



COVERSHEET

Minister	Hon Erica Stanford	Portfolio	Immigration
Title of Cabinet paper	Immigration Financial Sustainability and System Integrity Amendment Bill	Date to be published	10 April 2025

List of documents that have been proactively released

Date	Title	Author
3 April 2025	Immigration (Fiscal Sustainability and System integrity) Amendment Bill: Approval for Introduction LEG-22-MIN-0044 Minute	Cabinet Office
26 March 2025	Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Approval for Introduction	Office of the Minister of Immigration
26 March 2025	REQ-0009920 Immigration Amendment Bill: final Cabinet paper and Bill for lodgement	MBIE
24 February 2025	REQ-0009651 Immigration Amendment Bill - draft Cabinet paper and Bill for ministerial consultation	MBIE
12 February 2025	REQ-0008378 Immigration (Fiscal Sustainability and System Integrity) Amendment Bill - drafting decisions	MBIE
21 January 2025	REQ-0007504 Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Exposure draft feedback	MBIE
18 November 2024	REQ-0005172 Immigration amendment Bill: documents for release for targeted consultation	MBIE
13 November 2024	Immigration Amendment Legislation - Addition to Bill and Planning for Future Reviews ECO-24-MIN-0255 Minute	Cabinet Office
13 November 2024	Immigration Amendment Legislation - Addition to Bill and Planning for Future Reviews	Office of the Minister of Immigration
2 November 2024	REQ-0005823 Cabinet paper for lodgement: Immigration Amendment Legislation - addition to Bill and planning for future reviews	MBIE
24 October 2024	REQ-0005298 Draft Cabinet paper amending the definition of mass arrival	MBIE
8 October 2024	REQ-0004179 Immigration Amendment Bill – Mass Arrivals definition and transitional arrangements proposals	MBIE
20 September 2024	Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Policy Proposals ECO-24-MIN-0198 Minute	Cabinet Office
12 September 2024	Immigration Financial Sustainability and System Integrity Amendment Bill - policy proposals	Office of the Minister of Immigration
6 September 2024	2425-0891 Immigration Amendment Bill: Cabinet paper for lodgement	MBIE
22 August 2024	2425-0747 Immigration Amendment Bill: draft Cabinet paper for Ministerial consultation	MBIE
13 August 2024	2024-0352 Immigration Amendment Bill: draft Cabinet paper for feedback	MBIE
17 July 2024	2024-0286 Immigration Amendment Bill: update for meeting on 17 July 2024	MBIE

2 July 2024	2324-3802 Fiscal Sustainability Amendment Bill - update and key decisions	MBIE
4 April 2024	2324-2168 Proposed Immigration (Fiscal Sustainability) Amendment Bill: scope and timeframes	MBIE

Information redacted	YES
<p>Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it at this time.</p> <p>Some information has been withheld for the reasons of: national security or defence, privacy of natural persons, confidential advice to Government, information subject to an obligation of confidence, free and frank expression of opinion and legal professional privilege.</p>	

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BRIEFING

Proposed Immigration (Fiscal Sustainability) Amendment Bill: scope and timeframes

Date:	4 April 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-2168

Action sought		
	Action sought	Deadline
Hon Erica Stanford Minister of Immigration	Agree to the proposed scope and timeframe for the Immigration (Fiscal Sustainability) Amendment Bill Discuss the approach to consultation with officials.	11 April 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Libby Gerard	Manager, Immigration (Border and Funding) Policy	Privacy of natural persons	✓
Lesley Parker	Principal Policy Advisor	Privacy of natural persons	
Liam Hutching	Policy Advisor	Privacy of natural persons	

The following departments/agencies have been consulted
Parliamentary Counsel Office

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

Proposed Immigration (Fiscal Sustainability) Amendment Bill: scope and timeframes

Date:	4 April 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-2168

Purpose

To provide you with advice and a revised timeframe to rescope the proposed Immigration (Fiscal Sustainability) Amendment Bill, which would include amendments for out-of-hours compliance issues to be progressed as a single Bill. This paper supports your discussions with colleagues, and direction to officials.

