



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

Immigration Amendment Bill – Mass Arrivals definition and transitional arrangements proposals

Date:	8 October 2024	Priority:	High
Security classification:	In Confidence	Tracking number:	BRIEFING-REQ-0004179

Action sought		
	Action sought	Deadline
Hon Erica Stanford Minister of Immigration	Agree to include changing the definition of a mass arrival in the upcoming Immigration Amendment Bill. Agree to remove the transitional arrangements currently in the upcoming Bill.	14 October 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Stacey O'Dowd	Manager, Immigration (Border & Funding) Policy	Privacy of natural persons	✓
Liam Hutching	Policy Advisor	Privacy of natural persons	

The following departments/agencies have been consulted

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



BRIEFING

Immigration Amendment Bill – Mass Arrivals definition and transitional arrangements proposals

Date:	4 October 2024	Priority:	High
Security classification:	In Confidence	Tracking number:	BRIEFING-REQ-0004179

Purpose

To seek your agreement to include further changes in the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill (the Bill), to:

- amend the existing definition of a mass arrival group, to remove the risk that a group that should be subject to a group warrant of detention may arrive on a scheduled international service and therefore not meet the definition set in legislation, and
- remove the proposed transitional arrangements clauses that would have exempted MBIE from the requirement to consult on the first fee and levy review in relation to the expanded levy payer base, as adequate consultation will be able to be undertaken concurrent with Parliament's consideration of the Bill.

Recommended action

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

Definition of a mass arrival group

- a **Note** that, following the passing of the Immigration (Mass Arrivals) Amendment Act 2024, officials have continued to work on identifying potential risks associated with a mass arrival to New Zealand, as discussed with you at your officials meeting on Monday, 7 October 2024
Noted
- b **Note** that we have identified that the existing definition of a mass arrival group, which excludes individuals travelling to New Zealand on a scheduled international service (such as an international flight or a cruise vessel) may no longer be fit for purpose
Noted
- c **Agree** to include a change to the definition of a mass arrival group in the upcoming Bill, by repealing section 9A(2) of the Immigration Act 2009, which excludes individuals travelling on a scheduled international service from the definition of a mass arrival group
Agree / Disagree / Discuss
- d **Note** that, if you agree to progress the change in recommendation **c** above, we recommend that you take a paper to Cabinet, as this is a matter of national security policy that Cabinet may be interested in [ECO-24-MIN-0198]
Noted
- e **Direct** officials to draft a Cabinet paper seeking a decision on recommendation **c** above
Agree / Disagree / Discuss

Requirement to consult on new levy provisions

- f **Note** that the proposal to expand the levy payer base included a transitional provision, that removed the obligation to consult before levy-related decisions are made for the first review after the legislative change comes into effect
Noted
- g **Note** that MBIE's current timelines for the 2025 fee and levy review include provision for consultation, concurrently with consideration of the Bill
Noted
- h **Note** that we therefore are confident the transitional arrangements currently in the Bill are no longer required, and consider that they may raise unnecessary questions during the passage of the Bill
Noted
- i **Note** that we consider that Cabinet agreement is not required to remove these transitional arrangements, which are machinery only, as you have authority to make decisions consistent with the policy proposals [ECO-24-MIN-0198]
Noted
- j **Agree** to remove the transitional arrangements currently in the Bill
Agree / Disagree / Discuss
- k **Note** that we will provide further advice on changes that could be included in this Bill
Confidential advice to Government
on 29 October 2024.
Noted



Stacey O'Dowd
**Manager, Immigration (Border & Funding)
Policy**
Labour, Science and Enterprise, MBIE

...8... / ...10... / ...2024...

Hon Erica Stanford
Minister of Immigration

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We propose changing the definition of “mass arrival group” in the Immigration Act 2009 through the Immigration Amendment Bill

Mass arrival group is defined in section 9A of the Immigration Act 2009 (the Act)

9A Meaning of mass arrival group

- (1) In this Act, **mass arrival group** means a group of more than 30 people, each of whom falls within 1 or more of the classes of person described in paragraphs (a) to (f) of section 115(1), who arrive in New Zealand—
 - (a) on board the same craft; or
 - (b) on board the same group of craft at the same time; or
 - (c) on board the same group of craft and within such a time period or in such circumstances that each person arrived, or intended to arrive, in New Zealand as part of the group.
- (2) In subsection (1), **craft** does not include a craft travelling to New Zealand in the course of a scheduled international service.

