



BRIEFING

Draft LEG paper: *Immigration (Certificate, Warrant, and Other Forms) Amendment Regulations 2026*

Date:	16 December 2025	Priority:	Medium
Security classification:	In Confidence	Tracking number:	REQ-0025006

Action sought		
	Action sought	Deadline
Hon Erica Stanford Minister of Immigration	Agree to consult your colleagues on the attached Cabinet paper.	19 December 2025

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

The following departments/agencies have been consulted
Relevant agencies and stakeholders were consulted on the development of the overarching policy for the Immigration (Fiscal Sustainability and System Integrity) Amendment Act 2025. We have not undertaken consultation on the Amendment Regulations, as these are only minor updates to forms.

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comment



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Purpose

This briefing seeks your agreement to consult your ministerial colleagues on the draft LEG paper, *Immigration (Certificate, Warrant, and Other Forms) Amendment Regulations 2026*. The LEG paper seeks approval to make minor updates to forms required as a result of the enactment of the Immigration (Fiscal Sustainability and System Integrity) Amendment Act 2025.

Recommended action

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

- a **Note** that the Immigration (Fiscal Sustainability and System Integrity) Amendment Act 2025 (the Amendment Act) received Royal assent on 27 November 2025
Noted
- b **Note** that the Amendment Act established a higher bar for issuing a Warrant of Commitment (WoC) for the detention of an asylum claimant, and introduced provisions that enable a District Court Judge to issue a WoC in further circumstances than previously provided for
Noted
- c **Note** that as a result of the Amendment Act being passed, minor updates are required to the Immigration (Certificate, Warrant, and Other Forms) Regulations 2010
Noted
- d **Note** that the Cabinet Office advised that consequential amendments of this nature can be authorised by the responsible minister and do not need Cabinet policy approval (7.95(d) of the Cabinet Manual), and on 9 December 2025, you agreed to issue instructions to Parliamentary Counsel Office to make these changes
Noted
- e **Agree** to consult your ministerial colleagues on the attached LEG paper (**Annex One**) and Amendment Regulations (**Annex Two**) and provide feedback to MBIE by Tuesday 20 January 2026, to enable lodgement by Thursday 22 January 2026.
Agree / Disagree

Stacey O'Dowd
**Manager, Immigration Policy
(Border and Funding)**
Labour, Science and Enterprise, MBIE
16 / 12 / 2025

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

Minor updates are required to immigration regulations as result of the Immigration (Fiscal Sustainability and System Integrity) Amendment Act

1. The Immigration (Fiscal Sustainability and System Integrity) Amendment Act 2025 (the Amendment Act) received Royal assent on 27 November 2025. The Amendment Act establishes a higher bar for issuing a Warrant of Commitment (WoC) for the detention of an asylum claimant, and introduces provisions that enable a District Court Judge to issue a WoC in further circumstances than previously provided for under the Immigration Act 2009 (the Act). These amendments respond to recommendations made by Victoria Casey, King's Counsel, in her 2022 review of the detention of asylum seekers.¹
2. As a result of the Amendment Act being passed, minor, consequential amendments are required to the Immigration (Certificate, Warrant, and Other Forms) Regulations 2010. These changes are necessary to ensure that there are forms available that cover the issuing of a WoC in the new circumstances.
3. The LEG paper seeking approval to introduce the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill noted your intention to seek approval of the related Amendment Regulations soon after the Bill received Royal assent [LEG-25-MIN-0044].
4. Typically, amendments to regulations require both Cabinet policy and legislative approvals. The Cabinet Office has advised that consequential amendments of this nature can be authorised by the Minister and do not need Cabinet policy approval (7.95(d) of the Cabinet Manual).
5. On 9 December 2025, you agreed via email to issue instructions to Parliamentary Counsel Office (PCO) to make these changes.

The LEG paper seeks agreement to waive the 28-day rule

6. The attached draft LEG paper seeks agreement that the Amendment Regulations come into force on 27 February 2026, at the same time as the provisions establishing new requirements for issuing a WoC for a claimant (new section 317AA of the Act). The paper seeks a waiver of the 28-day rule so that there is no gap between section 317AA of the Act coming into force and the associated prescribed form for issuing a WoC for section 317AA coming into force (these Amendment Regulations).