Executive summary

Confidential advice to Government

- Confidential Immigration (Mass Arrivals) Amendment Bill – to be passed by the end of 2024 if possible
- Confidential Immigration (Fiscal Sustainability) Amendment Bill – to proceed to select committee by the end of 2024 and be enacted by Budget 2025
- Confidential Immigration (Out-of-Hours Compliance Activity) Amendment Bill – to proceed to select Committee by the end of 2024
- Confidential Confidential advice to Government
- Confidential Confidential advice to Government

At the time we drafted the bids, we advised you that we had not been able to test the feasibility of the bids in detail, and we would provide further advice on the feasibility of the work, including timeframes, resourcing and how to mitigate risks [briefing 2324-2111 refers]. In the meantime, you have had a number of discussions about your work programme priorities with officials. You have clarified your preference to prioritise the Immigration Fiscal Sustainability Amendment Bill (the Bill), and put in place new visa charges that would share immigration system costs more fairly across parties (including employers) that receive its benefits.

We propose a revised approach to address the issues you have identified

This briefing proposes to combine the fiscal sustainability and out-of-hours compliance issues into a single Bill in order to make the most efficient use of House and Select Committee time. The Bill's scope would consist of:

- expanding the range of people or entities that can be charged immigration fees and levies
- Confidential advice to Government
- restrict out-of-hours immigration compliance activity to where a judicial warrant has been obtained (previously proposed to be addressed through a separate Immigration (Out-of-Hours Compliance Activity) Amendment Bill).

Per your direction, the workstream on expanding the range of purposes that the immigration levy can address has been removed from the scope of the Bill. In addition, Confidential advice to Government

Legal professional privilege, as well as further consideration of the scope and complexity of the Bill, we have proposed a revised timeline for the Bill. This timeline, while still ambitious, would see changes introduced within calendar year 2025, but not by Budget 2025.

This Bill sits within a wider stream of work in your immigration portfolio

The proposed Bill is only the first step towards implementing the desired changes to immigration charges, and a number of additional streams of work, with significant resourcing implications, needing to be initiated. These will include a fee and levy review and changes to Immigration New Zealand's operational systems and processes.

In a standard legislative process, primary legislation would be enacted before work on the subsequent fee and levy review, and changes to operational systems, began. These additional workstreams will likely need to be sequenced in parallel to meet the goal of implementing changes within calendar year 2025. This is possible, but increases the risk of unforeseen delays and inefficiencies, because all steps in the process are interdependent and seemingly minor changes to one product can have significant flow-on implications for the others. These streams of work will likely be complex and resource-intensive, and actioning them may detract from resource that would have otherwise been implementing other areas of priority in the immigration portfolio.

We would welcome the opportunity to discuss this briefing with you at a future officials' meeting.

Recommended action

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

Confidential advice to Government

[Redacted text block]

Noted

Legal professional privilege

[Redacted text block]

Noted

Proposed scope of the Bill's fiscal sustainability components

c. **Note** that, per your direction, the Bill will no longer include provisions to expand the range of purposes that the immigration levy can address

Noted

d. **Agree** that the Bill include provisions to

i.	expand the range of people or entities that can be charged immigration fees and levies	Yes / No / Discuss
ii.	Confidential advice to Government	Yes / No / Discuss

Proposed scope of the Bill's risk management components

- e. **Confidential advice to Government** [REDACTED] in order to reduce the complexity of the Fiscal Sustainability Bill and enable it to move at a quicker pace
Yes / No / Discuss
- f. **Note** that some alternative risk management proposals have already been developed (recommendations by Michael Heron KC) and the proposals from the proposed Immigration (Out-of-Hours Compliance Activity) Amendment Bill can be merged into this Bill easily
Noted
- g. **Direct** officials to progress work on the in-train Out-of-Hours Compliance Activity risk management proposals as part of this Bill
Yes / No / Discuss

Timing and consultation

- h. **Agree** to the revised timeline proposed in this paper, which would see changes introduced within calendar year 2025, but not by Budget 2025
Yes / No / Discuss
- i. **Note** that:
- i. while this proposed Bill will enable the possibility of immigration costs being charged to a wider group of people, a number of other workstreams will be required to fully implement any changes and charge individuals or entities
 - ii. these additional workstreams will likely be complex and resource-intensive, and need to be sequenced in parallel with the Bill to meet the goal of implementing changes within calendar year 2025, and
 - iii. actioning them may detract from resource that would have otherwise been implementing other areas of priority that you have identified in the immigration portfolio (including the proposed fiscal management plan)
Noted
- j. **Indicate** whether you would like us to undertake targeted stakeholder consultation on the Bill during the policy development process
Yes / No / Discuss
- k. **Note** that when you bring a paper to Cabinet seeking policy agreement to the proposals in the Bill later in the year, you are able propose an amended scope for the Bill. If you wanted to update your ministerial colleagues, before the Cabinet Legislation Committee considers bids on 11 April, we can provide you material to support this.
Noted



