



Education Report: Impact of 2021 Resident Visa on domestic student status

To:	Hon Chris Hipkins, Minister of Education		
CC:	Hon Jan Tinetti, Associate Minister of Education		
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Purpose of Report

This report outlines the impact of the one-off 2021 Resident Visa pathway for migrant workers in New Zealand and proposes an option to allow children of eligible work visa holders to enrol in tertiary study from 1 January 2022, ahead of their Resident Visa being granted.

It also outlines some ongoing work between the Ministry and Ministry of Business, Innovation and Employment on access to schooling for children who are in New Zealand for an extended period of time with high learning support needs.

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that in September 2021 Cabinet agreed to a one-off resident pathway for migrant workers in New Zealand, that will include their dependents 2021 [CAB-21-MIN-0359]
- b. **note** the government intends to accept applications from 1 December 2021 and to process these applications by the end of 2022, but some people will not be able to apply until March 2022
- c. **agree** to further work on changes to domestic tertiary student status to provide certainty to access tertiary study from 1 January 2022 for children of people on eligible visas for the 2021 Resident Visa

Agree / Disagree

- d. **note** we will provide talking points on options to change domestic tertiary student settings for an oral update to Cabinet when the Minister of Immigration's Cabinet paper on further details for 2021 Resident Visa is at the Cabinet Business Committee on 6 October 2021
- e. **note** we do not propose any changes to eligibility for student support or 'first-year' Fees Free related to residency for this group of migrants; they will need to reside in New Zealand on a Resident Visa for three years
- f. **note** we are working with MBIE on policy options to ensure all children, including those with learning support needs, who are not New Zealand residents but in New Zealand for an extended period, are able to access their right to school education services, and the Ministry will report back to you on this shortly
- g. **note** the 2021 Resident Visa requirements will not preclude children with higher learning support needs, or those who are eligible for ORS from this residency pathway, and the Ministry will work with MBIE to ensure eligible applicants are aware that a high needs assessment will not be a requirement for this new visa
- h. **agree** that the Ministry of Education will release this briefing once decisions on changes to domestic tertiary student status for 2022 have been made.

Agree / Disagree



James Campbell
Senior Manager, Tertiary Education

1/10/2021



Chris Hipkins
Minister of Education

14 / 10 / 2021


Current domestic tertiary student settings

- 1 When people have domestic tertiary status they:
 - benefit from tuition subsidies, including payments from the Targeted Training and Apprenticeship Fund
 - pay domestic student fees
 - can receive other supports targeted at domestic tertiary students, such as the Hardship Assistance Fund for Learners.
- 2 Government provides tuition subsidies and regulates fees for domestic tertiary students studying at tertiary providers. These subsidies are focused on supporting people with an ongoing commitment to New Zealand through their citizenship or resident status. While a number of people on temporary visas intend to transition to residency they cannot benefit from this support until they gain residency.
- 3 Within tertiary education there are some exceptions. Within industry training all people employed can access training subsidies, and for provider-based students, international students who are studying towards a Doctor of Philosophy and those applying for refugee status can also access tuition subsidies.
- 4 Domestic tertiary students still need to meet additional eligibility criteria to access student support and 'first-year' Fees Free. For migrants, this includes having been residing in New Zealand on a Resident Visa for three years.

There have been more complaints due to the impact of COVID-19 on residency applications

- 5 During 2021 there have been more complaints about non-residents living in New Zealand being treated as international students in tertiary settings, particularly in relation to children of work visa holders who are treated as domestic students in the schooling system. This is partly due to delays in processing residency related to the impact of COVID-19, and the lack of clear timeframes for when gaining New Zealand residency may be possible.
- 6 Children of work visa holders can be a dependent child in a parent's residence application until they are 25 years old. However, those who have left school currently have limited options. They have to pay international fees to study at tertiary providers, and will likely have limited access to work rights, especially if they are part of a parent's residency application as a dependent.¹ Given the impact of COVID-19 on borders, there are also limited options to return to their country of citizenship to study.

