



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

<p>Information redacted</p> <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>	<p>YES</p>
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Cabinet Economic Policy Committee

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.

Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Policy Proposals

Portfolio Immigration

On 18 September 2024, the Cabinet Economic Policy Committee:

- 1 **noted** that legislative change is required to support the immigration system to be more fiscally sustainable, and to better support the integrity of the system;
- 2 **agreed** to achieve the purpose set out above by amending the Immigration Act 2009 (the Act) to:
 - 2.1 better meet the Government’s fiscal sustainability goals by:
 - 2.1.1 expanding the immigration levy payer base, so the costs of the immigration system are more fairly shared across those that create the risks and/or receive the benefits of immigration;
 - 2.1.2 creating a new immigration levy or levy-making power, to expand the funding purposes of levy revenue to other services or infrastructure where there is a clear and quantifiable link to immigration;
 - 2.2 better meet the Government’s immigration regulatory system integrity goals by:
 - 2.2.1 implementing the recommendations of independent reviews, requiring judicial warrants in some cases, strengthening protections for asylum claimants where the Crown is seeking their detention, and enabling residence class visas to be cancelled to manage security threats;
 - 2.2.2 capturing more cases where money is extorted for job offers, and ensuring people who commit crimes are appropriately liable for deportation;
 - 2.2.3 enabling the Minister of Immigration (the Minister) to, with appropriate safeguards, exercise flexible powers to respond to situations that are unusual or outside the immigration system’s control, and that pose operational challenges;
- 3 **noted** that the previous Government agreed to the residential out-of-hours visits, electronic monitoring and cancellation of residence status proposals [CBC-23-MIN-0008, CAB-23-MIN-0441];

Fiscal sustainability

- 4 **agreed** that the proposal in paragraph 2.1.1 above be expressed as an empowering provision to determine who should be liable to pay an immigration levy, subject to the following criteria:
- 4.1 a levy can be charged to:
 - 4.1.1 a person or entity that can already be charged in the immigration system;
 - 4.1.2 a person or entity that is otherwise a member of a specified group, being either a port, an employer of temporary migrants, or a provider of education to fee-paying international students;
 - 4.2 the Minister can exempt groups or entities that would otherwise be chargeable;
 - 4.3 there is a direct and justifiable connection to the cost, benefit or risk that any group or sub-group liable to pay derives from or introduces to the immigration system;
 - 4.4 the Minister will:
 - 4.4.1 consider the extent to which charges are just and equitable;
 - 4.4.2 ensure consistency with relevant international commitments;
 - 4.4.3 have regard to the flow on consequences of any changes to fee and levy levels on payers;
 - 4.4.4 undertake consultations, before making decisions on any groups who are proposed to be subject to an immigration levy charge, for each levy review
Confidential advice to Government
- 5 **agreed** that the proposal in paragraph 2.1.2 above be expressed as a provision enabling an immigration levy to fund any services or infrastructure costs, subject to the following criteria:
- 5.1 there must be a clear connection between the proposed service to be funded, the immigration system, and the chargeable groups or people;
 - 5.2 the Minister must undertake consultation on proposed levy charges and the intended expenditure of the levy before regulation changes are made, taking into account the obligations in paragraphs 4.3 and 4.4 above;
 - 5.3 augmenting the existing statutory requirement, that the Minister publish annually the immigration levy amounts collected and how that funding was applied, with a breakdown by classes of payers;
 - 5.4 the amount of levy revenue, how the rates of charging are calculated, and levy disbursement must be reviewed at no less than five-year intervals;

Regulatory integrity: maintaining and enhancing the integrity of the immigration system

- 6 **agreed**, in relation to paragraph 2.2.1 above, that the Act be amended to:
- 6.1 introduce a requirement for immigration officers to obtain a judicial warrant prior to conducting unannounced residential out-of-hours compliance activity;

- 6.2 ensure that, when authorising a warrant of commitment for a person who has claimed refugee or protected person status, the judge is satisfied that the risk the individual poses is clearly articulated, detention is the least restrictive measure necessary to manage the risk and, in cases where the identity of the person is unknown, or has not been established to the satisfaction of the court, there should not be a presumption of detention (unless exceptional circumstances apply);
- 6.3 enable electronic monitoring as an alternative to detention in prison, including provisions to ensure the effective operation of the electronic monitoring system, and enable management of the system to be delegated to another agency or organisation;
- 6.4 allow a judge to decide not to order detention for an individual who is subject to detention and has claimed asylum;
- 6.5 create a 'cancellation of residence class visa status' power to facilitate the future deportation of an individual subject to the Act who poses a threat or risk to security but cannot currently be deported;