Libby Gerard
**Manager, Immigration (Border and Funding)
Policy**
Labour, Science and Enterprise, MBIE
04 / 04 / 2024

Hon Erica Stanford
Minister of Immigration
..... / / 2024

Background

1. At your meeting with officials on 15 February 2024, you directed us to draft five immigration Legislative Programme bids:
 - i. Immigration (Mass Arrivals) Amendment Bill – to be passed by the end of 2024 if possible
 - ii. Immigration (Fiscal Sustainability) Amendment Bill – to proceed to select committee by the end of 2024
 - iii. Immigration (Out-of-Hours Compliance Activity) Amendment Bill – to proceed to select Committee by the end of 2024
 - iv. Confidential advice to Government
 - v. Confidential advice to Government
2. These bids were provided to you on 16 February [2324-2111], and Cabinet Legislation Committee (LEG) is expected to consider them as part of the Government's decisions on the Legislative Programme on 11 April 2024.
3. Since submitting the bids, you have had a number of discussions about your work programme priorities with officials. You clarified your preference to prioritise the fiscal sustainability amendments and introduce new visa charges that would share immigration system costs more fairly across parties (including employers) that receive its benefits.
4. You could update your colleagues about the proposed revised scope and timeframe for this Bill before the discussion at LEG on 11 April 2024, and we can provide material to support you with this. This is optional as, when you bring a paper to Cabinet seeking policy agreement to the proposals in the Bill later in the year, you are able propose an amended scope for the Bill.

The Immigration (Fiscal Sustainability) Amendment Bill

5. The bid for the provisionally named Immigration (Fiscal Sustainability) Amendment Bill (the Bill), proposed to amend the Immigration Act 2009 (the Act) to:
 - a. expand the range of people or entities that can be subject to immigration charges
 - b. expand the range of purposes that the immigration levy can address
 - c. Confidential advice to Government
 - d. Confidential advice to Government
6. At your direction, the bid proposed an ambitious timeframe – enactment by Budget 2025. We indicated at the time that we were concerned about the feasibility of the proposed timeframe, given the complexity of the changes and the interaction with other immigration work programme priorities [briefing 2324-2111 refers]. With more time to consider the scope and complexity of the Bill, this briefing proposes a partial rescoping of the Bill (with flow-on implications for the broader immigration legislative programme), and a revised timeline.

7. You have provided feedback to narrow the scope of the Bill to remove the proposal to expand the range of purposes that the immigration levy can address. In addition to this, the section below provides more detail on other amendments to the scope that we recommend:
 - a. **Confidential advice to Government**
 - b. including some alternative risk management proposals to action the review of out-of-hours compliance activity (recommended by Michael Heron KC) as the policy work is largely complete and this would make efficient use of House and Select Committee time.
8. The revised timeline takes into account consultation with the Parliamentary Counsel Office (PCO) as well as the additional work required to introduce new charges (further to the primary legislation process). The proposed revised timeline would see changes introduced within calendar year 2025, but not by Budget 2025.

Proposed scope of the Bill’s fiscal sustainability components

Expanding who can be subject to immigration charges

The current fee and levy review has identified a gap in our ability to share immigration costs fairly

9. Cabinet is shortly due to consider a range of proposals for more fully recovering the costs of services received from third-party users of the immigration system, based on the principle that those that receive the benefit or create the risk should bear the cost.
10. The changes proposed in the current fee and levy review support your objective of *an immigration funding model that is efficient, self-funding and sustainable [2324-1758]* to the degree possible within existing legislative parameters. The review has highlighted again that there are groups (e.g., employers) who do not currently contribute to the broader costs of the system but who do receive a benefit (or contribute to risks).