1. The Act establishes that members of a mass arrival group may be detained on one or more group warrants of commitment. This is to enable the individuals to be safely and humanely accommodated, and to enable any security or other risks to New Zealand to be appropriately managed, while not overwhelming our court or immigration systems.
2. Since “mass arrival group” was first defined by Parliament in 2013, the business model of people smuggling and transnational criminal organisations has evolved. At the time, the most likely scenario anticipated was one or more craft such as fishing boats or former cargo vessels, holding a large number of people arriving to New Zealand. This reflected the experiences of Canada and Australia at that time.

There is a risk that a mass arrival could occur through a scheduled service and there is a gap in the Act


3. In May 2024 you took the Immigration (Mass Arrivals) Amendment Bill 2024 through its Third Reading in the House. The focus of that Bill was legal risk that would arise if a mass arrival managing to reach to New Zealand.
4. That Bill amended the provisions in the Act that deal with detention of a mass arrival group, and aimed to uphold members of a mass arrival’s legal right to natural justice, specifically the right to legal representation, by addressing the prohibitively short amount of time available for a judge to consider a group warrant of commitment. As the previous Bill was originally drafted in 2019, it did not account for how people smuggling and transnational criminal organisations have innovated in 2024. **National security or defence** and New Zealand must be prepared for if they are successful.
5. A mass arrival scenario via a non-scheduled service is not the only likely mechanism for smuggling persons. As discussed with you, most recently at the officials' meeting on 7 October 2024 **National security or defence**
6. The definition of a mass arrival group in the Act may no longer accurately reflect the evolved tactics of people smuggling and transnational criminal organisations.

7. We have identified that the exclusion of craft travelling to New Zealand in the course of a scheduled international service may open us up to the risk of a mass arrival group coming to New Zealand, but not meeting the definition set out in legislation.
8. For example, if 40 individuals arrived as a group on a commercial flight and claimed asylum at the border, their arrival could have the same impacts on the immigration and court, and whole-of-government systems, as those same individuals arriving on a fishing vessel, but as the former would not be defined as a mass arrival group they could not be managed in the same safe and secure way as the latter.

This proposed change would not affect your timeframes for passing the Bill

9. We consider that we can address this risk through repealing section 9A(2) (set out above). We further consider that, in terms of drafting and policy work, it would be a relatively minor and technical change to the definition, and could have a significant, positive effect on our ability to respond to emerging threats to New Zealand's borders. Further, we have obtained an exemption from completing a Regulatory Impact Statement because we consider this to be non-controversial and of a machinery or technical nature, rather than a significant policy change. We seek your agreement to this amendment. If agreed, we will draft a short Cabinet paper to be considered by ECO in November.
10. We do not consider this will add to your timeframes for passing the Bill because the change is very minor, and will not add significantly to the Parliamentary Counsel Office's (PCO's) workload. We are still working towards your agreed timeframes of releasing an exposure draft to targeted stakeholders in December 2024. If this change cannot be made in time for the exposure draft, we will advise stakeholders of the policy decision at that point.

We also propose removing the transitional arrangements for the levy proposal related to expanding the payer base

11. A transitional provision modifies the operation of a new Act or other new legislation for a finite time.
12. On 18 September 2024, Cabinet agreed that the Immigration Amendment Bill require the Minister of Immigration to undertake consultations before making decisions on any group who are proposed to be subject to an immigration charge, for each levy review after the first following these changes [ECO-24-MIN-0198].
13. We recommend that the exemption for the first fee and levy review – the transitional arrangement – be removed from the Bill. It was included to provide for the possibility that we could not progress policy changes before the legislation had passed. We have received advice that Cabinet can make policy decisions in contemplation of the Amendment Act having passed, although regulations could not be changed until after the Amendment Act is force.
14. We therefore consider this transitional arrangement to be redundant. As you are aware, planning for this fee and levy review, including for consultation with stakeholders, is already underway, and you will be provided with advice on this on the week of 7 October 2024.
15. Confidential advice to Government

16. Consultation would enable stakeholders to understand the rationale for any new charges, and allow potential new payers to have their views considered to inform advice to the Minister of Immigration and Cabinet.

Confidential advice to Government

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Next steps

21. If you agree to include the recommendation to amend the definition of a mass arrival, officials will draft a paper to seek Cabinet agreement to those decisions.
22. If you agree to the recommendation to remove the transitional arrangement in the Bill, officials will work with PCO to action that change.
23. You will receive further advice on the inclusion of remaining additional policy proposals, Confidential a
[Redacted] on 29 October 2024.