



COVERSHEET

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>	



BRIEFING

Immigration (Enhanced Risk Management) Amendment Bill – additional drafting decisions

Date:	11 August 2025	Priority:	Medium
Security classification:	In Confidence	Tracking number:	REQ-0018175

Action sought		
	Action sought	Deadline
Hon Erica Stanford Minister of Immigration	<p>Approve minor changes to drafting instructions for the Immigration (Enhanced Risk Management) Amendment Bill</p> <p>Decide how you wish to progress recent proposals for legislative change</p>	4 August 2025

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

The following departments/agencies have been consulted
Cabinet Office, Parliamentary Counsel Office

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comment



BRIEFING

Immigration (Enhanced Risk Management) Amendment Bill – additional drafting decisions

Date:	11 August 2025	Priority:	Medium
Security classification:	In Confidence	Tracking number:	REQ-0018175

Purpose

To seek your:

- agreement to minor changes and additions to the drafting instructions for the Immigration (Enhanced Risk Management) Amendment Bill (ERM, or the Bill), to give effect to your objectives for the legislation, and
- direction on two additional proposals for change, with regard both to progressing them, and to the appropriate legislative vehicle.

Recommended action

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

- a. **Note** that Cabinet authorised you to make decisions, consistent with the policy proposals in the Cabinet papers under ECO-25-SUB-0084 and ECO-25-SUB-0093, on issues arising during the drafting and consultation process [ECO-25-MIN-0084 and ECO-25-MIN-0093]

Noted

- b. **Note** that MBIE now seeks your decision on several minor issues, using this delegation

Noted

Changes relating to asylum claimants applying for further visas after withdrawing asylum claim

- c. **Note** that you previously agreed that this change (preventing a claimant from applying for a different visa after withdrawing their asylum claim) should apply retrospectively from the introduction of the Bill, to avoid a surge of applications seeking to get ahead of the change

Noted

- d. **Note** that, to give practical effect to this, MBIE considers it is necessary that visas which are granted to this category of person between introduction and enactment be cancelled

Noted

- e. **Agree** that, when the ERM is enacted, Immigration New Zealand will cancel any visas that have been granted to asylum seekers who withdrew their asylum claim and were granted a different visa, in the period between the introduction and enactment of the ERM

Agree / Disagree / Discuss

- f. **Note** that, while the approach in **recommendation e.** above runs counter to the Legislative Guidelines, which state that legislation should not generally have retrospective effect, the retrospectivity is directly intended to avoid the risk of a surge of applications (which would undermine the purpose of the changes), and will be communicated to:

- asylum seekers and the legal community, as soon as the Bill is introduced, and
- any asylum seeker that proposes to withdraw their claim, while the Bill is before the House

Noted

Migrant exploitation infringement offences

- g. **Note** that MBIE has discussed these changes with the Ministry of Justice, following advice from the Legislation Design Advisory Committee (LDAC) [we briefed you on this in REQ-0015523], and the Ministry of Justice has confirmed its support for the changes
Noted
- h. **Note** that the Ministry of Justice has indicated that the changes will require ICT system changes, which will take some months and cannot start until the Bill is passed
Noted
- i. **Agree** to delay the commencement of the infringement offence changes to eight months after the ERM receives Royal Assent, to enable the Ministry of Justice to make necessary ICT changes
Agree / Disagree / Discuss
- j. **Note** that recommendations, making a technical change to the Immigration Act 2009 (the Act), to enable the creation of two new employer-related infringement offences related to providing false and misleading information, were inadvertently left out of the previous Cabinet paper
Noted
- k. **Agree** to address this omission, by enabling the creation of employer-specific infringement offences for the provision of false and misleading information
Agree / Disagree / Discuss

Decisions required to give effect to the information sharing proposals' intent

- l. **Agree** to add a provision to maintain the validity of existing information sharing agreements (made under the existing information sharing provisions in the Act), following the enactment of the ERM
Agree / Disagree / Discuss
- m. **Agree** that:
- i. MBIE can receive information about deceased persons for any of the purposes relevant to section 302 of the Act, and
 - ii. existing information sharing agreements made under sections 302 and 303 of the Act will be deemed to allow information sharing about deceased persons
Agree / Disagree / Discuss
- n. **Agree** that information disclosed under information sharing agreements made under the revised provisions of the information sharing framework can be used, or disclosed to other parties, by the other party to the agreement, in accordance with the Privacy Act 2020
Agree / Disagree / Discuss

Further proposals for legislative change that have been raised

- o. **Note** that two proposals for legislative change have been recently discussed with you:
- i. extending the ability for victims of migrant offenders to submit on deportation liability proceedings, to include victims of crimes that are not the crime that has given rise to the deportation liability, and
 - ii. clarifying that non-political offending that takes place in New Zealand before asylum is claimed or granted means the claimant is excluded from being granted refugee status (as existing provisions only exclude on the basis of offending that occurred before arrival in New Zealand)
Noted

p. **Note** that we have sought advice, and the proposal relating to victims could be progressed by you without a Cabinet decision (as it falls within your delegated authority), and does not require regulatory impact assessment