Currently fees can be charged to a broad range of entities, but levies are limited to applicants for visas

11. Section 393 of the Act outlines who is liable to pay immigration fees. It is fairly open (“*fees may be prescribed ... in relation to any matter or service under or arising from this Act*”). This means a range of people or entities (such as applicants for visas, and employers requesting accreditation or job checks, and New Zealand citizens seeking confirmation of their status, or endorsement of their citizenship in foreign passports) are required to pay fees for a variety of purposes. Section 394 enables charges to be made for a wide range of matters, including the transfer of visa labels between passports, call out fees for decisions made out of hours, and telephone services.
12. This means that, if you wished to charge a fee for a new service **Confidential advice to Government** there would not be a legislative barrier to doing so, as long as that fee related to a matter under the Act **Confidential advice to Government**.
13. However, the Treasury’s Guidelines for Setting Charges in the Public Sector¹ and the Public Finance Act 1989 between them require government entities to set fees that on average recover, but do not *over* recover, the *cost of the service provided*, and they must be tied to the cost of the service and not necessarily the benefit received or risk invoked.

¹ The Treasury, *Guidelines for Setting Charges in the Public Sector*, 2017.
<https://www.treasury.govt.nz/sites/default/files/2017-04/settingcharges-apr17.pdf>

14. Levies by comparison are much more flexible with regard to what or who money raised can be spent on, but for that they must be tied to a specific activity – in this case activities specified in the Act. Section 399(2) of the Act establishes that the immigration levy can fund a wide range of purposes, which are related to aspects of the immigration system. There is no requirement that any services are provided to the people who paid for them or who cause a need for them, or that services funded are provided by MBIE.
15. However, section 399(1) of the Act outlines that only applicants for visas are liable to be charged the levy. We therefore consider that the best way to expand the range of people or entities that can contribute towards the costs of the immigration system is to make a legislative change to expand the levy payer base. We propose that this potentially include, but not be limited to, the broad range of people and entities that utilise the immigration system as below:
 - a. individuals (rather than just visa applicants)
 - b. employers / industries / not-for-profit entities
 - c. primary, secondary, and tertiary education institutes
 - d. sponsors of migrants
16. While legislative change would enable the levy payer base to be expanded, a further fee and levy review would still be required to determine the appropriate level of charges to be levied on people and entities, prior to any changes coming into effect.

This would be a significant change, and consultation may be advisable

17. The original (1998) migrant levy was only charged to approved applicants for visas, and only funded services to support migration settlement (specifically, originally, just ESOL in schools) and research into migration outcomes². When the immigration levy replaced the migrant levy eight years ago, charging was expanded to applicants for visas (enabling temporary visa applicants to be charged but not, for example, applicants for NZeTAs) and the approved purposes were widened.
18. Expanding the charging base to a wider range of potential payers Confidential advice to Government
[REDACTED] would constitute a significant departure from the existing regime and may be controversial.
19. The Select Committee process offers the opportunity for public input, and the government is generally expected to consult on potential fee and levy reviews prior to any changes to rates. However, given the significance of this departure from current policy, we anticipate that stakeholders may expect to be consulted during the policy drafting stage as well. In particular, we anticipate that stakeholder groups who are not currently liable to pay (such as employers, business owners, and education providers) will expect to be consulted on the policy prior to it being finalised.
20. Earlier consultation may also help to manage the Select Committee process and prevent criticism at Select Committee stage about the limited ability to provide feedback.

² It was created as a levy after the Regulations Review Committee found the then-new Settlement Services Fee (funding research and ESOL) to be illegal, as the costs could not be attributed to the individuals paying it.

21. If you would like us to undertake targeted consultation with external stakeholders during the policy drafting stage, this would likely include groups such as:
- a. the Immigration Reference group
 - b. the Immigration New Zealand (INZ) Focus Group – which includes representatives from the Employers and Manufacturers Association, Business New Zealand and the Council of Trade Unions
 - c. education providers, and
 - d. tourism and hospitality providers.
22. You could also consider testing this proposal with your Immigration Advisors Reference Group. We can provide material to support you with this.

Confidential advice to Government

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

Confidential advice to Government

[Redacted text block]

[Redacted text block]

[Redacted text block]

³ See footnote 1.

28. Charging fees on an individualised basis is already possible under Section 393(2) of the Act, which states that:

“...fees may apply to an individual person or an application, or to a group of persons or applications, or otherwise”;

29. We therefore recommend that the best avenue to make this change is through a future fee and levy review.

30. Differentiating the level of visa fees an applicant is liable to pay may also be possible under the current provisions in the Act, depending on the reason for the change. If for example, you would like to make this change based on the greater cost of processing visas for visa-required individuals (as those individuals generally require additional verification costs), then we recommend that this change be made through a future fee and levy review. However, if you would like to make this change as a deterrent method against those who may be low-skilled, for example, or for any other reason that is not based solely on the variable cost of a visa application, then legislative change would be required.

