aligned to legislative requirements

25 As noted in para 15, the legal parameters of section 64 of the Act mean that foreign nationals will only be able access the equivalent main benefit, so will not be eligible for any supplementary or hardship assistance.

26 However, MSD's systems will not have the intelligence built into them to prevent the granting of further assistance. That is, in practice it will still be possible for foreign nationals to be granted assistance beyond Emergency Benefit notwithstanding the fact that they are ineligible. To minimise this risk, clear operational guidance and appropriate training will be required to ensure that MSD staff know that eligible foreign nationals should receive Emergency Benefit only.

There are key differences between the Programme and EB

27 The current Programme has largely been able to meet the financial and other support needs of this group due to the flexibility in the Programme to provide both in-kind assistance and wrap-around case management where needed. Emergency Benefit will not be able to meet these costs in the same way:

27.1 The payment would be a flat rate paid weekly: most likely equivalent to Jobseeker Support (eg about \$250 per week for a single person, \$430 per week for an average family), 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. Conversely, there could be people who are only receiving limited support from the Programme, who could end up receiving more through the Emergency Benefit option.

27.2 Case-management is limited: MSD is unable to provide the case management, wrap-around support and timely translation services currently provided by NZRC. With capacity constraints for current MSD case management volumes, foreign nationals would receive no case management support (including employment, referrals to other support etc), particularly in the complex needs space (mental health, family violence, legal and medical issues).

27.3 MSD will only be providing Emergency Benefit to eligible foreign nationals, meaning no other support will be available, including:

- other financial assistance from MSD
- employment support from MSD (though individual case managers may choose to connect foreign nationals to available jobs where possible)
- more general support, for example navigating visas.

Officials have explored alternative options for continuing support to foreign nationals

s 9(2)(ba)

28 The assistance to foreign nationals currently provided by NZRC is comprehensive. It includes in-kind assistance for expenses such as food. NZRC use a case management support model and provides wrap-around support, which includes a complex needs unit for more intensive support.

s 9(2)(ba)

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Further work is required to determine whether or not other organisations could provide similar support to foreign nationals

32 There is currently more scoping work that needs to be done to determine what kind of support should be provided to foreign nationals, as an alternative to the Emergency Benefit option and given that the current Programme cannot be rolled over in its current form (if at all).

33 Consequently, it is difficult to determine whether or not other NGOs besides the s 9(2)(ba) have the ability and willingness to provide support to foreign nationals, when we do not have a clear idea of what this support could, or should, look like. This includes the option of MSD contracting out another NGO to provide similar support. We understand that there is limited capacity in the NGO sector to provide the administrative support required in assessing a significant number of individual applications for funding assistance.

34 Further, given the significant time pressures, even if we were to start engaging with NGOs now to test the possibility of contracting them to provide support to foreign nationals, it is unlikely that there will be enough time for another NGO to establish a comparable level of support that will be ready in time for 1 December 2020.

Significant trade-offs would have to be made in order to implement a more robust version of the Emergency Benefit option later

35 The proposed Emergency Benefit option is a basic, high-trust model. Officials have considered the possibility of first implementing the current Emergency Benefit option, and then developing a more robust version of this option which has more stringent verification requirements, which would be implemented at some point after 1 December 2020.

36 However, we advise against this approach, given the operational constraints MSD is currently facing, as outlined in paragraphs 20-21. Diverting resources to develop and implement an improved version of the Emergency Benefit option would mean that other high-priority work would have to be suspended. Decisions would likely be needed to determine what initiatives we would be prioritising support for foreign nationals over. While this risk applies for the proposed three-month timeframe for the proposal, it will be further increased if the timeframes for the Emergency Benefit proposal were longer.

Next steps

37 The draft Cabinet paper is currently undergoing agency consultation, though the Emergency Benefit proposal at a high-level has already been discussed with the Department of the Prime Minister and Cabinet, Immigration New Zealand, the Department of Internal Affairs, and the Ministry of Foreign Affairs and Trade. Officials will incorporate your feedback, and feedback from agency consultation, into the draft Cabinet paper, and send you an updated draft paper for Ministerial consultation on 10 November. The proposed timeframes are as follows:

Date	Action
Friday 6 November	Draft Cabinet paper provided to you for your feedback; agency consultation begins
Monday 9 November	Feedback from you and agencies received and incorporated
Tuesday 10 November	Updated draft Cabinet paper provided to Minister's office; Ministerial consultation begins
Friday 13 November	Lodge final Cabinet paper
Monday 16 November	Cabinet

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