Regulatory integrity: clarifying intent

- 7 **agreed**, in relation to paragraph 2.2.2 above, that the Act be amended to explicitly:
 - 7.1 better address migrant exploitation, by making it an offence for a New Zealand-based employer, their agent, or any person involved in the recruitment process or dealing with the intended migrant, to charge an employment premium, whether onshore or offshore, and irrespective of whether the intending migrant concerned has commenced or will commence active employment;
 - 7.2 clarify that liability for deportation is a consequence of criminal offending, and not only a consequence of a conviction;
- 8 **noted** that the Minister has separately directed officials to:
 - Confidential advice to Government
 - 8.2 provide urgent advice on whether the definition of a mass arrival group should be expanded to include people arriving on a scheduled service, with a view to potentially including a change in this Bill;
- 9 **agreed**, in relation to paragraph 2.2.3 above, that the Act be amended to explicitly enable decisions to be made to grant or amend visas in the absence of applications, by giving the Minister the ability to, by Special Direction:
 - 9.1 grant visas to individuals and classes of people in the absence of an application;
 - 9.2 impose, vary, or cancel conditions for classes of temporary entry class or restricted temporary entry class visa holders;
 - 9.3 vary or cancel conditions for classes of resident visa holders;
 - 9.4 waive any regulatory requirements to make an application for certain classes of people;
 - 9.5 extend the expiry dates of visas for classes of people, by up to nine months;

- 10 **agreed** that each Special Direction that relates to a class of person:
- 10.1 must be in response to circumstances that are unusual, unable to be accommodated within existing frameworks or outside the department's control, and that pose challenges to the immigration system;
 - 10.2 can only be exercised by the Minister, is secondary legislation that is time-limited and in any case has a duration of no more than six months, is notified in the Gazette, and is published on the Immigration New Zealand website;
 - 10.3 spells out the statutory power (or powers) exercised and the class of people to whom it applies;
 - 10.4 must be certified by the Minister, to the effect that the Minister considers that:
 - 10.4.1 the exercise of the power or powers is reasonably necessary to manage the effects, or deal with the consequences, of the specified situation, as existing measures are not sufficiently responsive; and
 - 10.4.2 the exercise of the power or powers will benefit, or at least not disadvantage, the people to whom it applies; and has undertaken any consultation they consider to be appropriate before that certification;
- 11 **invited** the Minister to:
- 11.1 publish annually the number of times and reasons that class Special Directions have been used in the year, and for the previous three years (if relevant);
 - 11.2 report back to Cabinet no more than three years after the Special Direction powers come into effect, to identify whether there have been any unintended consequences and, if so, whether further legislative adjustments are merited;
- Legislative implications**
- 12 **agreed** that the provisions in the Bill will come into effect on the day after Royal Assent, with the exception of:
- 12.1 the changes to applications for warrants of commitment in paragraph 6.2 above, which will come into effect three months after Royal Assent;
 - 12.2 the introduction of electronic monitoring in paragraph 6.3 above, which will come into effect one year after Royal Assent;
- 13 **invited** the Minister to:
- 13.1 issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions above, through their inclusion in the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill;
 - 13.2 undertake targeted consultations on an exposure draft of the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill;
- 14 **authorised** the Minister to make decisions, consistent with the policy proposals in the paper under ECO-24-SUB-0198, that may arise during the drafting and consultation process;
- 15 **noted** that the Minister intends to introduce the Bill in early 2025;

Financial implications

- 16 **noted** that, with the exception of electronic monitoring in paragraph 6.3, the above changes raise no direct financial implications;

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Confidential advice to Government

- 18 **invited** the Minister to undertake a review of immigration charges in parallel with Parliament's consideration of the Bill, with a view to Cabinet making decisions on rates in advance of assent, noting that that review will take into account the expected broadening of potential levy payers, but not the future expansion of purposes of expenditure nor the electronic monitoring proposal;

Regulatory implications

- 19 **invited** the Minister to reflect the outcomes of the review of immigration charges through amendments to the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 in due course.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Christopher Luxon
Hon David Seymour
Hon Nicola Willis (Chair)
Hon Shane Jones
Hon Simeon Brown
Hon Erica Stanford
Hon Louise Upston
Hon Tama Potaka
Hon Penny Simmonds
Hon Chris Penk
Hon Nicola Grigg
Hon Andrew Bayly
Hon Andrew Hoggard
Hon Mark Patterson
Simon Court MP

Officials present from:

Office of Hon Erica Stanford
Officials Committee for ECO