



BRIEFING

Proactive release – Parent Category Cabinet paper and briefings

Date:	23 November 2022	Priority:	Low
Security classification:	In Confidence	Tracking number:	2223-1510

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister of Immigration	Agree to the proposed proactive release of the Cabinet paper, minutes, and Parent Category briefings, with redactions as proposed at Annex Two	28 November 2022

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Andrew Craig	Manager, Immigration (Skills and Residence) Policy	04 901 1245	s 9(2)(a)
Ella Pearce	Graduate Policy Advisor	04 896 5760	✓

The following departments/agencies have been consulted on the proposed proactive release
The Treasury, Ministry of Social Development, Ministry of Health, Ministry of Disabled People, and Ministry for Ethnic Communities.

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Proactive release – Parent Category Cabinet paper and briefings

Date:	23 November 2022	Priority:	Low
Security classification:	In Confidence	Tracking number:	2223-1510

Purpose

To seek your agreement to proactively release the Parent Category Resident Visa Cabinet paper, Cabinet minutes, and briefings.

Recommended action

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

- a **Agree** to proactively release the following papers, with redactions as proposed at Annex Two:

Cabinet paper		<i>Updating and Reopening the Parent Category Resident Visa</i>
Cabinet paper (Appendix One)		<i>Comparison of previous settings</i>
Cabinet Committee Minute	28 September 2022	DEV-22-MIN-0230
Cabinet Minute	3 October 2022	CAB-22-MIN-0421
Briefing	29 July 2022	2122-4075 Options for updating and reopening the Parent Category Resident Visa
Briefing	18 August 2022	2223-0389 Draft Cabinet paper for consultation – Updating and reopening the Parent Category Resident Visa
Briefing	18 August 2022	2223-0459 Parent Category – options for Green List sponsors and implementation
Briefing	9 September 2022	2223-0788 Final Cabinet paper – Options for updating and reopening the Parent Category Resident Visa

Agree / Disagree

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

23/11/2022

Hon Michael Wood
Minister of Immigration

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Background

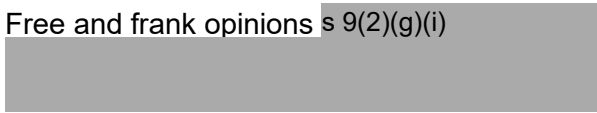
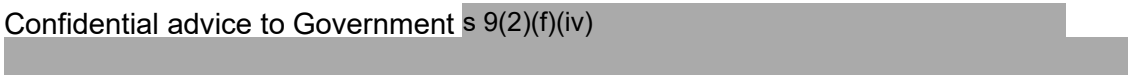
1. On 3 October 2022, you took the Cabinet paper *Updating and Reopening the Parent Category Resident Visa* to Cabinet. This paper, and associated minute are now due to be proactively released.
2. The changes to the Parent Category Resident Visa (Parent Category) settings have generated high public interest among migrant communities, and multiple Official Information Act (OIA) requests have been made requesting materials associated with the Parent Category changes. We have refused these requests citing section 18(d) of the OIA, as the information will soon be publicly available. Officials propose also releasing the Parent Category briefings that contain advice about the visa changes, as this material is of high interest to migrant communities and we see low risk in releasing it.

Proposed redactions

3. Cabinet Office has directed that Cabinet papers, Cabinet minutes and decision-making briefing notes should be proactively released following Cabinet consideration [CO (18)4].
4. We therefore seek your agreement to the publication of the following documents:

Cabinet paper		<i>Updating and Reopening the Parent Category Resident Visa</i>
Cabinet paper (Appendix One)		<i>Comparison of previous settings</i>
Cabinet Committee Minute	28 September 2022	DEV-22-MIN-0230
Cabinet Minute	3 October 2022	CAB-22-MIN-0421
Briefing	29 July 2022	2122-4075 Options for updating and reopening the Parent Category Resident Visa
Briefing	18 August 2022	2223-0389 Draft Cabinet paper for consultation – Updating and reopening the Parent Category Resident Visa
Briefing	18 August 2022	2223-0459 Parent Category – options for Green List sponsors and implementation
Briefing	9 September 2022	2223-0788 Final Cabinet paper – Options for updating and reopening the Parent Category Resident Visa

5. We recommend releasing these documents, with some information redacted on the following grounds:

- a. Privacy of natural persons
- b. Legal professional privilege
- c. Free and frank opinions s 9(2)(g)(i) 
- d. Confidential advice to Government s 9(2)(f)(iv) 

Agency consultation

6. We have consulted on the proactive release with the Treasury, the Ministry of Social Development, the Ministry of Health, the Ministry of Disabled People, and Ministry for Ethnic Communities. They all agreed with the proposed redactions in the documents.
7. We informed the following agencies of the proactive release: Ministry of Housing and Urban Development and Ministry for Pacific Peoples. Immigration New Zealand was also informed.