9(2)(f)(iv)



8 9(2)(f)(iv)

2021 Resident Visa – One-off Residence pathway

- 10 On 6 September 2021, Cabinet agreed to the creation of a new, one-off residence visa, the 2021 Resident Visa, primarily available to migrant workers in New Zealand who [CAB-21-MIN-0359]:
- a. hold an eligible work visa (see Annex 1), AND
 - b. are either:
 - i. Settled (have been in New Zealand for three years), OR
 - ii. Skilled (earning the median wage or above), OR
 - iii. Scarce (working in a role on the Long Term Skills Shortage List, or hold occupational registration and work in the health or education sector, or are working in a personal care or other critical health worker roles, or are in specified non-seasonal roles in the primary industries).
- 11 MBIE estimate these criteria would grant residency to around 110,000 people of the 130,000 people on eligible work visas. The total group transitioning to residency would involve an estimated additional 55,000 dependents (partners and children) of the eligible work visa holders. Applications will open on 1 December 2021 for a priority group with existing residency applications. Further groups can apply between 1 March and 31 July 2022.
- 12 The Minister of Immigration has a paper seeking decisions on further details on the 2021 Resident Visa to Cabinet Business Committee (CBC) on 6 October 2021. This paper highlights that children of work visa holders 18 year and over have issues accessing study or work rights until they gain a resident visa. The Minister of Immigration is proposing that part-time work rights be extended to children 18 years and over that are part of a 2021 Resident Visa application.

Impact on access to tertiary education

- 13 The 2021 Resident Visa creates a clear pathway to residency for eligible visa holders. However, there is uncertainty about *when* their residency application will be processed. For people working, or in school, they can continue these activities while waiting for a Resident Visa, but international fees create a barrier to access to tertiary study during this period.
- 14 MBIE indicates that it aims to complete the processing of applications for the 2021 Resident Visa by the end of the 2022 calendar year. However, processing all applications could take longer, especially if many applicants do not apply until near the end of the application period. The people eligible and applying for the 2021 Resident Visa will not be classified as domestic tertiary students until they gain the 2021 Resident Visa.

- 15 This should be less of an issue for people gaining residency based on their work visa status as they are likely to stay in employment (which their residency pathway is primarily based on). As this group are not eligible for welfare benefits, they will also likely need to maintain their employment (rather than study) to support themselves and their family. Their work visa also restricts study to three months. If they wanted to up-skill or undertake further training, they would need to wait until they have residency to access tertiary study. However, they can still undertake subsidised industry training.
- 16 Dependent children of work visa holders (aged 17 years and over) are likely to be more effected by the time required to process their visa applications. We expect a large percentage of these would want to undertake tertiary study, especially of those completing their study in New Zealand schools.
- 17 Without any change to tertiary settings, this group of children transitioning to the 2021 Resident Visa would be able to access tertiary study as domestic tertiary students sometime during 2022, or from 2023, but there is no certainty for tertiary providers or students as to when.
- 18 Tertiary providers and students often make decisions at the end of the previous year, or by March in the year of study. Some students could choose to pay international fees and then transition to domestic fees later, while others could defer study until 2023.