Noted

q. **Direct** officials to add a provision extending victims' rights to submit on deportation liability proceedings into the Bill, noting that we are still in discussions with PCO on that scope

Agree / Disagree / Discuss

r. **Note** that the proposal relating to offending in New Zealand would require a Cabinet decision, so could not be included in the draft for introduction, and that there are obstacles to amending the Bill to take it proposal into account after introduction:

- i. the Attorney-General advised Ministers and agencies in March 2024 that Bills should incorporate all proposals for change at the point of introduction
- ii. Standing Orders support that Bills should only be amended in line with their subject matter and objects (generally, as expressed in the General Policy Statement)

Noted

s. **Direct** officials to include a policy proposal relating to excluding people from eligibility for refugee status, where they offend in New Zealand before asylum is claimed or granted, in the subsequent Amendment Bill, which is currently in the very early stages of scoping.

Agree / Disagree / Discuss



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

Hon Erica Stanford
Minister of Immigration

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Additional decisions are required for the ERM

Additional policy issues have arisen from the legislative drafting process

1. When Cabinet agreed to the policy proposals for the ERM, it authorised you to make further decisions to address issues that may arise during the drafting and consultation process [ECO-25-MIN-0084 and ECO-25-MIN-0093].
2. The Parliamentary Counsel Office (PCO) is drafting the ERM to give effect to these proposals. Some additional policy questions have arisen during that process, and we seek your decisions in order that drafting can progress.

Changes to prevent an asylum claimant applying for further visas if they withdraw their asylum claim

3. The Bill will amend section 150 of the Act to clarify that an asylum claimant who has withdrawn their claim cannot apply for a further visa. Following additional advice provided on 15 May 2005 [REQ-0014081], you agreed that this change should apply from the point of introduction (rather than enactment) of the Bill. This approach is intended to avoid a surge in claims after the Bill is introduced, but before it is enacted.
4. In practice, any asylum claimant who lodges their claim after the Bill's introduction could withdraw that claim before commencement of the change (i.e. enactment), and still be able to apply for, and be granted, another visa. This means that, in order to achieve the policy intent described in paragraph 4, those visas will have to be cancelled on enactment of the Bill. We seek your agreement that this is addressed in the ERM.
5. There are two main risks relating to this change:
 - The Legislation Guidelines note that legislation should not, generally, be retrospective. It also notes that any retrospectivity should be clearly identified in the legislation, and justified. The justification for this proposal applying retrospectively is to avoid the risk of a surge of applications which undermines the purpose of the changes. We will work with PCO to ensure this is suitably reflected.
 - a. The retrospectivity (and potential impact on some claimants) may be criticised (regardless of how well this is justified and articulated in the legislation).
6. In the interests of transparency and fairness, this change will be signalled to asylum seekers and the legal community as soon as the Bill is introduced, while Immigration New Zealand will ensure that it is clearly communicated to claimants proposing to withdraw their claims while the Bill is before the House. We will also ensure that communications about the Bill include the justification for this change.

Migrant exploitation infringement offences

7. In our previous briefing to you on the ERM [REQ-0015523], we noted that the Legislation Design Advisory Committee (LDAC) had reservations about the change that proposed to extend the time in which MBIE can issue an infringement notice for migrant exploitation from six to 12 months, starting from the date that MBIE becomes aware of the offending. LDAC recommended that MBIE engage with the Ministry of Justice to identify impediments to our proposed approach, or potential alternative options.
8. We have since engaged with Ministry of Justice officials, who confirmed they support the proposed change, and accept there are specific circumstances for migrant exploitation offences that mean they take longer to investigate. There are therefore no impediments to proceeding with drafting.
9. As we had flagged in earlier advice, the Ministry of Justice will likely need to undertake ICT system changes to implement the proposal, which will come at a cost to be covered by MBIE (currently estimated at approximately \$200,000, to be met from the immigration levy).

10. The Ministry of Justice has also confirmed that the design and build of the ICT change can commence only after the Bill is passed. We therefore seek your agreement to delay commencement of the infringement offence changes until eight months after Royal Assent, to allow sufficient time for implementation.

Further minor decisions are needed to enable information sharing changes

11. MBIE has identified that three further decisions are required to give effect to the information sharing framework changes proposed in the ERM. The necessity for these decisions has been identified through both the drafting process, and consultation with the Office of the Privacy Commissioner.

Savings provision

12. As a result of the changes agreed at Cabinet, changes are needed to the Act's existing framework for the disclosure of information, which governs existing information sharing agreements. A 'savings provision' needs to be included in the ERM to enable those agreements to continue to be valid once the ERM has passed. We seek your agreement to include this provision in the ERM.