Next steps

7. The draft LEG paper and Amendment Regulations are attached for ministerial consultation at **Annex One** and **Annex Two**, respectively.
8. We are working to the following timeframes:

Milestone	Date
Ministerial consultation	18 December 2025 – 20 January 2026
Office to provide feedback from ministerial consultation (if any) to officials	20 January 2026
Lodge for LEG	22 January 2026
LEG consideration of Amendment Regulations (waiver of 28 day rule sought)	29 January 2026

¹ Victoria Casey KC (New Zealand): *Report to Deputy Chief Executive (Immigration) of the Ministry of Business, Innovation and Employment on the restriction of movement of asylum claimants, 2022.*

Milestone	Date
Goatskin signed by the Minister and delivered to Cabinet Office	30 January 2026
Cabinet consideration of Amendment Regulations	2 February 2026
Regulations notified in the Gazette	5 February 2026
Gazette period	5 February – 26 February
WoC provisions and Amendment Regulations take effect	27 February 2026

Annexes

Annex One: Draft LEG paper *Immigration (Certificate, Warrant, and Other Forms) Amendment Regulations 2026*

Annex Two: Immigration (Certificate, Warrant, and Other Forms) Amendment Regulations 2026

Annex One: Draft LEG paper *Immigration (Certificate, Warrant, and Other Forms) Amendment Regulations 2026*

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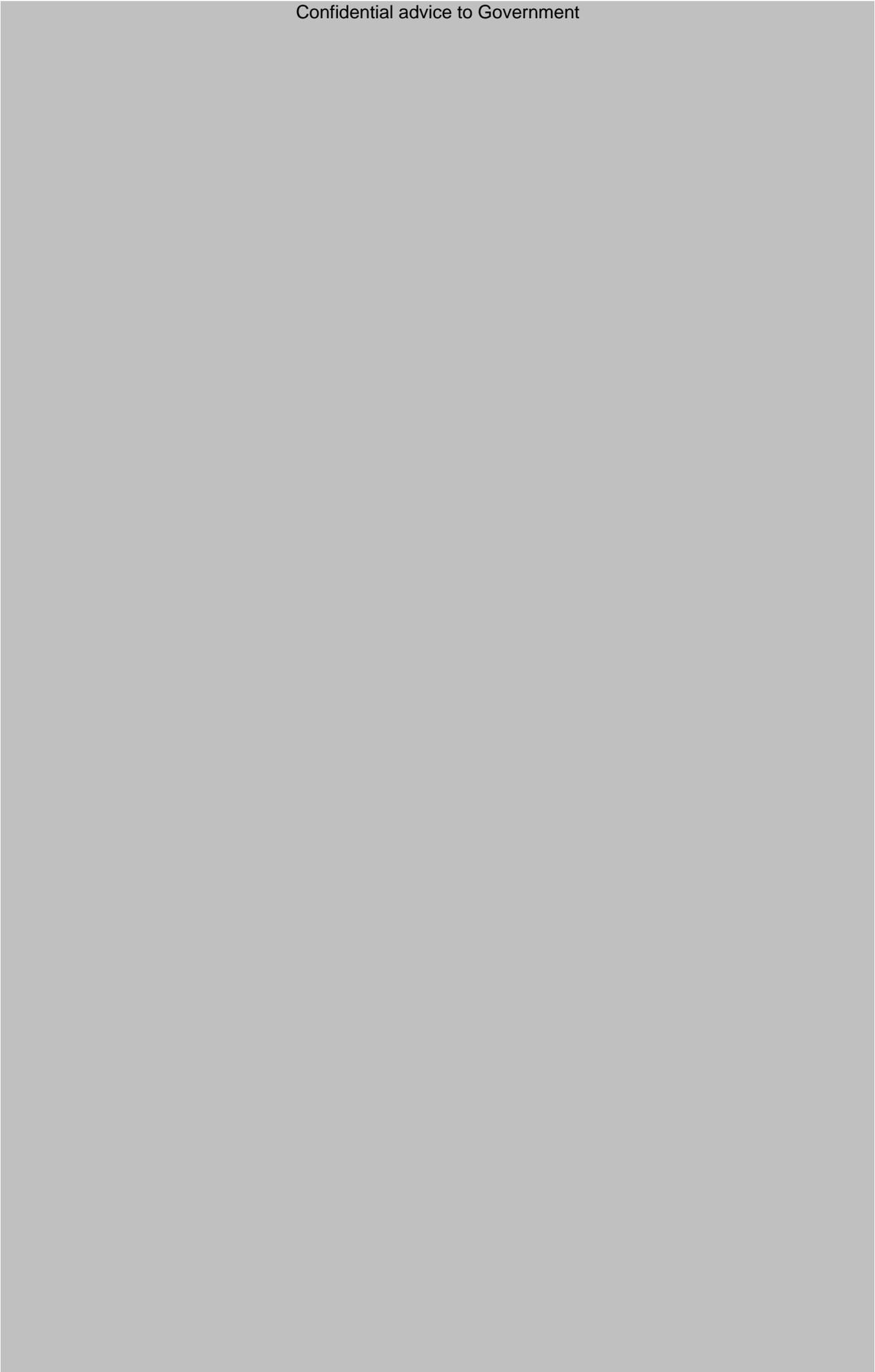
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**Annex Two: Immigration (Certificate, Warrant, and Other Forms)
Amendment Regulations 2026**

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