31. Information about the steps and considerations involved in progressing a future fee and levy review and changes to charges are set out in paragraph 39 below.

Proposed scope of the Bill’s risk management components

We recommend that risk management components be shifted to the

Confidential advice

Confidential advice to Government

34. We estimate that with these proposals, at the earliest, the Bill could be introduced to the House by March 2025.

35. We do not consider it feasible to include this work in scope of this Bill without significantly extending the timeframes of introducing it to the House, and therefore, ultimately, implementing it. We therefore recommend that the current risk management proposals be removed for the scope of the Bill **Confidential advice to Government**

Some alternative risk management proposals have already been developed and could be included in the Bill without significant impacts on timing

36. The Immigration (Out-of-Hours Compliance Activity) Amendment Bill legislative bid was intended to take into account changes that were recommended by the 2023 review of out-of-hours compliance activity by Michael Heron KC (the Heron Review).
37. The Heron Review recommended options for amendments to legislation and operating procedures regarding out-of-hours compliance activities. The recommended operational changes have largely been implemented by INZ [2324-1822].
38. The legislative options recommended were to amend section 286 of the Act and any other sections allowing for entry into residential premises to either:
 - a. place limitations on the exercise of entry powers, such as restrictions on the time of entry, except where it is clearly in the public interest; or
 - b. restrict the power of entry entirely to where a judicial warrant has been obtained, irrespective of the time of day it is exercised.
39. The previous Cabinet agreed to limit the power of entry out of normal hours (8:00am – 7:00pm) to where a judicial warrant has been obtained prior to out-of-hours compliance activity taking place [CAB-23-MIN-0441]. You have directed us to continue this work to require a judicial warrant before an immigration officer can conduct out-of-hours compliance activity at residential premises.
40. Given that policy work on this is well progressed, and the scope limited and well-defined, we consider that the Heron Review recommendations could be brought into the Fiscal Sustainability Bill without any significant impact on timing. To progress this, Cabinet decisions would need to be sought to issue instructions.
41. Further information on the Heron Review, and sections of the Act that we consider out of scope for implementing Heron’s legislative recommendations, can be found in **Annex One**.

Progress of legislation and related work to introduce updated charges

42. You have identified that you would like the Bill to be enacted ahead of Budget 2025, ^{CONFIDENTIAL}
[REDACTED] Legal professional privilege
43. As previously advised, the timeline presented in the legislative bids was highly ambitious and provided ahead of the work being fully scoped. We do not consider this to be a feasible timeline, as it does not allow enough time for the preparation of policy advice, ministerial consultation and Cabinet agreement, the development of a Regulatory Impact Statement (RIS), ^{Legal professional privilege}
44. If the objective of the legislative change is to enable the charging of the immigration levy in financial year 2025/26, it would still be necessary to conduct a fee and levy review, and consult with stakeholders, prior to any changes to the fees and levies that we charge. Taking a similar timeline to the fee and levy review currently underway, we estimate that, even if the Bill were to be passed by Budget 2025, it would still not be possible to introduce new fee and levy rates until at least September 2025.

45. Additionally, there is no requirement to tie fee and levy reviews to Budget timing. This year's fee and levy review was linked to Budget 2024 because of its interconnectedness with the Government's fiscal savings exercise [2324-1069]. Confidential advice to Government

46. We have proposed a revised timeline in the following section.

47. The proposed Bill is only the first step towards implementing the desired changes to immigration charges. A number of additional streams of work, with significant resourcing implications, will need to be initiated. These will include:

1) *A fee and levy review*

This Bill would enable the changes to be made in the Act, but the provisions to charge fees or levies is contained within the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010. A further fee and levy review will be required to calibrate rates at an appropriate level and make regulations.

As per the current fee and levy review, this would involve a period of policy development and rate modelling, and Cabinet agreement to targeted consultation. Adequate consultation will be particularly important as these changes will be novel and could impact on groups not previously liable to pay immigration charges and have not previously been consulted with. If Cabinet agrees to proposed charges, regulations will need to be enacted to bring those changes into force.

