

Proactive Release

Date: 1 June 2021

The following Cabinet paper and related Cabinet minutes have been proactively released by the Ministry of Foreign Affairs and Trade:

Exchange of Letters to Amend the New Zealand – Chile Dependant Employment Agreement

(CAB-21-MIN-0122 refers)

Exchange of Letters to Amend the New Zealand – Chile Dependant Employment Agreement

(ERS-21-SUB-0007 refers)

Exchange of Letters to Amend the New Zealand – Chile Dependant Employment Agreement: Approval

(ERS-21-MIN-0007 refers)



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet External Relations and Security Committee: Period Ended 16 April 2021

On 19 April 2021, Cabinet made the following decisions on the work of the Cabinet External Relations and Security Committee for the period ended 16 April 2021.

Out of scope

ERS-21-MIN-0007 **Exchange of Letters to Amend the New Zealand – Chile
Dependant Employment Agreement** CONFIRMED
Portfolio: Foreign Affairs

Out of scope

Michael Webster
Secretary of the Cabinet

Office of the Minister of Foreign Affairs

Chair, External Relations and Security Committee

Exchange of Letters to amend the New Zealand-Chile Dependant Employment Agreement: Approval

Proposal

- 1** It is proposed that Cabinet approve the text, and authorise the signature and entry into force, of an Exchange of Letters to amend the *Agreement between the Government of New Zealand and the Government of the Republic of Chile on Paid Employment of Dependants of Diplomatic and Consular Staff*.

Background

- 2** Dependant Employment Agreements (DEAs) provide employment rights to spouses and dependants of diplomats serving at foreign missions. Without a DEA, spouses and dependants have no employment rights under a diplomatic visa. New Zealand has DEAs with 24 countries.
- 3** The current DEA between Chile and New Zealand has been in place since 1996 and excludes civil union partners. In order for civil union partners to access employment rights, the DEA must be amended to change the definition of “dependant.”
- 4** The Exchange of Letters (**attached** as Annex I) would amend the definition of “dependant” to include civil union partners. This would allow civil union partners of New Zealand diplomats in Chile, and civil union partners of Chilean diplomats in New Zealand, to have employment rights in each country.
- 5** The amendment would enter into force when Chile formally confirms its acceptance of this proposal (via Exchange of Letters).

Comment

- 6** The DEA with Chile is a treaty-status agreement. This amendment has been agreed at officials’ level between New Zealand and Chile, and now requires Cabinet approval.
- 7** The Minister of Foreign Affairs approved a bilateral treaty waiver for this amendment, and therefore it is not subject to the Parliamentary Treaty Examination process.

Financial implications

- 8** There are no financial implications.

Legislative implications

- 9 No change to New Zealand legislation or regulations is required in order to implement this amendment.

Consultation

- 10 No consultation is needed for this amendment.

Human rights

- 11 This amendment would grant employment rights to civil union partners of New Zealand diplomats in Chile. This step would facilitate the capacity to deploy abroad a more diverse range of diplomatic officers.

Recommendations

The Minister of Foreign Affairs recommends that the Committee:

- 1.1 **Approve** the text of the initiating letter (**attached** as Annex I) to amend the *Agreement between the Government of New Zealand and the Government of the Republic of Chile on Paid Employment of Dependants of Diplomatic and Consular Staff*;
- 1.2 **Agree** that New Zealand may sign the initiating letter (**attached** as Annex I);
- 1.3 **Note** that the amendment would enter into force on the date of the reply letter from Chile;
- 1.4 **Note** that no changes to legislation are required in order to bring this amendment into force;
- 1.5 **Note** that there are no financial implications arising from this amendment;
- 1.6 **Note** that the Minister of Foreign Affairs has determined that the Agreement is not a major bilateral treaty of particular significance and, therefore is not subject to the Parliamentary Treaty Examination process.

Authorised for lodgement

Hon Nanaia Mahuta
Minister of Foreign Affairs

Annex I: Initiating letter from New Zealand

Your Excellency,

I have the honour to refer to discussions which have taken place between our two Governments concerning the *Agreement between the Government of New Zealand and the Government of the Republic of Chile on Paid Employment of Dependants of Diplomatic and Consular Staff* (the Agreement). As a result of those discussions, it is the understanding of the Government of New Zealand that Article 2 of the Agreement shall be amended as follows:

For the purposes of the Agreement, the term 'dependants' means:

- a. Legal spouse or civil union partner in accordance with the legal provisions of the sending State
- b. Single dependent children under 21 years of age or children under 23 years of age if they are full time tertiary students. However, the situation of dependent children between 23 and 25 years of age will be considered on the case-by-case basis at the discretion of the receiving State
- c. Single children who are disabled and incapable of self-support

If the proposal set out above is acceptable to the Government of Chile, I have the honour to suggest that this letter and your Excellency's reply to that effect shall constitute an agreement between our two Governments on this matter, which will come into force on the date of your reply.

The Ministry of Foreign Affairs and Trade takes this opportunity to renew to the Government of Chile the assurances of its highest consideration.

Linda Te Puni

New Zealand Ambassador to Chile



Cabinet External Relations and Security Committee

Minute of Decision

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Exchange of Letters to Amend the New Zealand – Chile Dependant Employment Agreement

Portfolio **Foreign Affairs**

On 13 April 2021, the Cabinet External Relations and Security Committee:

- 1 **noted** that:
 - 1.1 the *Agreement Between the Government of New Zealand and the Government of the Republic of Chile on Paid Employment of Dependants of Diplomatic and Consular Staff* (the Agreement) has been in place since 1996;
 - 1.2 to enable civil union partners of diplomats to access employment rights, the definition of ‘dependant’ in the Agreement needs to be amended;
- 2 **approved** the text of the initiating letter, attached as Annex I to the paper under ERS-21-SUB-0007 (the initiating letter), to amend the definition of ‘dependant’ to include civil union partners;
- 3 **agreed** that New Zealand may sign the initiating letter;
- 4 **noted** that the amendment would enter into force on the date of the reply letter from Chile;
- 5 **noted** that no changes to legislation are required to bring the proposed amendment into force;
- 6 **noted** that there are no financial implications arising from the proposed amendment;
- 7 **noted** that the Minister of Foreign Affairs has determined that the Agreement is not a major bilateral treaty of particular significance and that, therefore, it is not subject to the Parliamentary treaty examination process.

Janine Harvey
Committee Secretary

Hard-copy distribution: (see over)

Present:

Hon Grant Robertson
Hon Kelvin Davis
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta (Chair)
Hon Poto Williams
Hon Damien O'Connor
Hon Kris Faafoi
Hon Peeni Henare
Hon Dr David Clark

Officials present from:

Office of the Prime Minister
Officials Committee for ERS

Hard-copy distribution:

Minister of Foreign Affairs