Proposed change to domestic tertiary student status from 2022

- 19 Given the potential disruption to prospective students' educational and employment plans during the period in which the new residency visas are processed, we have considered options for classifying at least some of this group as domestic tertiary students during this period.
- 20 We propose to classify dependent children of those on eligible work visas for the 2021 Resident Visa as 'domestic tertiary students' on a one-off basis from 1 January 2022. Enabling them to enrol as domestic tertiary students at the start of 2022 would give certainty to children of these specific work visa holders (the majority of whom are likely to qualify for residency under the one-off pathway).
- 21 Under the Education and Training Act 2020, the Minister of Education can gazette groups, in addition to citizens and residents, that can be domestic tertiary students. We propose that from 1 January 2022, a group is added to this gazette notice, for a fixed period of time, that targets children of eligible visa holders, likely to transition to the 2021 Resident Visa.
- 22 We propose the following changes for an additional domestic tertiary student category targeting (and outlined in Table 1):
- 1) Children of those on eligible visas for the 2021 Resident Visa (noting that we could consider an age limit related to eligibility to transition with a parent through 2021 Resident Visa, usually 24 years)
 - 2) Parent would need to be on the specified visa the day prior to policy change, (or until 31 July 2022 for critical worker visa), linking to 2021 Resident Visa eligibility
 - 3) For a fixed period of time – from 1 January 2022 until 31 December 2023, on the basis that they should transition to 2021 Resident Visa, while providing certainty for 2022 and 2023, if visas are still pending in late 2022.
 - 4) The children would need to be residing in New Zealand, as their relationship to their parent would have been assessed with their current visa.

- 23 If you decide to proceed with this proposal we would need to undertake further work with MBIE and the TEC to finalise the exact targeting and technical wording of the Gazette notice.

Table 1: Impact of propose additional category of domestic tertiary students

Group apply to	Current settings	Settings after changes
Holder of an eligible visa for 2021 Resident visa	Not domestic tertiary student until resident	No change
Partner of holder of an eligible visa for 2021 Resident visa	Not domestic tertiary student until resident	No change
Child of holder of an eligible visa for 2021 Resident visa	Not domestic tertiary student until resident	Domestic student from 1 January 2022 until 31 December 2023, if residing in New Zealand, and from when they gain resident visa
Holder, their partner or child, of any other temporary visa not eligible for 2021 Resident Visa	Not domestic tertiary student until resident	No change

- 24 The proposed target group would be somewhat broader than those who will be able to transition to the 2021 Resident Visa. We cannot expect tertiary providers to apply very specific immigration criteria related to parents, such as median wage, occupation, or character of parents. We also cannot link the category in the gazette notice to having a 2021 Resident Visa application submitted, as some people cannot submit applications until March 2022, and it could also encourage ineligible people to submit applications to gain access to domestic tertiary student status.
- 25 The number of children who choose to study as domestic tertiary students in 2022 whose parents are on eligible visas but do not meet the other 2021 Resident Visa criteria, is likely to be low. Some of this group may also transition to residency through other pathways during the period. Having a fixed period of eligibility through to the end of 2023 makes it clear that if people have not transitioned to resident visa by then they will not retain domestic tertiary student status if they are not a resident.

No proposed change to domestic student access in schooling

- 26 The current domestic student status criteria for schooling enables children of those on the eligible work visas for 2021 Resident Visa to access education services in the school system, as long as the children have been issued a student visa. No changes to domestic student status settings are proposed in response to the new 2021 Residency Visa.

- 27 9(2)(f)(iv), 9(2)(g)(i)

Number of additional domestic tertiary students

- 28 If 70% of the children of work visas holders who completed or will complete Year 13 in 2020 or 2021 decide to undertake tertiary study in 2022, then this could result in an additional 3,400 enrolments.² This estimate is indicative and may be refined by further

² Based off school reporting on students in 2020 and 2021, there were 3,000 year 13 students in 2020 and 1,800 Year 13 students in 2021 who were identified as children of people on work visas. Assuming they have not

analysis. Some other eligible children may also choose to study, such as those who left school in lower year-levels, or who are aged up to 24 years and are in New Zealand.

- 29 This level of potential uptake would be equal to about 1% of total 2021 tertiary students. Many of these students would transition to a Resident Visa and access subsidised tertiary study from the second half of 2022, or from 2023. Some of these children of work visa holders could also be studying and paying international fees, but if so, it would likely be a very small group.