The current fee and levy review will have taken 12 months from initiation until the time fee and levy rates come into effect late September. This review has required significant resourcing and put pressure on other deliverables, and our assessment is that an 18-month process would be preferable given the added complexity of the next review (this will be the Government's first-time setting levy rates for non-applicants), and allow for a less rushed Cabinet policy and legislative process (including PCO drafting time).

2) *Changes to INZ operational systems*

INZ will also need to make changes to their systems to ensure system readiness for the new charges.

This would include changes to the ICT systems that process visas, changes to existing processes and platforms so that charges can be paid by employers, sponsors, and education providers. This will also be particularly important when collecting from multiple visa applicants.

This would be both time and resource-intensive, would be costly, and depending on what form the policy takes, could take up to a year to implement. While some changes, like charging accredited employers a levy, are relatively easy given that there exists a "touchpoint" with the immigration system where a charge can be implemented, charging other parties may be significantly more complex if that "touchpoint" does not already exist. INZ does not recommend beginning work on these changes before the Bill has been enacted.

Recent experiences have shown the importance of ensuring that ICT systems adjustments are ready ahead of the implementation of policy change. Not doing this can lead to system failures and outages and can generally negatively impact both processing times and overall efficiency.

Sequencing considerations

48. In a standard legislative process, primary legislation would be enacted before work on the subsequent fee and levy review and changes to operational systems, began. These additional workstreams will likely need to be sequenced in parallel to meet the goal of implementing changes within calendar year 2025. This is possible, but increases the risk of unforeseen delays and inefficiencies, because all steps in the process – the shepherding of the Bill through the House, the fee and levy review, the creation of new regulations, and the changes to INZ operational systems – are interdependent and seemingly minor changes to one product can have significant flow-on implications for the others.
49. For example, if the fee and levy review is started during the shepherding of the Bill through the House, but changes are made during the select committee process that Cabinet chooses to adopt, then the review may need to be extended as the scope of the review may change.
50. The current fee and levy review is due to be completed in September 2024, and work on the fiscal management plan (to improve scrutiny of proposals with financial implications and ensure the effective and efficient provision of immigration services) will commence in the second half of 2024. Implementing the changes in the proposed Bill will draw on a lot of the same resources and expertise required for these activities.
51. Furthermore, we will not yet know the full response and impact of the current fee and levy review before embarking on the second fee and levy review, namely whether there is significant public criticism for the scale of increases, or unexpected impacts on demand.
52. Confidential advice to Government

Proposed timeline

53. The timeline put forward in the legislative bid had the Bill passed by Budget 2025. As set out in this briefing, we do not consider this timeline to be feasible, and further, it may not deliver the objectives of the legislative change.
54. We propose the below timeline below for development of the proposed Bill. A more detailed timeline is attached as **Annex Two**:

Action	Date	Comments
Cabinet decisions on legislative programme	Monday 15 April	<i>[Note: next LEG is 11 Apr]</i>
Ministerial direction on this briefing received	Thursday 18 April	
Officials prepare Cabinet policy paper and Regulatory Impact Statement (2.5 months⁴)		
Draft Cabinet Economic Development (ECO) paper and Regulatory Impact Statement (RIS) to Minister's office for ministerial consultation	Wednesday 3 July 2024	Allows two weeks for ministerial consultation, and lodgement of paper on 1 August 2024
ECO consideration of paper	Wednesday 7 August 2024	
Cabinet (CAB) consideration of paper	Monday 12 August 2024	<i>Following this meeting officials will draft instructions to be sent to PCO</i>

⁴ We intend to discuss these proposals with relevant agencies and internal consultation groups – this timeframe would not allow wider consultation with representatives of affected groups

Action	Date	Comments
<i>PCO works with officials on drafting Bill 16 August – 16 December (4 months)⁵</i>		
New Zealand Bill of Rights Act 1990 (BORA) vet completed by Ministry of Justice	Friday 24 January 2025	<i>Two weeks required timeframe, accounting for the December break</i>
Draft Cabinet Legislation Committee (LEG) paper and final draft Bill provided to Minister's office for ministerial consultation	Wednesday 29 January 2025	<i>Accounts for 2 days of Minister's office consideration and 2 weeks of ministerial consultation</i>
Final LEG paper to Minister for approval	Thursday 20 February 2025	
LEG consideration of Bill for introduction	Thursday 6 March 2025	
CAB consideration of Bill for introduction	Monday 10 March 2025	
Introduction to the House	Thursday 13 March 2025	Dependent on Leader of the House's office
First Reading of Bill, referred to Select Committee	Tuesday 18 March 2025	
Select Committee consideration	18 March 2025 – 2 September 2025	Six-month select committee. (Education and Workforce committee recommended). <i>Note this could be reduced to a minimum of 4 months.</i>
Second Reading	Ealy / mid-September	Dependent on government decisions re House time
Committee of the Whole House	Late September	
Third Reading and enactment	Early October	
<i>Fee and levy review to set and implement charges (12-18 months)</i>		
Next fee and levy review	From September 2024 - late 2025	To be done in parallel to Bill proceeding through the House
Regulations changes to enact decisions of Fee and Levy review	Late 2025	

