



COVERSHEET

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| Minister | Hon Erica Stanford | Portfolio | Immigration |
| Title of Cabinet paper | Three Cabinet papers are included in this release, titled as shown in the box below | Date to be published | 19 March 2026 |

List of documents that have been proactively released

| Date | Title | Author |
|------------------|--|---|
| 12 March 2026 | Immigration (Enhanced Risk Management) Amendment Bill - Approval for Introduction LEG-26-MIN-0039 Minute | Office of the Minister of Immigration Cabinet Office |
| 25 June 2025 | Immigration (Enhanced Risk Management) Amendment Bill: Further Decisions ECO-25-MIN-0093 Minute | Office of the Minister of Immigration Cabinet Office |
| 4 June 2025 | Proposed amendments to the Immigration Act 2009: Immigration (Enhanced Risk Management) Amendment Bill ECO-25-MIN-0084 Minute | Office of the Minister of Immigration Cabinet Office |
| 19 February 2026 | BRIEFING-REQ-0026795: Immigration (Enhanced Risk Management) Amendment Bill: Final LEG paper and Bill for lodgement | MBIE |
| 5 February 2026 | Regulatory Impact Statement: New immigration infringement offences | MBIE |
| 29 January 2026 | BRIEFING-REQ-0025726: Immigration (Enhanced Risk Management) Amendment Bill: Draft Cabinet paper and Bill for ministerial consultation | MBIE |
| 4 December 2025 | BRIEFING-REQ-0019618: Immigration (Enhanced Risk Management) Amendment Bill: Drafting update and exposure draft feedback | MBIE |
| 31 July 2025 | BRIEFING-REQ-0018175: Immigration (Enhanced Risk Management) Amendment Bill – additional drafting decisions | MBIE |
| 17 June 2025 | BRIEFING-REQ-0015523: Approval to lodge second Cabinet paper for Enhanced Risk Management Amendment Bill and further policy advice | MBIE |
| 12 June 2025 | Regulatory impact statement: Strengthening immigration penalties for non-compliant and exploitative employers | MBIE |
| 10 June 2025 | Regulatory impact statement: Modernising and improving information sharing provisions | MBIE |
| 4 June 2025 | Regulatory impact statement: Enabling more effective compliance powers for immigration purposes | MBIE |
| 29 May 2025 | BRIEFING-REQ-0014611: Draft Cabinet paper for the second set of policy decisions for the Immigration (Enhanced Risk Management) Amendment Bill | MBIE |

| List of documents that have been proactively released | | |
|--|---|---------------|
| Date | Title | Author |
| 28 May 2025 | BRIEFING-REQ-0014746: Approval to lodge first Cabinet paper for Enhanced Risk Management Amendment Bill | MBIE |
| 26 May 2025 | Regulatory impact statement: Expanding criminal deportation liability | MBIE |
| | Regulatory impact statement: Clarifying section 150 of the Immigration Act 2009 to prevent asylum claimants who withdrew their claims from applying for further visas | MBIE |
| 21 May 2025 | Regulatory impact statement: Limiting humanitarian appeal rights to the Immigration and Protection Tribunal for temporary visa holders | MBIE |
| 15 May 2025 | BRIEFING-REQ-0014081: Should the proposed change to section 150 of the Immigration Act apply retrospectively? | MBIE |
| 8 May 2025 | BRIEFING-REQ-0013339: Draft Cabinet paper and update following targeted consultation on the Immigration (Enhanced Risk Management) Amendment Bill | MBIE |
| 23 April 2025 | BRIEFING-REQ-0013002: Further measures to address the increase in asylum claims | MBIE |
| 31 March 2025 | BRIEFING-REQ-0011382: Proposed Immigration (Enhanced Risk Management) Amendment Bill: Objectives, scope and timelines | MBIE |

| Information redacted | <u>YES</u> / NO |
|---|------------------------|
| <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.</p> <p>Some information has been redacted for the reasons of: International relations, maintenance of the law, privacy of natural persons, confidential advice to Government, commercial sensitivity, free and frank expression of opinions, and legal professional privilege.</p> <p>Some information has also been withheld on the basis that it is not in scope of the Immigration (Enhanced Risk Management) Amendment Bill.</p> | |

[In Confidence]

Office of the Minister of Immigration

Chair, Cabinet Economic Policy Committee

Proposed amendments to the Immigration Act 2009: Immigration (Enhanced Risk Management) Amendment Bill – further decisions

Proposal

1 I propose a set of targeted amendments to the Immigration Act 2009 (the Act) to increase the effectiveness of the immigration compliance and enforcement system, and improve the integrity of the refugee and protection system. This is the second set of policy decisions sought for the Immigration (Enhanced Risk Management) Amendment Bill (the Bill).

Relation to Government priorities

2 My proposals support the Government objective of ensuring regulatory systems work well and uphold the New Zealand National Party and New Zealand First Coalition Agreement undertaking to *commit to enforcement and action to ensure those found responsible for the abuse of migrant workers face appropriate consequences*.

Executive summary

3 Cabinet agreed last year to the Ministry of Business, Innovation and Employment (MBIE) undertaking regular targeted reviews of the Act [ECO-24-MIN-0255]. Cabinet subsequently agreed to the objectives and scope of the Bill, and agreed to a first set of policy decisions [ECO-25-MIN-0084]. I seek Cabinet's agreement to six policy proposals:

- 3.1 Strengthen immigration penalties for non-compliant and exploitative employers:
 - 3.1.1 increase the penalty for migrant exploitation from seven to 10 years;
 - 3.1.2 extend the time MBIE can issue infringement offence notices to up to 270 days from the date MBIE became aware of the offending;
 - 3.1.3 introduce new employer infringement offences; and
 - 3.1.4 strengthen controls against false and misleading information;
- 3.2 Strengthen compliance powers for immigration officers to request information if they have good cause to suspect that someone may be liable for deportation;
- 3.3 Limit humanitarian appeal rights to the Immigration and Protection Tribunal (IPT) for all visitor visa holders, and all other categories of temporary visa holders if they commit crimes;
- 3.4 Prevent asylum claimants who withdraw their claims from applying for any other type of visas while they remain onshore (proposed to take effect when the Bill is introduced to prevent a surge in claims seeking to apply under existing settings);
- 3.5 Modernise and improve information sharing provisions, including accommodating for digital credentials; and
- 3.6 Enable Immigration New Zealand (INZ) to turn around people who hold deemed entry permission on arrival, but who are inadmissible, for example, because they are smuggling drugs or contraband.

This paper seeks agreement to six proposals

4 On 9 June 2025, Cabinet agreed to the objectives, scope and initial policy decisions for a targeted amendment Bill to the Act, to ensure we have the right settings in place to deter offending, enable effective immigration compliance, and for the wider immigration system to operate effectively [ECO-25-MIN-0084]. The Bill has three objectives:

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- 4.1 increase the effectiveness of the immigration compliance and enforcement system;
- 4.2 improve the integrity of the refugee and protection system; and
- 4.3 improve the operation of the wider immigration system.

5 **Appendix One** provides an overview of the complete set of changes proposed, including four that have already been agreed by Cabinet, and the remaining six which I seek agreement to in this paper. More detail on these six proposals is in **Appendix Two**.

Proposal 1: Strengthen immigration penalties for non-compliant and exploitative employers

6 Exploitation of migrant workers is unacceptable. While most employers follow the law, there is, unfortunately, a small but persistent group of employers who victimise vulnerable migrant workers, causing significant harm to their victims and gaining unfair advantages over employers who follow the law.