Risks and mitigations

8. MBIE considers the risk in releasing these documents to be low (with the redactions proposed) as Parent Category public announcements have already been made which cover the majority of the advice within.
9. The initial advice briefing [briefing 2122-4075] contains some preliminary advice on long-term visitor visas for parents of New Zealanders, which is a topic that has been raised in multiple Ministerial correspondence items since announcing the Parent Category changes. Officials note that releasing this preliminary advice may increase interest in this topic, but this risk is mitigated by your agreement to direct officials to conduct further work on this as part of the Partnership and Family review. s 9(2)(f)(iv)
10. The Parent Category briefings also show the range of options that you considered and rejected, which has not previously been released. These options included lower income threshold options (for example, median wage), continuing to select expressions of interest chronologically, and preferential treatment for Green List sponsors.
11. In the initial advice briefing [briefing 2122-4075], officials asked whether you wanted to conduct public consultation on the Parent Category proposals, which you declined. We received subsequent requests from stakeholders (for example, the Immigration Reference Group) to be consulted. It is likely that any comment on the lack of consultation would have been made at the time of announcing the Parent Category changes, so there is little risk of additional comment.

Annexes

Annex One: Marked up documents proposed for release

Annex Two: Redacted documents proposed for release



BRIEFING

Parent Category: instructions to manage subsequent partnership applications

Date:	9 November 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-1692

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister of Immigration	Agree to the recommendations	14 November 2022
Hon Phil Twyford Associate Minister of Immigration	Copy for your information	N/A

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Paul Gilbert	Team Leader, Operational Policy	04 830 7286	s 9(2)(a)	✓
Kathy Tait	Principal Analyst	04 830 5112	s 9(2)(a)	

The following departments/agencies have been consulted

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments

Comments



BRIEFING

Parent Category: instructions to manage subsequent partnership applications

Date:	9 November 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-1692

Purpose

This paper provides a proposed change to partnership immigration instructions for you to certify if you agree. The proposed instructions prevent a person who could have been but was not included in a parent category application from being subsequently approved residence as a partner. This proposal better aligns the instructions with Cabinet's decisions around the income threshold and cap for the Parent Category.

Recommended action

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

- a **Note** that on 3 October 2022, Cabinet agreed [CAB-22-MIN-0421] to updated settings for the Parent Category, including an income threshold for sponsors that increases per person sponsored and a cap of 2,500 places, and that you subsequently certified immigration instructions to put these decisions into effect from 12 October 2022

Noted

- b **Note** that regulations and immigration instructions currently allow a person to not include their partner in a parent application and then later support that person for residence under the partnership category, which potentially circumvents the per person nature of the sponsor income threshold and the annual cap

Noted

- c **Agree** to the proposed changes to residence instructions by signing the Ministerial certificate attached in Appendix 1, which ensure people who were eligible to be included in a Parent Category application as a partner cannot be later approved under the Partnership Category

Agree / Disagree

Stephen Dunstan
General Manager, Enablement
Immigration New Zealand, MBIE

Hon Michael Wood
Minister of Immigration

9 / 11 / 2022

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Background

1. On 3 October 2022, Cabinet agreed [CAB-22-MIN-0421] to updated settings for the Parent Category. The new settings included an income threshold for one sponsor and one parent of 1.5 times the median wage, with an additional 0.5 times the median wage for each additional parent (or sponsor). It also included a cap of 2,500 annual places for people approved visas under this category. Certified instructions put these changes into effect from 12 October.
2. On 11 October 2022, you had a discussion with officials about the potential for a person applying under the Parent Category to deliberately leave their partner off an application where the sponsor does not meet the income threshold required for two people. The sponsored parent could then later support their partner under the Partnership Category, which does not have an income threshold. This does not align with Cabinet's intent that the income threshold should increase per person and would also allow some parents to be granted visas without being counted towards the annual cap. We understand you indicated support to receive a paper on this.
3. This issue was raised in 2019 with the then Minister of Immigration in respect of the previous version of the parent category. At that time, the decision was made to allow for subsequent partnership applications from people not included from a parent category application. However, as you are aware, that version of the parent category never fully went live due to COVID disruptions just before the first selection was due to take place.