55. Please note this is an indicative timeline and is dependent on a number of external variables not within our control. This includes, but is not limited to:

- a. Confidential advice to Government
- b. significant concerns raised through Ministerial consultation and Cabinet Committees requesting further information, which may delay any decisions by Cabinet
- c. whether or not this Bill is given priority by the Leader of the House's Office

⁵ Legal professional privilege It may be possible to reduce this timing in light of the removal of the more complex risk management proposals.

- d. INZ operational policy timelines, to move from legislative enablement to operational reality, which is dependent on INZ resourcing
- e. whether the Select Committee process results in amendments, which require further Cabinet decisions
- f. resource constraints across MBIE's policy and legal teams, and
- g. how quickly MBIE's ICT systems can be updated to reflect any new charging rates.

56. Confidential advice to Government

Discussion of wider legislative programme

- 57. The rescoping proposed in this briefing would see the fiscal sustainability and out-of-hours compliance issues combined into a single Bill (potentially renamed to be the Immigration (Fiscal and Risk Management) Amendment Bill) and enacted this parliamentary term.
- 58. Meanwhile, the Immigration (Mass Arrivals) Amendment Bill is likely to progress at pace. On 28 March 2024 Cabinet Legislation Committee agreed that it continue to progress through the House and be introduced at the appropriate time [LEG-24-MIN-0055].
- 59. Confidential advice to Government

Next steps

- 60. We would welcome the opportunity to discuss this briefing and your legislative priorities with you at a future officials' meeting.
- 61. Following your direction on scope and timing, we will progress policy work on Bill with the intention of providing you with a draft Cabinet paper and RIS by 3 July 2024.

Annexes

Annex One: Further information on the Heron review

Annex Two: Full proposed timeline

Annex One: Further information on the Heron review

In 2021 the Government apologised to the Pacific community for the Dawn Raids

On 1 August 2021 the then Prime Minister, on behalf of the government, apologised to Pacific people for the harm caused to them by the Dawn Raids period of the 1970s. The Dawn Raids occurred in the mid-1970s, and involved the state deliberately targeting the Pacific community alone for immigration compliance activity (although significant numbers of overstayers were from Europe or North America). This activity extended to the Police being instructed to raid the homes of Pacific families in the early hours to look for proof of a person's right to be in New Zealand. Following the apology, the Pasifika community believed that there would be meaningful change to immigration compliance activity, and that nothing reminiscent of the Dawn Raids would ever be carried out again.

The practice of the Dawn Raids was stopped in the 1979 as government policy evolved, public opposition to the raids grew, and support for the raids within both major political parties waned. The Immigration Act 1987 decriminalised overstaying one's visa, and that remains the case to this day.

However, out-of-hours compliance activity remains an important tool

Despite the fact that immigration and police officers no longer conduct dawn raids, compliance site visits to residential properties early in the morning (outside of the hours of 6:00am and 9:00pm) remained an option for immigration compliance officers.

From July 2015 to May 2023 there were a total of 11,715 deportations. Of these, 101 (0.9%) were effected through out of hours visits. In recent years the vast majority of those deported through out of hours compliance activity were Chinese nationals (46 out of a total of 57 individuals in the period from July 2019), due to a focus on compliance actively targeted at migrant workers within the building industry. The number of visits to Pacific peoples were low by comparison (six visits, resulting in three deportations over the same period).

Following one such instance of out-of-hours compliance activity that gained attention from Pacific communities, whereby an out-of-hours compliance residential visit was undertaken to deport a Tongan national, MIBE paused all out-of-hours compliance activity and commissioned the Heron Review. The purpose of the review was to assess the current state of INZ's out-of-hours compliance activity and recommend changes to the process where required, including where legislative settings and standard operating procedures.