7 Under the Act, MBIE has a range of tools to respond to non-compliant employers, including criminal prosecutions for the most serious offences and an infringement notice scheme (launched in April 2024) for mid to low-level offences. However, I consider that there are opportunities to strengthen these tools and their deterrence effect.

Increase the timeframe available to issue infringement notices

8 The employer infringement notice scheme in the Act is subject to standard procedural requirements under the Summary Proceedings Act 1957. This includes (effectively) a six-month time limit (starting from the date of offending) within which MBIE can enforce payment of an unpaid, uncontested notice. In practice, this procedure (notice, reminder notice, payment periods, and provision of particulars) means MBIE has less than four months, not six, from the date of offending to issue an infringement notice.

9 For two of the employer infringement offences in the Act¹, it is not always possible to issue an infringement notice within this timeframe. This is because exploited migrants often do not report their employer until after the employment relationship has broken down, and some more complex investigations can take longer than 90 days to complete.

10 I propose to amend the procedural requirements for these offences to increase the amount of time available for MBIE to issue infringement notices, by:

10.1 increasing the time limit to complete procedural requirements from six months to 12 months.

10.2 starting the timeframe at the point at which MBIE became aware of the offending, rather than from the date the offending occurred.

11 To prevent the change in 10.2, above, from applying indefinitely, I propose to set a maximum time limit six years from the date of offending, beyond which an infringement notice cannot be issued. This period aligns with the length of time employers are legally required to keep wage and time records.

12 Officials estimate that this change would increase the number of infringement notices issued, from 86 to at least 105 per year.

Increase penalties for migrant exploitation

13 The most serious cases of migrant exploitation are prosecuted under section 351 of the Act. The penalty is a maximum of five- or seven-years' imprisonment (depending on whether the employer probably knew that the migrant could not work legally for them, or not), and/or a fine of up to \$100,000.

¹ Section 359A(1)(a) and (b) - relating to an employer hiring somebody without a valid visa, or in breach of their visa conditions

- 14 I consider that these penalties are out of step with other offences that cause similar harm to victims, and do not send a strong enough message that migrant exploitation is unacceptable.² For example, robbery has a maximum sentence of 10 years' imprisonment. I also consider that the lower maximum sentence for employers who were reckless in determining the migrant's right to work is unnecessary and unhelpful, as judges can already take the employer's culpability into account in sentencing.
- 15 I propose to increase the maximum penalty to 10 years' imprisonment and remove the distinction between "reckless" and "knowing". This is because "knowing" means that employer had been officially advised that the migrant was not legally able to work for them, but that is not directly relevant to the exploitative practices. It is likely that many employers who exploit migrant staff are independently aware that those individuals are at risk of deportation for working without authority to do so.

Minor amendments to strengthen controls against false or misleading information

- 16 I propose minor clarifications to the scope of the offence of providing false or misleading information. To uphold the integrity of the immigration system, it is crucial that all information provided to INZ is true, complete and accurate. I propose clarifying that the Act covers the offence of providing false or misleading information:
- 16.1 in a request for a New Zealand Electronic Travel Authority (NZeTA) or an application made by, or related to, an employer application;
 - 16.2 to an electronic system; and
 - 16.3 outside of New Zealand.
- 17 I also propose to reinstate certain provisions from the 1987 Act omitted from the current Act. The 1987 Act contained a provision that enabled residence visa applications to be declined if the expression of interest that led to the application contained false or misleading information or withheld relevant information.

I propose to introduce new employer infringement offences later in 2025

- 18 I have directed officials to expand the employer infringement notice regime to include two new offences for:
- 18.1 providing false or misleading information, or withholding relevant information (for example, in an accreditation or job check application, or as part of an investigation or verification activity); and
 - 18.2 failing to provide documents when requested under section 277 of the Act (which allows an immigration officer to enter an employer's premises and request wage and time records).
- 19 These new offences would be prescribed via regulations, so are not proposed to be included in the Bill. I will report back to Cabinet on these proposals later this year.

Proposal 2: Enable more effective compliance powers for immigration officers

- 20 Section 280 of the Act empowers immigration officers to request identity-based information and evidence from persons who they have 'good cause to suspect are liable for deportation or turnaround' for the purposes of establishing that status. Currently, this power can only be used when immigration officers witness behaviour that gives them 'good cause to suspect' that someone is *already liable* for deportation or turnaround. Legal professional privilege

² Migrants may be underpaid or required to pay illegal premiums to their employers (some have paid premiums of \$50,000). At the extreme end, an employer may exert total control over the employee, including confiscating their passport and making threats to prevent the employee leaving their service. The impact on victims can be extreme and leave them with ongoing physical and mental health problems.

21 I propose to enable immigration officers to seek identity information or to inspect identification documents when they have ‘good cause to suspect that a person may be liable for deportation or turnaround’, or may be in breach of their visa conditions. This will mean quicker identification of people who are non-compliant with their visa conditions and, consequently, swifter deportation of people who do not have a right to be in New Zealand. Any risks of operational overreach will be mitigated through the updating of Standard Operating Procedures, with legal advice, to ensure that requests by officers are justified.

Proposal 3: Remove humanitarian appeal rights to the Immigration and Protection Tribunal for some temporary visa holders liable for deportation

22 Temporary visa holders in New Zealand have the same rights as resident class visa holders to appeal liability for deportation to the IPT on humanitarian grounds. This does not reflect the differences in status or expectations between resident and temporary visa holders. The IPT process is also lengthy – in 2023/23, it was an average of 226 days for a decision on an appeal.

23 I propose to remove the appeal rights to the IPT on humanitarian grounds for:

- 23.1 visitor visa holders (temporary visa holders without work or study rights, including Parent Boost, Parent and Grandparent, and Partner of a New Zealander Visitor Visa).
- 23.2 those unlawfully in New Zealand whose last visa was a visitor visa;
- 23.3 those unlawfully in New Zealand whose last visa was an interim visa, granted after a visitor visa; and
- 23.4 all temporary visa holders who commit crimes.

24 This change reflects the expectation that temporary guests to New Zealand comply with New Zealand law and their visa conditions or face possible deportation. It also better reflects the different status, expectations, and connections to New Zealand that resident and temporary visa holders have.

Proposal 4: Prevent asylum claimants who withdraw their claims from applying for further visas

25 In most circumstances, asylum seekers are granted temporary visas while their claim is being determined. When a claim is declined, section 150 of the Act prevents the grant of a further visa to an asylum seeker who has been granted a temporary visa. The Act is ambiguous as to whether a claimant who withdraws their claim before it has been finally determined, can be granted another visa.

26 I propose to amend section 150 to limit the ability of an asylum claimant who withdraws a claim to apply for a further visa³ and that this change take effect from introduction of the Bill. This will prevent some claimants from misusing the system by lodging an unmeritorious claim and then taking advantage of changing circumstances (for example, employment opportunities) during consideration of their claim⁴ to gain access to an alternative immigration route. Spurious claims contribute significantly to backlogs, delaying determinations and creating flow on costs to wider government.

27 Amending section 150 may, over time, help to reduce the backlog by deterring the asylum claimants who withdraw their claim and apply for another visa type. It also sends a signal that New Zealand does not tolerate spurious asylum claims, in addition to clarifying the law. The current backlog of claims is 3,599 as at 30 April 2025. In the last two years there have been 68 asylum claimants who withdrew their claim and applied for another visa.

³ This proposed change meets our international and domestic human rights obligations to asylum seekers.