Proposed changes to immigration instructions

4. There is already a provision within the Partnership instructions that prevents the grant of partnership residence to anyone who was eligible to be included in an Expression of Interest (EOI) but who was not included. This provision applies to a number of family or humanitarian categories that use EOIs or registrations, including the Parent Category.
5. The existing provision only applies to people who were eligible but not included in EOIs, not visa applications. It is therefore possible for a person to include their partner in the EOI, but then when they are invited to apply leave the partner off the application. A parent applicant could also include their partner but later remove them from the application when it is brought to their attention that the sponsor's income does not meet the threshold required.
6. The proposed instructions amend the existing partnership provision to cover non-inclusion (or removal from) applications, as well as EOIs. This still allows people to choose to exclude their partner from their parent category EOI or application in circumstances where the sponsor does not have sufficient income to sponsor two people. However, it prevents those people subsequently gaining residence under the Partnership Category. Depending on their circumstances, it may be possible for them to qualify under the Parent Category later if the sponsor's income increases.
7. The proposed addition to instructions is highlighted. The proposed instructions include a minor rewrite of the current provision to improve readability by splitting up a single long sentence. Highlighting will not appear in the published versions of the amended Operational Manual.

Communication

8. If you certify these immigration instructions, they will be communicated to licensed immigration advisers, immigration lawyers, all staff and the general public through the release of an Amendment Circular and website material will also be updated. Potential applicants will also be advised of the consequence of leaving a partner off their application when they are invited to apply.

Appendix 1 – Proposed amendments to residence instructions effective from the date of signature

F2.40 General rules

F2.40.1 English language requirements

- a. If an applicant was eligible to be included as a partner or a dependent child of a principal applicant in an earlier successful application under the General Skills Category, Skilled Migrant Category, Residence From Work Category, Business Immigration Instructions or previous Business Investor Category, but was not at that time included in the application, they will have to meet the criteria of the English language instructions applicable at the time the application under the Partnership Category is made.
- b. Such an applicant will be subject to the applicable English language instructions as if they were a non-principal applicant under the Skilled Migrant Category or Business Immigration Instructions.
- c. An applicant who would have been eligible for inclusion in an earlier General Skills Category or Skilled Migrant Category application will be subject to the English language of the Skilled Migrant Category applicable at the time the application under Partnership Category is made.
- d. An applicant who would have been eligible for inclusion in an earlier Business Investor category or Business Immigration Instructions application will be subject to the English language requirements of Business Immigration Instructions applicable at the time the application under Partnership Category is made.

F2.40.5 Applications under Partnership Category of persons eligible for inclusion in earlier registrations or expressions of interest

- a. A partnership application must be declined if the principal applicant was eligible to be included in one of the following, and was either not included or included and subsequently removed from:
 - i. a registration or expression of interest listed in (b) below that was selected and resulted in the issue of an invitation to apply, or
 - ii. a successful application that was made under the Parent Category.
- b. The requirement at (a)(i) above applies to:
 - i. registrations under the Family Quota, the Refugee Family Support Category, Samoan Quota Scheme or the Pacific Access Category; and
 - ii. expressions of interest under the Parent Category or Community Organisation Refugee Sponsorship category

F2.40.10 Resident visas with conditions imposed under section 49(1)

If a New Zealand partner holds a resident visa subject to conditions (excluding travel conditions) imposed under section 49(1) of the Immigration Act 2009, then the principal applicant's resident visa will be subject to the condition that the New Zealand resident partner complies with those conditions (see [R5.65.1](#)).

RESIDENCE INSTRUCTIONS

MINISTERIAL CERTIFICATE

I certify, in accordance with section 22 of the Immigration Act 2009, that the amendments contained in Appendix 1 of the submission dated 9 November 2022 are part of Residence Instructions on and after the date of signature.

Hon Michael Wood
Minister of Immigration

(day)

(month)

(year)