



Cabinet

CAB Min (03) 18/4A

Minute of Decision

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Minister of Immigration

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Hon Jim Anderton
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Minister of Women's Affairs
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Minister for Courts
Legislation Coordinator
Chief Parliamentary Counsel
Secretary, POL



Recognition of Marriage and De Facto Relationships for Immigration Purposes: Second Paper

On 26 May 2003, following reference from the Cabinet Policy Committee (POL), Cabinet:

- 1 **noted** that on 24 February 2003 Cabinet considered a paper *Recognition of Marriage and De Facto Relationships for Immigration Purposes* and, inter alia, invited the Minister of Immigration to prepare a new submission for Cabinet Policy Committee on aligning the treatment of married and de facto relationships for immigration purposes [CAB Min (03) 6/6];
- 2 **agreed** that residence and temporary entry immigration policy should treat married and de facto couples on the same basis, and that they must have been living together in a genuine and stable relationship for at least 12 months before residence may be granted;
- 3 **agreed** that a decision on an application for residence under partner policy, where the couple has been assessed as being in a genuine and stable relationship, may be deferred and a temporary visa or permit may be issued for the duration of the qualifying period for residence agreed in paragraph 2;

- 4 **agreed** to remove current policy allowing for the deferral of a marriage or de facto policy residence decision for up to six months in the case of doubt;
- 5 **agreed** that the onus of proof be shifted to the applicant, by replacing the requirement for the New Zealand Immigration Service (NZIS) to accept a relationship as genuine unless there is evidence to the contrary with a requirement for the applicant to satisfy NZIS of the genuineness of the relationship;
- 6 **agreed** that enhanced guidance on the factors that need to be taken into account in determining whether a relationship is genuine and stable be introduced;
- 7 **agreed** to the introduction of the following minimum requirements for the recognition of a relationship for temporary entry and residence purposes:
 - 7.1 the parties to the relationship must be aged at least 18 years of age, with provision for the age to be lowered to 16 years if there is parental support for the relationship and if the court agrees;
 - 7.2 the parties to the relationship may not be close relatives; and
 - 7.3 the parties must have met before lodging the application;
- 8 **agreed** that a sponsored partner may not themselves sponsor a partner for residence for at least five years, and may sponsor no more than one partner in total;
- 9 **agreed** that there be no duration of relationship requirement for a temporary visa or permit to be issued on the basis of a marriage or de facto relationship if the applicant otherwise meets policy requirements;
- 10 **agreed** that where the spouses or partners in a residence application are in a genuine and stable relationship of less duration than agreed at paragraph 2, the non-principal partner's residence decision may be deferred and a temporary permit may be issued for the remainder of the required duration;

Funding implications

- 11 **noted** that the implementation costs of these decisions are estimated at \$0.350 million (GST exclusive) in 2003/04 and can be met within Vote Immigration baselines;
- 12 **noted** that the Department of Labour will monitor the impact of the decisions on the level of interviewing and assessment required, and provide any recommendations to change the fees in the 2004 fees review;

Next steps

- 13 **noted** that the Department of Labour is intending to examine the revocation provisions of the Immigration Act 1987 in 2003/04;
- 14 **invited** the Minister of Immigration to instruct Parliamentary Counsel Office to prepare an amendment to regulation 20 of the Immigration Regulations 1999 to enable the decision in paragraph 2 to be applied to the inclusion of partners on other applications for a visa or permit;

15 **noted** that the Minister of Immigration will announce the policy adjustments on the day that they take effect.



Secretary of the Cabinet

Reference: CAB (03) 200; SDC Min (03) 12/14

Secretary's Note: Cabinet amended paragraph 7. This minute accordingly replaces SDC Min (03) 12/14.