⁴ Currently, the time between lodgement of a claim and allocation is approximately 460 days.

Proposal 5: Modernise and improve information sharing provisions, enhance transparency provisions, and enable support for digital credentials

- 28 The design of the existing information sharing framework was made almost 20 years ago and reflects a different technological and risk environment. Updates are proposed to achieve a transparent information sharing framework which would improve MBIE's ability (within its role as the authoritative source of immigration information) to support compliance and enforcement activities to manage risks to New Zealand. I propose to:
- 28.1 remove 'specified agencies' lists within the framework, which constrain information sharing to a limited number of government agencies, and do not accurately reflect the range of agencies that perform the relevant functions;
 - 28.2 broaden the scope of purposes for which information can be shared, to reflect that MBIE should be able to provide and receive information for a range of justified purposes (see **Appendix Two** for more detail);
 - 28.3 standardise the process for making information sharing agreements to protect the disclosure of information between government agencies and third parties, including private sector organisations and the courts;
 - 28.4 remove limitations regarding which groups of individuals information can be shared about, including 'persons of interest', and clarify that references to 'a person' in section 303 of the Act includes deceased persons;
 - 28.5 include a 'transparency provision' to enhance public trust and confidence in MBIE's management of personal information;
 - 28.6 make explicit that MBIE can issue, receive, and contribute to other government agencies' digital credentials.
- 29 Standardising the framework would be more cost-effective, transparent and cover the breadth of information MBIE holds. To enhance the protection of personal information and manage privacy risks (given immigration information can be highly sensitive), greater controls on information sharing are proposed (building on safeguards currently in the Act) including consultation with the Office of the Privacy Commissioner (OPC). The full detail of these safeguards is set out in Appendix 2, page 7. These proposed changes are consistent with wider government initiatives related to supporting the uptake of the Digital Identity Services Trust Framework and tackling transnational and serious organised crime.
- 30 The OPC does not support and their comment is set out in paragraph 52-53. I am confident that the proposal appropriately balances information sharing and privacy protections.
- 31 I propose to change section 301 to clarify that the scope of 'publicly funded services' includes publicly funded 'benefits' and related entitlements. This will facilitate information sharing to determine eligibility to access, or liability to pay for, 'benefits'.

Proposal 6: Enable holders of deemed entry permission to be turned around.

- 32 The Act establishes that all non-citizens are required to hold entry permission to enter New Zealand. At the air border, non-citizens generally apply for entry permission in an Immigration Control Area (an airport), via their New Zealand Traveller Declaration. Some non-citizens who arrive at the air border (particularly commercial air crew) are, however, deemed by regulations to be granted entry permission on arrival because it is impractical to require them to apply and be formally processed. For the same reason, the passengers and crew of cruise and cargo vessels are deemed to hold entry permission on arrival.
- 33 It has traditionally been rare for persons deemed to be granted entry permission to be identified as "inadmissible".⁵ However, border officials are finding increasing numbers of deemed entry

⁵ Do not meet legal entry requirements, e.g. have a criminal record, or in this case have been discovered smuggling.

permission holders who on arrival are found to be smuggling drugs or contraband. It is unnecessarily expensive to make them formally liable for deportation when, had they arrived as air passengers, they are likely to have been infringed, refused or revoked entry, and required to leave on the next available flight. The current setting is inefficient and provides them with appeal rights that air passengers would not receive.

- 34 I propose to amend the Act by reinstating the previous section 113A (which was established during border closures). That will enable Immigration Instructions to be certified which will enable deemed entry permission to be revoked.

Implementation

- 35 The proposals in this paper will come into effect on the day of Royal Assent. MBIE will develop an implementation plan to ensure the changes are implemented effectively.

Financial Implications

- 36 The proposals in this paper have resourcing implications for MBIE, with some proposals creating efficiencies, and others creating additional pressures. Any net increase to cost pressures will be met from the immigration levy and factored into a future fee and levy review.
- 37 Increasing the timeframe available to issue infringement penalty notices (proposal one), may require changes to the Ministry of Justice's Electronic Filing of Infringements system. Any cost would be met by MBIE, funded from the immigration levy.
- 38 By limiting the appeal rights of temporary visa holders (proposal three), I expect the caseload for the IPT to reduce by approximately 100-120 cases per year (from a total caseload of 1,128 in 2023-2024). Improving compliance and enforcement powers may result in more individuals being liable for deportation, increasing appeals to the IPT. While there is uncertainty, on balance, officials expect the overall workload for the IPT to decrease.
- 39 I anticipate a reduction in non-genuine asylum claims as a result of proposal four (preventing those who withdraw their asylum claims from applying for other visa types), and as a result, less pressure on the resources of the wider refugee system.

Legislative Implications

- 40 I propose that an exposure draft of the Bill be consulted with targeted stakeholders in September, and the final Bill be introduced in late October, followed by a six-month examination by Select Committee. The Bill will be passed in the second quarter of 2026. Any changes to regulations will come into force at the same time as Royal Assent.

Impact Analysis

Regulatory Impact Statements (RIS')

- 41 Five regulatory impact statements were completed to support the proposals in this paper (attached as **Appendix Three**). Quality assurance panels reviewed the attached RIS' and determined they 'partially meet' the quality expectations for regulatory impact analysis.
- 42 The panels acknowledged the limitations and constraints on the analysis in the RIS', particularly with respect to the short timeframes. These timeframes prevented the authors from being able to fully consult with all groups that are potentially affected by these proposals. The panels anticipate that the select committee process will enable those groups to share their views on the proposal.
- 43 The Ministry for Regulation determined that the minor amendments in this paper are exempt from the requirement to provide a RIS, on the grounds that they have no or only minor economic, social, or environmental impacts.

Population Implications

- 44 The population groups most likely to be potentially liable for deportation are, historically, Pacific Island nationals. As a result, the proposal to expand the powers of immigration officers to request identity information from those they have ‘good cause to suspect’ may be liable for deportation, could disproportionately affect these same population groups.

Human Rights

- 45 The Government has the right to regulate immigration by virtue of national sovereignty. However, the proposals in this paper potentially engage two rights affirmed in the New Zealand Bill of Rights Act 1990 (BORA):
- 45.1 section 21, which affirms the right to be “secure against unreasonable search or seizure, whether of the person, property, or correspondence or otherwise”; and
 - 45.2 section 27, which relates to fair administrative processes and access to remedies when government decisions impact individuals.
- 46 I consider that any limitations on section 21 are justified under section 5 of the BORA, because it is necessary for the proper functioning of the immigration system that the Act allows for immigration officers to ask for information to determine whether an individual may be in New Zealand unlawfully. The proposal to limit appeal rights for some temporary visa holders is consistent with section 27 of the BORA, due to the processes that remain available to affected individuals after the changes, which includes providing good reasons to MBIE why deportation should not proceed and seeking Ministerial intervention.
- 47 The Ministry of Justice has been consulted during the preparation of these proposals, and will also consider the legislation for compliance with BORA prior to its introduction.