Deceased persons

13. Cabinet agreed that the Act be amended at section 303 (which enables MBIE to disclose information to specified agencies for the purpose of checking identity and character), to clarify that references to 'a person' include deceased persons.
14. We now consider it would also be beneficial to extend this clarification, by enabling information about deceased persons to similarly be disclosed to MBIE, to enable MBIE to check a person's identity, character, or status. We seek your agreement to this extension.
15. For completeness, we also seek your agreement that existing information sharing agreements (made under the current information sharing framework and continued under the new information sharing framework, as described at paragraph 12 above) will also be deemed to permit information sharing about deceased persons.

Use and on-disclosure of information in accordance with the Privacy Act 2020

16. Cabinet agreed that, where information is disclosed under an agreement made under the revised information sharing in the ERM, it must be accompanied by appropriate privacy protections. We have identified that some of the proposed protections (related to the use and on-disclosure of information) appear to be inconsistent with those already in the Act, and may override the general rules in the Privacy Act 2020.
17. To avoid a perception that this was the policy intent, we seek your agreement to reconcile the inconsistency and clarify that information disclosed under information sharing agreements made under the information sharing framework in the ERM can be used or on-disclosed in accordance with the Privacy Act 2020.

One policy proposal for the ERM was mistakenly missed from the Cabinet paper

18. A policy proposal that you had agreed should be part of the ERM was inadvertently left out from the previous Cabinet paper. This means that PCO cannot proceed to draft this proposal unless you formally agree to it.
19. The proposal relates to the creation of a separate employer offence for the provision of false or misleading information. Making this technical amendment in the Act is necessary to enable future work to prescribe a new infringement offence or offences for employers who provide false or misleading information (e.g. in an accreditation or job check application). Infringement offences can be prescribed in regulations, and provide a more efficient and effective option for addressing low-level offending, but they first require an offence in primary legislation.

20. This proposal was in your earlier briefing material relating to the scope of the legislation, and the omission from the Cabinet paper recommendations was accidental. Following discussions with Cabinet Office, officials' view is that this falls within your delegated authority granted by Cabinet, and therefore no additional Cabinet decision is required.
21. We seek your formal agreement that the ERM create a separate employer offence for the provision of false or misleading information, noting that it will subsequently be brought into effect through the development of regulations which create infringement offences.

Additional proposals for change have recently been raised

You have recently discussed two additional proposals for legislative amendment

22. Two additional proposals have recently been discussed with you, and you have asked for advice about whether they could be included in this Bill. The proposals would clarify that:
 - a. a victim can submit on deportation liability proceedings, even if they are a victim of a separate crime to the one giving rise to the deportation liability, and
 - b. non-political offending that takes place in New Zealand before asylum was either claimed or granted means that the claimant is excluded from eligibility for refugee status (the existing provisions only exclude on the basis of offending before arrival in New Zealand).
23. The first proposal would expand the current provisions under section 173 of the Act, which state that the Minister must have regard to submissions by a victim of the crime from which the deportation liability arises. This means that, where a person has committed two or more crimes, and has been made liable for deportation on the basis of one of them, the victim (or victims) of the other crime or crimes does not have a right to submit.
24. The second proposal addresses a gap, and is consistent with the approach to criminal claimants in peer countries.
25. MBIE agrees that both proposals have merit. We have consulted with Cabinet Office and the Ministry for Regulation. The first proposal could be decided by you (that is, falls within the scope of your delegated authority – noting that we are still in discussions with PCO on this matter) and does not meet the threshold for regulatory impact assessment. It is unlikely to be controversial. On that basis, we consider that it could be included in the Bill: it may not be able to be included in the exposure draft, but we could advise consulted parties about the intention to include it in the Bill at Introduction.
26. The second proposal [redacted] Confidential advice to Government [redacted], and should be consulted with interested stakeholders before policy decisions are taken by Cabinet.
27. We note that, in March 2024, the Attorney-General advised Ministers and Public Sector Chief Executives that, in the interests of quality regulation, Bills should be fully developed before introduction. In practice, this means that Bills should not be introduced with the intention of further amendments that have not had the benefit of Select Committee consideration.
28. In addition, Standing Orders 300(1) and 310 support the principle that amendments to Bills should relate to the subject matter and objects of the Bill, which means in general that they should be explicitly allowed for in the General Policy Statement of the Bill.
29. On this basis, we recommend that you direct us to progress the proposal relating to offending in New Zealand for the next Amendment Bill.

Next steps

30. Table One below sets out our understanding of the ERM's current timing.

Table One: ERM current timeline

Stage	Date
Consultation on Exposure Draft of Bill	Early September 2025
BORA vet complete	Mid-October 2025
LEG considers Bill for introduction	Late October 2025
Bill introduced	End October 2025
First Reading	November 2025
Select Committee report back to the House	May 2026
Bill enacted	June 2026