Funding implications

- 30 This proposal to extend domestic tertiary student status should not have significant funding implications for the tertiary system. As noted, the vast majority of this group are already likely to be eligible for tuition subsidies once their residency is approved. This proposal would just provide certainty and allow some of these children to commence their study at the start of 2022 rather than later in 2022 or 2023. The primary driver of any increase in enrolments from this group over the medium-term would be the decision to establish the residency pathway, rather than enabling this sub-group to access tertiary education somewhat earlier than they otherwise might have.
- 31 The additional total residents from the 2021 Resident Visa could place demand pressure on funded enrolments over the next few years, in addition to those demand pressures outlined in previous advice in September 2021 [METIS 1266917 refers]. These residency changes would be another factor adding uncertainty to the level of demand that we may see in 2022 and 2023. Population in key tertiary age-groups is one of the factors that drives tertiary education volumes. Higher retention of New Zealand citizens, related to the impact of COVID-19, has been a factor in higher tertiary enrolments in 2021.
- 32 As noted, likely uptake could result in approximately a 1% increase in tertiary demand in 2022. A 1% increase in Student Achievement Component provision at level 3 and above is around \$22 million. However, the primary driver of increased demand and any consequential impact on funding, is the decision to grant the 2021 Resident Visa pathway, rather than the proposal in this paper.

Access to student support and Fees Free

- 33 We do not propose any changes to student support (student loans and allowances) or 'first-year' Fees Free eligibility settings related to the 2021 Resident Visa. As with most migrants, they will need to be on a New Zealand Resident Visa for three years before being eligible. People on the 2021 Resident Visa would become eligible from around the start of 2025, depending on when their Resident Visa is granted.

Next Steps

- 34 If you agree, the Ministry will provide further advice on the option to gazette, as domestic tertiary students, children of those on eligible work visas for the 2021 Resident Visa.
- 35 While we do not consider that this change is sufficiently significant as to require Cabinet approval, we would provide you with talking points on tertiary settings, to allow you to update your colleagues at CBC on 6 October, when further advice on the 2021 Resident Visa is on the agenda.

transitioned to residency since or left New Zealand, these groups of current and former school students would be the main group of children that would seek tertiary study.

Annex One: List of eligible and ineligible visa types for 2021 Resident Visa

Eligible visa types	Excluded visa types
Essential Skills Work Visa	Visitor Visa
Work Visa Approval in Principle	Transit Visa
Work to Residence (all)	Student Visa
Skilled Migrant job search	Student and Trainee Work Visa
Religious Worker	Limited Visa
Post Study Work Visa	Military Visa
Work Visa – Pitcairn Islanders	Work Visa Partners of Military
Work Visa granted under Section 61 (<i>provided the applicant held another eligible visa type within 6 months of being granted a Section 61 visa</i>)	Special Visas – diplomatic, consular and official staff as well as their domestic staff
Longer-term Other Critical Workers visas (6+ months)	Domestic Staff of Senior Seconded Executives
Longer-term Critical Health Workers visa (6+ months)	Working Holiday Visa
Victims of People Trafficking	Working Holiday Maker Extension
Migrant Exploitation Protection Visa	Recognised Seasonal Employer
Work Visa Victims of Family Violence	Supplementary Seasonal Employer
Silver Fern Practical Experience	Partners of NZ citizens or residents work visa
	Partners of students
	Partners of temporary workers
	Work Exchange visas
	Entrepreneur Work Visa
	International stream visas agreed as part of a free trade agreement, including: <ul style="list-style-type: none"> - Primary Sector Trainees - Interpreters from Japan - Thai Chefs - China Special Work Visa/China Skilled Workers - Indonesia/Philippine/Vietnam/Korea Special Work Visa
	Foreign Fishing Crew
	Critical Purpose visas – short-term or seasonal work
	Specific Purpose or Event visas
	Refugee and Protection Status Claimants
	Antarctic Treaty Personnel
	Global Impact Visa
	Investor categories