Consultation

- 48 The following government agencies and external stakeholders have been consulted and their feedback has been incorporated into the proposals’ development:
- 48.1 **Government:** Departments of Corrections, Internal Affairs, and the Prime Minister and Cabinet, Ministries for Ethnic Communities, and Pacific Peoples, Ministries of Foreign Affairs and Trade, and Justice, the Offices of the Privacy Commissioner and the Ombudsman, and the Treasury. Early engagement has also been undertaken with the Legislative Design Advisory Committee and Parliamentary Counsel Office.
 - 48.2 **External stakeholders:** Chief Victims Advisor, the Immigration and Protection Tribunal, INZ’s Immigration Focus Group, New Zealand Law Society.
- 49 Legislation Guideline 25.3 states that “Section 21 of the Summary Proceedings Act 1957 (SPA) should apply to all new infringement offences.” The Legislative Design Advisory Committee (LDAC) noted that the rationale behind this is to ensure consistency with the infringement regime systems and to reduce complexity in the law. The proposal to extend the timeframe for issuing infringement offences (proposal one) would depart from the SPA. While LDAC acknowledges that some offending may not be discovered until after the infringement deadline has effectively passed, LDAC is not aware of any other infringement offence regime that has changed the limitation period for issuing an infringement notice.
- 50 I consider that a departure from Legislative Guideline 25.3 is justified, due to the specific nature of migrant exploitation offences. Often offending is only reported after the employment relationship has broken down. Extending the timeframes for issuing infringement offences will significantly improve our ability to detect and properly infringe employers who break the rules.
- 51 The Privacy Commissioner raised concerns with proposal 5, and provided the following comment. *The Privacy Commissioner has concerns as it relates to Proposal 5: Modernise and*

improve information sharing provisions, enhance transparency provisions, and enable support for digital credentials. The Privacy Commissioner believes the disapplication of principles 10 and 11 of the Privacy Act as suggested in Proposal 5 is unjustified and that existing mechanisms facilitate the sharing of information for specific purposes. He would prefer specific targeted amendments to the Immigration Act and considers that a broad information sharing framework as proposed is unnecessary and disproportionate).

52 *The sharing of immigration information (including highly sensitive personal information) with unlisted government agencies, private sector agencies, and the courts, could seriously undermine the trust that people have with how their immigration information may be accessed by any agency for overly broad purposes. The Privacy Commissioner's office will continue to work with officials on this proposal.*

53 I propose to further consult with external stakeholders on an exposure draft of the Bill, expected in September 2025.

Communications and Proactive Release

54 If approved by Cabinet, the package of changes in this paper will be publicly announced at the point that the Bill is introduced, and relevant papers will be published with redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Immigration recommends that Cabinet:

1 **note** that on 4 June, ECO agreed to a first set of policy decisions for the Immigration (Enhanced Risk Management) Amendment Bill (the Bill) and to introduce the Bill in late 2025, subject to agreement on the Government's legislative programme [ECO-25-MIN-0084];

2 **note** this paper seeks the second set of policy decisions for including in the Bill;

Proposal 1: Strengthen immigration penalties for non-compliant and exploitative employers

3 **agree**, subject to implementation costs, to increase the time-limit for the Ministry of Business, Innovation and Employment (MBIE) to complete procedural requirements for the employer infringement offences at sections 359A(1)(a) and (b) of the Immigration Act 2009 (the Act) (currently six months from the date of the offending) to 12 months from the date MBIE became aware of the offending, or six years from the date of the offending (whichever is sooner);

4 **note** that the above change will extend the de facto time limit for MBIE to issue an infringement notice from 90 days (three months) from the date of the offending, to 270 days (nine months) from the date MBIE became aware of the offending;

5 **invite** the Minister of Immigration to finalise the details relating to the implementation of recommendations three and four, in consultation with other relevant Ministers;

6 **agree** to increase the maximum penalty of between five and seven years' imprisonment for migrant exploitation offending under section 351 of the Act (depending on the employer's knowledge of the worker's immigration status) to ten years' imprisonment, regardless of the employer's level of knowledge;

7 **agree** to clarify it is an offence under the Act to provide false or misleading information:

7.1 in a request for a New Zealand Electronic Travel Authority (NZeTA) or an application made by, or related to, an employer application; or

7.2 to an electronic system; or

7.3 outside of New Zealand;

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8 **agree** to allow a residence visa application to be declined if the expression of interest that led to the invitation to apply for the visa either contained false or misleading information, or withheld relevant information;

Proposal 2: Strengthen compliance powers for immigration officers

9 **agree** to enable immigration officers to seek identity information or to inspect identification documents when they have good cause to suspect that a person may be liable for deportation or turnaround, or may be in breach of their visa conditions;

Proposal 3: Limit humanitarian appeal rights for some temporary visa holders

10 **note** that temporary visa holders currently have the same rights as residents to appeal their deportation liability to the Immigration and Protection Tribunal (IPT) on humanitarian grounds;

11 **agree** to remove the ability to appeal to the IPT on humanitarian grounds for the following people who are liable for deportation:

11.1 all temporary visa holders on the basis of their criminal offending;

11.2 all visitor visa holders;

11.3 those unlawfully in New Zealand whose last visa was a visitor visa; and

11.4 those unlawfully in New Zealand whose last visa was an interim visa, granted after a visitor visa.

Proposal 4: Prevent asylum claimants who withdraw their claims from applying for further visas

12 **note** that section 150 of the Act is currently ambiguous as to whether an asylum claimant who withdraws their claim can apply for another visa, which leaves the system open to misuse by spurious claimants finding alternative immigration routes;

13 **agree** to amend the Act to prevent the ability of an asylum claimant who withdraws a claim to apply for any other type of visa while they remain onshore;

14 **agree** that this amendment take effect from introduction of the Bill;

Proposal 5: Modernise and improving information sharing provisions

Information sharing across government

15 **agree** to remove the following references from the Immigration Act's information sharing framework: 'specified agencies' lists; and 'persons of interest';

16 **agree** that the Bill permit MBIE to disclose information to, and collect information from, government agencies (including Crown entities) for the purposes described at **Appendix Two**, including by enabling direct access to information databases;

17 **agree** that, where information is disclosed under (an agreement made under) the Act for purposes listed in **Appendix Two** it must be accompanied by appropriate privacy protections, including those specified below (in addition to those already existing under the Act):

17.1 a standardised process for making information disclosure agreements and a requirement that these agreements be published (subject to any appropriate redactions),

17.2 agreements must specify:

17.2.1 the class(es) or type(s) of information that is being disclosed;

17.2.2 the purpose(s) to which the information will be put;

17.2.3 requirements regarding the security of the information (including storage and disposal);

17.2.4 who can access the information;

17.2.5 how (or whether) information can be further disclosed by the recipient, and if so, relevant conditions; and

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- 17.2.6 a review requirement, with details decided by the parties to the agreement;
- 17.3 consultation with the Privacy Commissioner before agreements are made or amended, who will also have the power to require reporting;
- 17.4 agreements that include direct access as a method of disclosure will include requirements to record what information has been accessed and by whom, and specify sanctions for misuse;
- 17.5 disclosed information should be kept, used, and further disclosed by the receiving party in accordance with the Privacy Act 2020 or other applicable law;
- 18 **agree** that the details regarding the specific groups about which information can be shared be determined at the time an information sharing agreement is drafted;

Information sharing with non-government organisations

- 19 **agree** that MBIE may enter into information disclosure agreements with private sector organisations or the courts for the provision or receipt of information for any appropriate purpose specified in recommendation 17, and that these agreements must be accompanied by appropriate privacy protections, including those referred to in recommendation 17;

Other changes to modernise and improve the information sharing framework

- 20 **agree** to include a transparency provision in the Act to enhance trust and confidence in the information sharing framework;
- 21 **agree** to authorise MBIE to issue, receive, and contribute to other government agencies' digital credentials, including those related to identity and immigration status;
- 22 **agree** that section 303 of the Act be amended to clarify that references to 'a person' include deceased persons;
- 23 **agree** that the scope of "publicly funded services" as described in section 301 of the Act be expanded, to include publicly funded "benefits" and related entitlements;

