

## The Education (Domestic Students) Notice 2021

Pursuant to section 10(1) paragraph (c) of the definition of the term “domestic student” of the Education and Training Act 2020, the Minister of Education, by and through Helen Hurst, Acting Deputy Secretary, Sector Enablement and Support, Ministry of Education, acting under delegated authority, gives the following notice.

### Notice

#### 1. Title and Commencement

(1) This notice may be cited as the Education (Domestic Students) Notice 2021.

(2) This notice shall come into force on the day after the date of its publication in the *New Zealand Gazette*.

#### 2. Domestic Students

Persons of the following class or description are required to be treated as if they are not international students:

- a. A person who holds a student visa and who is the dependent child of any person who is in New Zealand to study under an exchange programme approved by the New Zealand Government.
- b. A person who holds a student visa or a visitor visa and who is in New Zealand to study under an approved New Zealand student exchange scheme offered by a code signatory school or offered by an approved exchange programme organisation.
- c. A person who holds a student visa and who has entered New Zealand for the purposes of adoption and:
  - i. whose adoption application before the New Zealand Family Court (where the final order will entitle that person to education as a domestic student) is supported by Oranga Tamariki, Ministry for Children, and who has a letter from the Ministry confirming that support; or
  - ii. who is the subject of an interim order of adoption granted by the New Zealand Family Court under section 5 of the Adoption Act 1955 (where the final order will entitle that person to education as a domestic student).
- d. A person who holds a student visa and who is the dependent child of an international student who is enrolled in a Doctor of Philosophy programme at a New Zealand university.
- e. A person who is in the custody of the Chief Executive of the Ministry of Social Development pursuant to any of the following orders:
  - i. An order, pursuant to sections 78, 101 or 238(1)(d) of the Oranga Tamariki Act 1989, in favour of the Chief Executive of the Ministry of Social Development.
  - ii. An order, pursuant to section 110 of the Oranga Tamariki Act 1989, appointing the Chief Executive of the Ministry of Social Development as sole guardian.
  - iii. An order, pursuant to section 33 of the Care of Children Act 2004, whereby a child or young person is placed under the guardianship of the Family Court or the High Court and the Chief Executive of the Ministry of Social Development is appointed as agent of the Court with power and discretion to place the child.
- f. A person who holds a student visa and who is the dependent child of an international student who is supported by a scholarship funded by the New Zealand Aid Programme administered by the Ministry of Foreign Affairs and Trade.
- g. A person who has a letter from the Protocol Division of the Ministry of Foreign Affairs and Trade confirming that he or she is, for the time being, entitled to any immunity from jurisdiction by or under the Diplomatic Privileges and Immunities Act 1968 or the Consular Privileges and Immunities Act 1971 for the current school year, until the end of the year in which that status expires.
- h. A person who holds a student visa and who is the dependent child of the holder of a valid military visa.
  - i. A person who has, or who is the dependent child of any person who has, made a claim to be recognised as a refugee or a protected person in accordance with Part 5 of the Immigration Act 2009, and who is the holder of a valid temporary visa.
  - j. A person who has, or who is the dependent child of any person who has, been recognised as a refugee or a protected person in accordance with Part 5 of the Immigration Act 2009, and whose application for residence is being processed.
- k. A person who holds a student visa and who is the dependent child of any person who is a New Zealand citizen or

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the holder of a residence permit under the Immigration Act 1987 or of a residence class visa under the Immigration Act 2009 and:

- i. whose own application for a residence class visa under the Immigration Act 2009 has been received and is being considered for approval by Immigration New Zealand at the time the student enrolls; or
  - ii. whose own application for citizenship is being considered for approval by the Department for Internal Affairs, until the end of the year in which the student visa expires.
- l. A person who holds a student visa and who is the dependent child of a person who is the holder of a work visa until the end of the year in which the work visa expires.
- m. A child who has been certified by the New Zealand police as a victim of people trafficking and who holds an unexpired temporary visa granted under the Immigration New Zealand “Child Victims of People Trafficking” policy.
- n. A child who is unlawfully in New Zealand and who holds an unexpired approval from the Ministry of Education confirming that he or she meets all of the following criteria:
- i. At the date of application, the child and the parent or the child and an extended family member have been ordinarily resident and living together in New Zealand continuously for over six months.
  - ii. Either the child has not been previously enrolled at a New Zealand registered school or other provider within the meaning of section 10(1) paragraph (c) of the definition of the term “provider” of the Education and Training Act 2020, or the child’s most recent enrolment was as a domestic student.
- o. For the 2020 school year only, a child who arrived in New Zealand between 16 March 2019 and 12 May 2019 with their parents to support family members or close family friends who have been directly affected by the Christchurch mosque attacks.
- p. For Term 1 and 2 of the 2021 school year only, a child who arrived in New Zealand before 2 April 2020 who meets all of the following criteria:
- i. The child holds a valid visa that entitles them to enrol with a registered New Zealand school. This includes a visitor visa until the end of the maximum period for which a person can study under a visitor visa.
  - ii. The child is in New Zealand under the direct care of a parent or close family member.
  - iii. The child is not currently nor has previously been enrolled at, and paying fees to, a registered school as an international student during the period since their most recent arrival in New Zealand.
- q. For the Term 3 and Term 4 2021 school year only, a child who arrived in New Zealand on or after 17 August 2021 after being evacuated from Afghanistan.

### 3. Interpretation and Transitional Provisions

(1) For the purposes of paragraph (b) of clause 2 of this notice, an approved New Zealand student exchange scheme or an approved exchange programme organisation means a scheme or organisation holding an unexpired approval from the Ministry of Education.

(2) The references to a student visa, a military visa, or a work visa in clause 2 of this notice include an interim visa letter from Immigration New Zealand which continues the visa type and conditions of that student, military or work visa, until the end of the period stated in the interim letter.

### 4. Revocation

This notice revokes the following notice:

(1) The Education (Domestic Students) 2021, The Education (Domestic Students) Notice 2021 ([New Zealand Gazette, 23 February 2021, Notice No. 2021-go630](#)).

Dated at Wellington this 23rd day of September 2021.

HELEN HURST, Acting Deputy Secretary, Sector Enablement and Support, Ministry of Education.