The review found that the Dawn Raids Apology made in 2021 may have created a reasonable expectation within Pacific communities that activities similar to the dawn raids (that is, compliance activity that occurs out of reasonable hours; out-of-hours compliance activity) would cease, or that such activities would occur only as a genuine last resort option.

Recommendations of the Review

The review recommended options for amendments to legislation and operating procedures; operational changes have largely been implemented by INZ. Legislative options recommended in the Heron Review were to amend section 286 of the Act and any other sections allowing for entry into residential premises after hours to *either*:

- place limitations on the exercise of entry powers, such as restrictions on the time of entry, except where it is clearly in the public interest, *or*
- restrict the power of entry entirely to where a judicial warrant has been obtained, irrespective of the time of day it is exercised.

The Heron Review also made operational recommendations below. You have previously received an Aide Memoire outlining INZ's new processes [2324-1822]; those new processes have now gone live:

- SOPs and guidelines for compliance officers should be updated to reinforce that out of hours compliance visits are a matter of last resort and reasonable alternatives should have been considered beforehand. SOPs should also be updated to reflect policy about when and how these kinds of visits should occur. Given the lack of legislative time available this could be given priority
- Any assessment of out of hours visits should consider the impact on anyone else who may be present, in particular children, but also the elderly or other vulnerable individuals, as well as New Zealand citizens or residents. The way in which the operation is carried out should take into account relevant cultural factors
- Any decision to undertake an out of hours compliance visit should also include an assessment of reasonableness, proportionality and public interest, and
- Any out of hours compliance activity should be authorised by the relevant compliance manager and the national manager before it can occur, although it is acknowledged there are arguments for elevating authorisation further.

Without greater oversight and protections against the use of the power of entry, MBIE's social licence to conduct out-of-hours compliance activity may degrade. INZ's social licence with New Zealand's communities is vital to enable it to better execute its regulatory stewardship function, and address unlawful individuals in the country.

If INZ's social licence were to not be safeguarded with the requirement to obtain a warrant, there is a risk that individuals who are uncontactable in-hours, or may not otherwise be accessible to conduct compliance activity in-hours, and that those individuals may remain unlawfully in the country.

Annex Two: Full proposed timeline

Action	Date	Comments
Scoping briefing to Minister's office (this briefing)	Thursday 4 April	
Cabinet decisions on legislative programme	Monday 15 April	<i>[Note: next LEG is 11 Apr]</i>
Ministerial direction on scope & timing received	Thursday 18 April	
<i>Officials prepare Cabinet paper and RIS (2.5 months⁶)</i>		
Draft Cabinet paper and RIS to Minister's office for consideration and ministerial consultation	Wednesday 3 July 2024	Allows two weeks for ministerial consultation
Ministerial consultation on Cabinet paper complete	Friday 19 July 2024	<i>[Note: third recess week of three]</i>
Final paper and RIS to Minister for approval	Thursday 25 July 2024	
Cabinet paper and RIS lodged	Thursday 1 August 2024	
ECO consideration of policy paper	Wednesday 7 August 2024	
CAB consideration of policy paper	Monday 12 August 2024	
Drafting instructions sent by officials to PCO	Friday 16 August 2024	
<i>PCO works with officials on drafting Bill 16 August – 16 December (4 months)⁷</i>		
Final draft Bill received from PCO	Monday 16 December 2024	
BORA vet completed by Ministry of Justice	Friday 24 January 2025	<i>Two weeks required timeframe, accounting for the December break</i>
Draft LEG paper and Final draft Bill provided to Minister's office for ministerial consultation	Wednesday 29 January 2025	
Ministerial consultation on LEG paper complete	Friday 14 February 2025	
Final LEG paper to Minister for approval	Thursday 20 February 2025	
Cabinet LEG paper lodged	Thursday 27 February 2025	
LEG consideration of Bill for introduction	Thursday 6 March 2025	
CAB consideration of Bill for introduction	Monday 10 March 2025	
Introduction to the House	Thursday 13 March 2025	Dependent on Leader of the House's office

⁶ We intend to discuss these proposals with relevant agencies and internal consultation groups – this timeframe would not allow wider consultation with representatives of affected groups

⁷ PCO advised four months for drafting based on the initial scoping of the Bill. It may be possible to reduce this timing in light of the removal of the more complex risk management proposals.

Action	Date	Comments
Confidential advice to Government [REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	
[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	