Proposal 6: Enable holders of deemed entry permission to have that permission revoked

- 24 **note** that some classes of people who arrive at the border are deemed to be granted entry permission, which means that, if they do not meet our standard entry requirements, they must be made formally liable for deportation, which is inefficient and burdensome;
- 25 **agree** to reinstate the former section 113A, meaning the Minister of Immigration can certify Instructions which enable deemed entry permission to be revoked;

Legislative implications

- 26 **invite** the Minister to issue drafting instructions to Parliamentary Counsel Office to give effect to the decisions in recommendations 3, 5-9, 11, 13-23, and 25, above, through their inclusion in the Immigration (Enhanced Risk Management) Amendment Bill;
- 27 **authorise** the Minister to make decisions, consistent with the policy proposals in this paper, that may arise during the drafting and consultation process;

Financial and regulatory implications

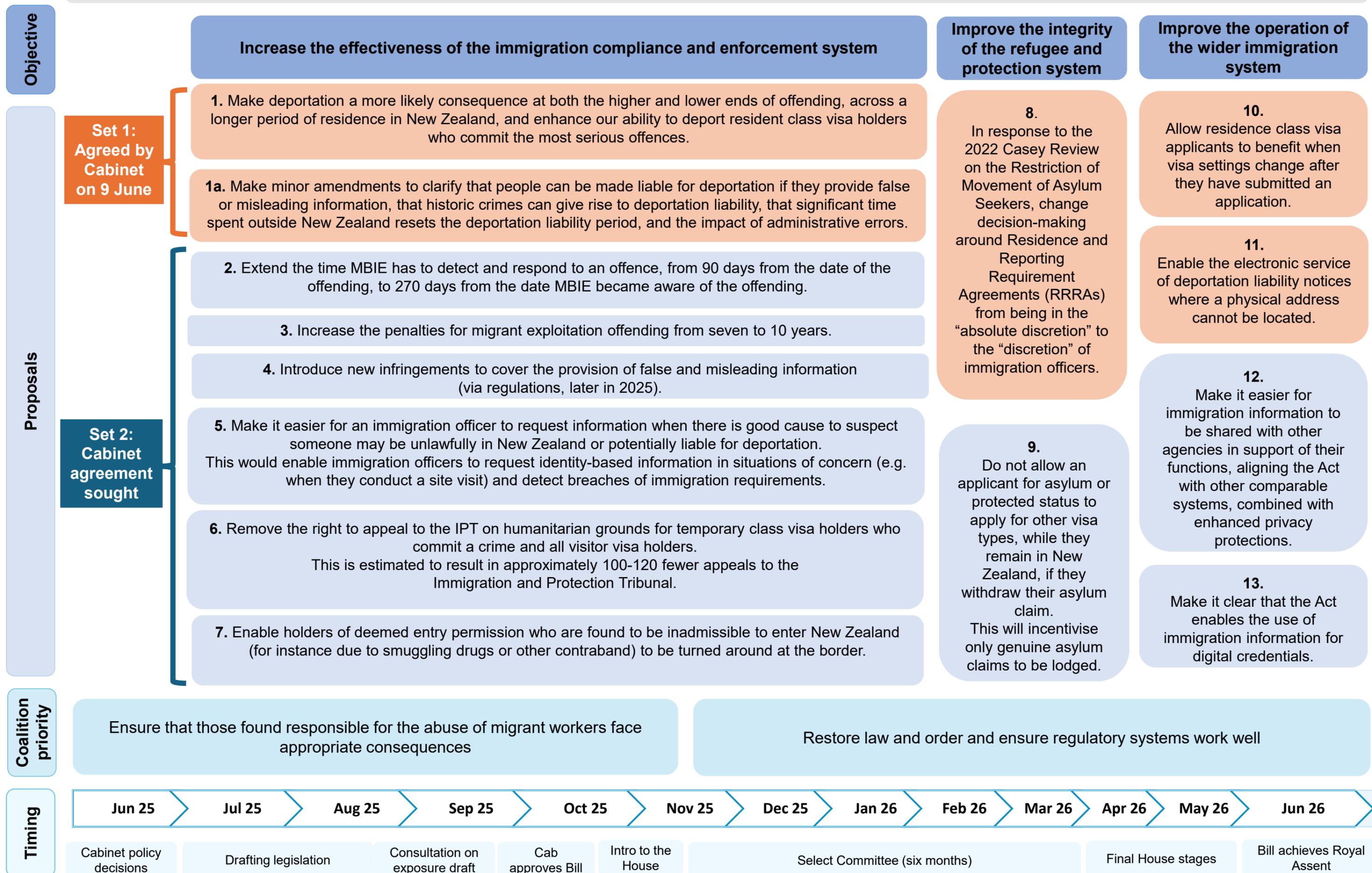
- 28 **note** that the legislative proposals raise no direct financial implications, and that any costs arising will be met from the immigration levy and factored into a future fee and levy review.

Authorised for lodgement

Hon Erica Stanford
Minister of Immigration

IN CONFIDENCE

Immigration (Enhanced Risk Management) Amendment Bill



Appendix Two: Summary of proposals

Proposal 1: Strengthening immigration penalties for non-compliant and exploitative employers

Summary of the proposals

The main proposal is to strengthen the deterrence effect of penalties for non-compliant employers by:

- extending the timeframe available for the Ministry of Business, Innovation and Employment (MBIE) to complete procedural requirements in relation to infringement notices for certain employer offences (section 359A(1)(a) and (b), which relate to hiring migrants without a valid work visa or in breach of their visa conditions), from six months from the date of the offending, to 12 months from the date MBIE became aware of the offending. This will extend the de facto timeframe for MBIE to issue infringement notices from 90 days (3 months) from the date of offending to 270 days (9 months) from the date MBIE became aware of the offending.
- increasing the maximum sentence for migrant exploitation offending under s351 of the Act from 5-7 years' imprisonment (depending on the employer's knowledge of the worker's immigration status) to 10 years' imprisonment, regardless of the employer's level of knowledge.

There are also two minor proposals to increase the integrity of the immigration system, by clarifying the consequences for providing false or misleading information:

- clarify that the offence for providing false or misleading information includes:
 - information provided in a request for a New Zealand Electronic Travel Authority (NZeTA) or an employer application (for example, accreditation or job check applications)
 - information provided to an electronic system
 - information provided outside of New Zealand
- reinstate a provision that was inadvertently not carried over when the Act was reviewed in 2009, which enables Immigration New Zealand (INZ) to decline a residence visa application if the expression of interest that led to the invitation to apply contained false or misleading information.

Background

Exploitative employers who victimise vulnerable foreign citizens cause significant and lasting harm to their victims, and gain unfair advantages over employers who comply with their obligations under employment and immigration legislation. Employment and immigration legislation establish a range of offences which are intended to deter employers from exploiting migrant workers.

However, rates of reported exploitation are rising,¹ which appears to reflect an unacceptably high level of harm. While MBIE already has a range of tools to respond to non-compliant employers, including criminal prosecutions for the most serious offences, and an infringement notice scheme (launched in April 2024) for mid to low-level offences, these tools are not being used as effectively as they could be.

Time limit for issuing infringement notices

Due to standard procedural requirements for infringement notice schemes in the Summary Proceedings Act, there is a de facto 90-day time limit, from the date of the offending, for MBIE to issue infringement notices. For s359A(1)(a) and (b) infringement offences, it is not always possible

¹ The number of reports of exploitation to MBIE have increased, from 807 in the 2022/23 financial year to at least 2,424 reports in the 2024/25 year (to the end of March 2025).

to issue an infringement notice within this timeframe. This is because exploited migrants often do not report their employer's behaviour until after the employment relationship has broken down. Some more complex investigations can take longer than 90 days to complete.

As a result, employers are often escaping punishment. While there is the option to file criminal charges outside the 90 day timeframe, the offending is not usually serious enough to meet this threshold. Accredited employers can still have their accreditation revoked, but they are not subject to the infringement fee, six-month stand-down period, and publication of their offending that would apply if an infringement notice was issued. For employers who do not hire workers under the Accredited Employer Work Visa (AEWV) scheme, and therefore are not required to hold accreditation, there will generally be no punishment if an infringement notice cannot be issued.

An extension to the timeframes for issuing infringement notices for these offences is therefore needed to ensure that non-compliant employers receive effective punishment.

Maximum sentence for migrant exploitation offences

The most serious cases of migrant exploitation are prosecuted under s351 of the Act. The penalty is a maximum of 5 or 7 years' imprisonment, and/or a fine of up to \$100,000. The maximum term of imprisonment depends on whether the employer was reckless in determining the migrant's right to work legally (5 years), or knew that the person was not able to be employed by them² (7 years).

These penalties are out of step with other offences that cause similar harm to victims, and do not send a strong enough message that migrant exploitation is unacceptable. For example, robbery (which is an aggravated form of theft, comparable to premium charging accompanied by threats and coercion, which is common in exploitation cases) has a maximum sentence of 10 years' imprisonment. The distinction between "reckless" and "knowing" is also out of step with other immigration offences (for example, for aiding and abetting), and is unnecessary, because it can already be taken into account by the judge in sentencing.

False and misleading information

The proposals relating to false and misleading information are all technical in nature and are intended to clarify, and so will not change the effect of the legislation in any way. They are primarily to address areas where MBIE's legal team has identified that more clarity would be beneficial about the scope and consequences of providing false or misleading information.

Who was consulted and what was the feedback?

MBIE has consulted on these proposals with the Department of Corrections, the Ministry of Justice, the Chief Victims Advisor, INZ's Focus Group, the Immigration and Protection Tribunal (IPT), the Legislative Design Advisory Committee (LDAC), and the New Zealand Law Society (NZLS).

LDAC did not support the extension of the timeframe available to issue infringement notices. Members commented that the fact the offending cannot reliably be identified at the time it occurs, suggests that the conduct in question is not suitable for an infringement offence. The Ministry of Justice was comfortable with the final proposals. No other stakeholders provided feedback.

What are the risks and how will they be managed?

There will be additional work for MBIE as a result of employers challenging infringement notices they believe have been incorrectly issued. MBIE expects that the number of additional challenges will be small and can be met within existing resourcing. However, officials note that the volume estimates are highly uncertain. MBIE will monitor and report to the Minister of Immigration.

² In practice, this means the employer had been officially advised that the migrant was not legally able to work for them. However, it is likely that many employers who exploit migrant staff are aware that those individuals are at risk of deportation for working without authority to do so.

Proposal 2: Enabling more effective compliance powers for immigration

Summary of the proposal

To improve the effectiveness of compliance powers held by immigration officers, this proposal broadens the range of circumstances in which they can request identity-based information and documents from a person under section 280 of the Immigration Act (the Act).

The power change from being able to be used when an officer has good cause to suspect someone is liable for deportation or turnaround, to being available when an officer has good cause to suspect someone may be liable for deportation or turnaround, and/or is in breach of their visa conditions.

Background

Immigration officers encounter a wider range of behaviours while undertaking compliance activities that provide good cause to suspect someone may be non-compliant with immigration requirements. To support the exercise of powers under the current section 280, the behaviour observed by immigration officers needs to support a conclusion that it is likely a person is already liable for deportation or turnaround. This means the person is either unlawfully in New Zealand, has been issued with deportation liability notice (DLN), or has been assessed as not being a genuinely temporary entrant, or does not meet the requirements for a visa.

Legal professional privilege

Expanding the circumstances that an immigration officer can develop good cause to suspect non-compliance would support enhanced compliance outcomes and better use of resources.

Who was consulted and what was the feedback?

The Ministry of Business, Innovation and Employment (MBIE) has consulted on these proposals with a range of stakeholders, including MBIE's Immigration Compliance and Investigations (ICI; the main regulator), the Ministry of Justice, the Chief Victims Advisor, INZ's Focus Group, the IPT, the LDAC, and the NZLS.

The IPT flagged concerns about the resource impact of an increase in deportation appeals, and the Ministry of Justice noted concerns about the potential infringement on the rights to privacy and to be secure against unreasonable search or seizure. The NZLS noted that this seemed like a reasonable change given the range of circumstances where the powers could not be used currently. No other stakeholders provided feedback.

What are the risks and how will they be managed?

MBIE may need to process a greater number of deportations and there may be a corresponding increase in the number of appeals made to the IPT. This will increase the processing burden of both agencies, although this will likely be offset for MBIE by the efficiency and productivity gains that this change delivers for other compliance action. Officials have been unable to estimate the likely increase in volumes as the use of the section 280 power is not currently recorded. Subject to Cabinet's agreement to advance this proposal, officials will start monitoring the use of section 280 powers to develop a clearer estimate of the impact during the legislative process.

If the volume of additional deportations and appeals is significant and becomes unmanageable within existing resourcing, further advice will be given on options to address this.

There is also a risk of actual or perceived operational overreach developing over time (officers perceived to misuse their powers abusively). This risk will be mitigated through the updating of Standard Operating Procedures, with legal advice, to ensure that requests by officers are based on robust and justifiable criteria.

Proposal 3: Limit humanitarian appeal rights to the Immigration and Protection Tribunal for some temporary visa holders, including all visitor visas

Summary of the proposal

The proposal is to remove the ability for some temporary visa holders to appeal their liability for deportation to the IPT on humanitarian grounds. This would affect all people holding visitor visas (temporary visas, without work or study rights), and all temporary visa holders who have been made liable for deportation where:

- they are formally liable for deportation (for example, their visa was granted in error, they used a false identity, or they are liable for a cause such as criminal offending)
- they become unlawful due to their visa expiring (this means the last visa they held before becoming unlawful was a visitor visa). In this instance, people can still seek Ministerial intervention to prevent deportation or request a new visa and pursue further action regarding outcomes to that application.

Background

Temporary visa holders generally come to New Zealand for a short period, and most have a limited connection to New Zealand. While some may anticipate remaining longer, the visa is, by definition, temporary. While the vast majority of temporary visa holders are compliant with their visa conditions, some become or are made liable for deportation for various reasons. Those made liable for deportation have the same right as residents to appeal against deportation to the IPT on humanitarian grounds. This process is lengthy and costly to the Crown and is not reflective of the differences in status or expectations between residents and temporary visa holders.

People made liable for deportation will still have two weeks to make a submission to MBIE that sets out their arguments to be able to remain in New Zealand and they may also appeal to the Minister of Immigration. This will send a clear message that people who are temporary guests in New Zealand are expected to follow New Zealand law and to abide by the conditions of their visitor visa or face swift deportation action.

Who was consulted and what was the feedback?

MBIE consulted on both government and non-government stakeholders including the Departments of Corrections and Internal Affairs, the Ministries for Ethnic Communities and Pacific Peoples, the Ministries of Foreign Affairs and Trade (MFAT) and Justice, the Chief Victims Advisor, Immigration New Zealand's Focus Group, the IPT, LDAC, the NZLS, and the Office of the Ombudsman.

Stakeholders were generally supportive of the proposal, but raised some concerns. Feedback included that the burden may simply shift from the IPT to other avenues of review or appeal and that these other avenues are insufficient to protect those with genuine humanitarian reasons to stay in New Zealand.

What are the risks and how will they be managed?

One risk, which we judge to be low, is that some people with genuine humanitarian grounds to stay in New Zealand may be deported. The ability to give good reasons why deportation should not proceed and seeking Ministerial Intervention help to manage this risk. The second risk is that, in the absence of a right to appeal to the IPT, the workload shifts to the alternative avenues of appeal, such as the Courts through Judicial Review, to the Ombudsman, or to requests for Ministerial Intervention (which would largely impact on MBIE). This risk is mitigated to an extent through the scope and cost of judicial review. Risks associated with Ministerial intervention can be minimised through operational changes in how they are considered. MBIE will work with the Ombudsman to understand their scope in this area, as this is ultimately at their discretion. This will enable both MBIE and the Ombudsman to best understand the possible impacts and risks.

Proposal 4: Prevent asylum claimants who withdraw their claims from applying for further visas

Summary of the proposal

This proposal seeks to clarify section 150 of the Act, to ensure that claimants do not misuse the system by first lodging a claim for protection, and then taking advantage of changing circumstances during consideration of their claim to gain access to an alternative immigration route that would not have otherwise been available to them.

Background

There has been a significant increase in refugee and protection claims since the re-opening of the border.³ This has resulted in delays in making determinations and a backlog of unassigned and undetermined claims, delaying recognising genuine claims. The time between lodging a claim and allocating it to a decision maker is approximately 460 days. As of March 2025 there were 3,492 undecided claims on hand. Annually, a large number of claims are declined as they do not meet the legal test to be recognised as a refugee or protected person, and the rate of decline is rising.

During the time an asylum claim is processing a claimant can withdraw their claim and change visa pathways. For example, an individual's circumstances may change because they enter into a partnership with a New Zealand citizen or resident, or because they obtain a job that meets AEWV requirements. This raises a concern that some claimants may be abusing the asylum process to gain initial entry to the labour force, with the aim of remaining in New Zealand although they do not qualify for protection.

The number of claims withdrawn in 2023/2024 and 2024/2025 to 15 May 2025 was 330, of which 68 went on to apply for another visa (interim, resident, student, visitor, work), and 85 people left New Zealand. This is approximately 8 percent of total claims.

This proposal would both clarify existing uncertainty in the law and ensure that both unsuccessful and withdrawn claimants cannot be granted further visas and should depart NZ. It may also disincentivise unmeritorious claims (although numbers are difficult to estimate).

Who was consulted and what was their feedback?

Officials consulted with the Ministry of Justice and the Ministry of Foreign Affairs and Trade, who did not have substantive feedback on the proposal. Targeted external consultation has been undertaken with members of the immigration refugee bar, who were supportive of clarifying the law, but did not see substantive value in preventing claimants from applying for further visas. The IPT had no substantive comments. The Office of the Ombudsman and NZLS emphasised that change should be clearly communicated.

What are the risks and how will these be managed?

Claimants who would have otherwise withdrawn their asylum claim may elect not to do so, solidifying backlogs and processing delays and cost to wider government. This risk is somewhat mitigated by the amendment coming into effect at introduction.

It is difficult to predict how many claimants will be disincentivised from claiming and there is a risk that the proposal may have little impact on reducing claims numbers.

³ In 2023/24, 2,345 claims were received. Claim numbers last reached this level in 1998/99. Historically, claims had averaged around 400 per annum. The Refugee Status Unit (RSU) is forecast to receive 2,302 claims in 2024/25 and 1,774 claims have been received this financial year to 31 March.

Proposal 5: Modernise and improve information sharing provisions, enhance transparency provisions, and enable support for digital credentials

Summary of the proposal

The primary proposal is to broaden the disclosure provisions of the Immigration Act 2009 (the Immigration Act's) information sharing framework (the framework). This would better facilitate information sharing between MBIE and other government agencies, the private sector, and the courts, without the need to rely on alternative methods for disclosure in the Privacy Act 2020.

Background

The proposed amendment would create an enduring information sharing framework available to MBIE (as the authoritative source of immigration information) and other agencies who require access to immigration information. MBIE and other agencies currently rely on a patchwork of immigration information sharing enablers which can make it difficult to understand whether, when, and how information can be shared, and which protections apply.

Broadening the framework (in the manner described in **Tables 1 and 2** below) would improve MBIE's ability to support compliance and enforcement activities to manage risks to New Zealand through the prevention of information-related harms (for example, fraud, where bad actors capitalise on opportunities to take advantage of government processes).

It is crucial that any statutory information sharing regime recognise and protect an individual's right to privacy of personal information. To protect personal information, the existing safeguards in the current information sharing sections in the Act will be built upon (as explained in the risk section below). Among other safeguards proposed, these include requirements that the Privacy Commissioner be consulted before agreements are made or amended, and that the Privacy Commissioner will have the power to require reporting.

Two minor changes are also proposed:

- making explicit that Immigration New Zealand (INZ) can issue, receive, and contribute to other agencies' digital credentials. This includes those related to identity and immigration status (to confirm that MBIE can support the introduction and uptake of digital identity services in New Zealand); and
- inclusion of a 'transparency provision' to enhance public trust and confidence in how MBIE collects, uses, accesses and corrects information it holds. For example, this will ensure travellers and migrants are not discouraged from providing complete and accurate information to MBIE.

Who was consulted and what was the feedback?

Most of the stakeholders consulted were supportive of the proposals. Agencies that expressed support were the Department of Corrections, Department of the Prime Minister and Cabinet, Health New Zealand, Ministry of Social Development (MSD), Ministry of Foreign Affairs and Trade, New Zealand Police, and Ministry of Education. Some agencies were neutral (Ministry of Justice (MoJ), Office of the Ombudsman (the Ombudsman), Inland Revenue Department (IRD)).

Several stakeholders (MSD, IRD, the Office of the Privacy Commissioner (OPC)) questioned why legislative reform was required, given that approved information sharing agreements (AISAs) could achieve the same information sharing outcomes without legislative change. However, the Legislative Design Advisory Committee noted that "legislation may be preferable in this instance". IRD noted that, in some cases, other agencies may need to undertake equivalent legislative change to empower

information sharing. Several stakeholders (MoJ, MSD, OPC, the Ombudsman and the NZLS) emphasised that any revised sharing framework should retain adequate privacy protections.

The following stakeholders were also consulted but provided no feedback: the Department of Internal Affairs, Ministry for Regulation, New Zealand Customs Service, and New Zealand Security Intelligence Service.

What are the risks and how will they be managed?

There are privacy risks associated with information sharing (noting that immigration information can be highly sensitive). If not handled appropriately, including in instances of misuse, the impact on individuals can be significant. The following privacy protections are proposed to enhance the protection of personal information:

1. The establishing of a standardised process for making information disclosure agreements (as described below), with a requirement that these agreements be published (with any appropriate redactions under the Official Information Act 1982);
2. Agreements must specify (noting these requirements will build on existing safeguards present in sections 302(6), 302(7), 303C(2) and 303B(3) of the Immigration Act):
 - a. the class/es or type/s of information that is being disclosed;
 - b. the purpose/s to which the information will be put;
 - c. requirements for the security of the information (including storage and disposal);
 - d. who can access the information;
 - e. how (or whether) information can be further disclosed by the recipient, and if so, the relevant conditions; and
 - f. a review requirement, as agreed by the parties to the agreement.
3. The Privacy Commissioner will continue to be consulted before agreements are made or amended, and will also have the power to require reporting;
4. Any agreements that include direct access will include procedures to record what information has been accessed, by whom, and specify sanctions for misuse; and
5. Disclosed information will be kept, used, and (if applicable) further disclosed, by the receiving party, in accordance with the Privacy Act 2020 or other applicable law.

Table 1: List of proposed functions/purposes justifying the disclosure of, or access to, information, with potential use cases

| Sharing purposes proposed (in addition to those already existing, as described in Table 2) | | | | | | | | |
|--|--|--|--|---|--|---|--|--|
| | Reasonably necessary to enable a government agency to carry out its functions related to, or involving, the protection of national security | Reasonably necessary to enable a government agency in the prevention, detection, investigation, prosecution, or punishment of offences (including immigration offences) | Reasonably necessary to enable a government agency to carry out its functions related to, or involving, the protection of border security | Reasonably necessary to enable a government agency to carry out its functions related to, or involving, the prevention, detection, or investigation of any potential, suspected, or actual terrorist act; or facilitation of a terrorist act | Reasonably necessary to enable a government agency in carrying out functions related to, or involving, the processing of international passengers | Reasonably necessary to enable a government agency to carry out its functions related to, or involving, the protection of public revenue | Reasonably necessary to enable a government agency to carry out its functions related to, or involving, the protection of public health and safety | Agreement between private sector organisation and MBIE to support services to clients ⁴ |
| Example beneficiaries | DPMC, New Zealand intelligence community | Police, MBIE, MSD, MoE | Customs | Police, New Zealand intelligence community | Customs | IRD, HNZ | MoH, HNZ, Police | Banks |
| Example benefits | Would facilitate sharing where it could be helpful in developing a holistic information picture of a foreign national or nationals in New Zealand | <p>Would enable Police to check firearms licence applicants' international travel movements to help assess whether an applicant is a national security risk or has been charged or convicted of an offence overseas</p> <p>Would assist MBIE to request information from agencies for compliance, enforcement, and/or verification purposes to check/verify that an individual's visa conditions are being met</p> <p>Would enable MSD to verify client identity and application information against INZ's identity, visa, and travel records, helping them to determine eligibility for payments and detect potential fraud</p> <p>Would assist MoE in carrying out its functions related to ensuring students are attending school</p> | Would enhance Customs' ability to manage risk at the border (in conjunction with the removal of references to 'persons of interest') | Would facilitate sharing where it could be helpful in combatting terrorist activities | Would assist Customs officers acting as immigration officers so they can carry out immigration functions | Would assist agencies to recoup debts or enforce sponsorship obligations | <p>Would assist HNZ to potentially access information that indicates whether an individual is infected or potentially infected with a communicable disease upon arrival to New Zealand</p> <p>Would assist Police activities related to locating missing persons or assisting with safety concerns, for example.</p> | Would help validate the authenticity of visa documents being used by non-citizens who seek to open bank accounts (minimise potential for fraud in service delivery / facilitate access for migrants to banking services) |

⁴ For the avoidance of doubt, the sharing purpose is intended to complement any information sharing processes that are established as part of a digital identity environment under the Digital Identity Services Trust Framework (including those which provide opportunities for the sharing of information to be user-driven through verifiable credentials).

Table 2: Existing sharing purposes under the Immigration Act’s information sharing framework (sections 301 to 306), with proposed amendments

| Section | Sharing purpose | Proposed amendment |
|----------------------|---|--|
| 301 | Facilitates the disclosure of information by MBIE to a provider of any publicly funded service to enable the service provider to determine either a person’s eligibility to access a publicly funded service, or a person’s liability to pay for a publicly funded service | Expand definition of ‘publicly funded service’ to include ‘benefits’ and related entitlements |
| 302 | Facilitates the disclosure of information by a specified agency to MBIE to enable MBIE to establish or verify a person’s identity, check matters relating to a person’s character, or ascertain whether a person is an ‘excluded person’ | Remove specified agencies list |
| 303 | Facilitates the disclosure of information by MBIE to a specified agency to enable the agency to either establish or verify a person’s identity, or check matters relating to the person’s character | Remove specified agencies list, clarify that references to ‘a person’ include ‘deceased persons’ |
| 303A | Disclosure of information to specified agencies for purposes of law enforcement, counter-terrorism, and security | Remove specified agencies list, remove references to ‘persons of interest’ |
| 303B | Direct access to information for purposes of law enforcement, counter-terrorism, and security | |
| 304 | Facilitates the disclosure of information by MBIE to an employer to enable them to verify that a person is entitled to work for them | No change |
| 305 | Permits MBIE’s chief executive to disclose information specified in section 306 to an overseas agency, body, or person whose functions include the prevention, detection, investigation, or punishment of immigration or other offences; or the processing of international passengers; or border security | |

Proposal 6: Enable holders of deemed entry permission to be turned around on arrival

Summary of the proposals

Amend the Immigration Act 2009 (the Act) so the Minister can certify Instructions that apply to persons who have been deemed to have been granted entry permission, which establish how that entry permission may be revoked.

Background

Section 13 of the Act establishes that all non-citizens are required to hold entry permission to enter New Zealand. Most non-citizens arrive by air, and apply for entry permission (and a visa, if they have travelled visa-waiver) at the border, in an Immigration Control Area (the airport) and via their New Zealand Traveller Declaration (previously the arrival card). Their applications are processed by an eGate or an Immigration officer (usually a Customs staff member) and if they meet entry requirements they are granted entry permission, and a visa if applicable.

Some non-citizens / non-residents who arrive at the border are however deemed by regulations to hold entry permission on arrival (see Schedule 3 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010) as it is impractical to require them to apply, be processed, and have a decision made. The two largest groups that travel by air and fall into this category are commercial air crew, and crew and passengers of private aircraft. For the same reason, the passengers and crew of cruise and cargo vessels are also deemed to hold entry permission on arrival.

It has traditionally been rare for persons deemed to hold entry permission to be identified as "inadmissible". However, the numbers of crew found to be smuggling have risen sharply (for example, Privacy of natural persons). There is no reason for them to remain in New Zealand (the offending is too low level to make prosecution worthwhile) and it is unnecessarily burdensome to process them as people liable for deportation when, had they arrived as passengers, they would just have been infringed, refused entry, and required to leave on the next available flight.

The current setting is inefficient and serves no positive purpose. It means that border staff are spending time going through the steps of formally revoking entry permission and making the individuals liable for deportation (which also confers some appeal rights) rather than undertaking higher value work such as screening flights or profiling travellers, to prevent immigration-related harms to New Zealand, or facilitating the travel of low risk travellers who are facing issues at check in around the world.

Who was consulted and what was the feedback?

This is a change which reinstates a previous provision (section 113A of the Act, which was established to help manage the border in 2020, and revoked in 2023), and is enabling only. Stakeholders (government agencies and carriers) will be consulted when the immigration instructions that put the revocation powers into effect are being designed.

What are the risks and how will they be managed?

The risks are assessed as low, as the provision has previously been in the statute.