



## COVERSHEET

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

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
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

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
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

<b>Information redacted</b>	<b><u>YES</u> / NO</b>
<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

### Draft Cabinet paper for the second set of policy decisions for the Immigration (Enhanced Risk Management) Amendment Bill

<b>Date:</b>	29 May 2025	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	0014611

Action sought		
	Action sought	Deadline
Hon Erica Stanford <b>Minister of Immigration</b>	<p><b>Agree</b> to an additional proposal to include in the Bill</p> <p><b>Agree</b> to an approach in response to feedback from the Legislation Design Advisory Committee</p> <p><b>Provide feedback</b> on the draft Cabinet paper seeking policy decisions for the Bill</p>	6 June 2025

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

The following departments/agencies have been consulted
<p>The following entities have been consulted in the policy development process for the amendment Bill: The Chief Victims Advisor, Department of Corrections, Department of Internal Affairs, Health New Zealand, Immigration and Protection Tribunal, Inland Revenue Department, Legislation Design Advisory Committee, Ministry of Education, Ministry for Ethnic Communities, Ministry of Foreign Affairs and Trade, Ministry of Justice, Ministry for Pacific Peoples, New Zealand Police, Office of the Ombudsman, Office of the Privacy Commissioner, and the Treasury.</p> <p>Agency consultation on the Cabinet paper will commence on 29 May.</p>

**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           |

**Comments**



## BRIEFING

### Draft Cabinet paper for the second set of policy decisions for the Immigration (Enhanced Risk Management) Amendment Bill

<b>Date:</b>	29 May 2025	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	0014611

#### Purpose

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To provide further advice on the Immigration (Enhanced Risk Management) Amendment Bill (the ERM Bill) and a draft Cabinet paper seeking agreement to the second set of policy decisions for the ERM Bill ahead of Ministerial consultation, which is proposed to commence on 9 June.

#### Executive summary

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You have recently lodged a Cabinet paper seeking agreement to the first set of policy decisions to be included in the Immigration (Enhanced Risk Management) Amendment Bill [0014746], for consideration at the Cabinet Economic Policy Committee (ECO) on 4 June 2025. This second Cabinet paper, due to be lodged on 19 June, covers the following six policy proposals:

- a. Strengthen immigration penalties for non-compliant and exploitative employers, including by increasing the maximum sentence for migrant exploitation from seven to 10 years and extending the time the Ministry of Business, Innovation and Employment (MBIE) can issue infringement offence notices, to up to 270 days from the date MBIE became aware of the offending
- b. Strengthen compliance powers for immigration officers to request information if they have good cause to suspect that someone may be liable for deportation
- c. Remove the right of appeal on humanitarian grounds to the Immigration and Protection Tribunal (IPT) for temporary visa holders who have committed crimes, or who hold visitor visas
- d. Clarify the Immigration Act 2009 (the Act) to clarify that asylum claimants who withdraw their claims are unable to apply for further visas while onshore
- e. Modernise and improve information sharing provisions, enhance transparency provisions, and enable support for digital credentials, and
- f. **(New)** Enable holders of deemed entry permission who are found to be inadmissible to enter New Zealand (for instance due to smuggling drugs or other contraband) to be turned around.

The new proposal (at a. above) seeks to create a power to revoke the entry permission of people (such as air crew) who are deemed to hold it on arrival. This will mean individuals who are found to be inadmissible on arrival in New Zealand can be turned around more easily if they are, for example, found to be smuggling drugs or cigarettes.

The Legislation Design and Advisory Committee (LDAC) has provided feedback on the proposals, most significantly on the proposal to extend the timeframe for MBIE to issue an infringement notice (at a. above). We are working through this feedback ahead of providing you with a final Cabinet paper.

We also propose to continue with creating new infringement offences (via regulations rather than legislation). LDAC's view was that false and misleading offences were too serious for infringement and that criminal prosecution should be pursued. Criminal offences exist under the Act already, and we consider there is a strong case for infringement offences, given the scale of non-compliance and the effectiveness of the infringement regime to date. We will provide you with further advice from July 2025.

## Recommended action

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MBIE recommends that you:

- a **Note** that this second Cabinet paper seeks policy decisions for six main policy proposals for inclusion in the ERM Bill (one of which is new), with other minor amendments

*Noted*

- b **Agree** to add an additional proposal to the ERM Bill, to enable holders of deemed entry permission (such as crew) to be turned around more easily on arrival in New Zealand, for example if they are found to be smuggling drugs or contraband

*Agree / Disagree / Discuss*

- c **Agree** to clarify that the proposal relating to limiting appeal rights for some temporary visa holders, will also limit appeal rights where a visitor visa holder becomes unlawful e.g. due to the expiry of their visa

*Agree / Disagree / Discuss*

- d **Note** we have received advice from LDAC on three of the proposals, and that MBIE is working through options to incorporate the feedback, most significantly around the extension of the timeframe for MBIE to issue infringement notices

*Noted*

- e **Note** we will provide further advice from July 2025 on proceeding with new infringement offences for employers who provide false and misleading information, in light of LDAC feedback that such offences may be too serious to be infringements

*Noted*

- f **Agree** to provide feedback on the attached draft Cabinet paper (**Annex One**) and discuss with officials on Tuesday 3 June.

*Agree / Disagree / Discuss*



Stacey O'Dowd  
**Manager, Immigration (Border and Funding)  
Policy**

Labour, Science and Enterprise, MBIE

29 / 05 / 2025

Hon Erica Stanford  
**Minister of Immigration**

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## Background

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1. Officials have developed the second of two Cabinet papers seeking policy decisions for the ERM Bill. You have now lodged the first Cabinet paper, which seeks decisions on a first set of proposals, and will be considered by ECO on 4 June.

## Additional feedback from consultation on the proposed Bill

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2. We provided a summary in the last briefing [0014746] from our targeted consultation with external stakeholders. We have since received some feedback from Business New Zealand (BusinessNZ), specifically that BusinessNZ:
  - supports increasing penalties for migrant exploitation, but notes concerns that current enforcement may rely too heavily on focusing on minor infringements by employers who are engaging with the accreditation system, rather than targeting serious offenders who avoid the immigration system
  - notes that, although it is outside the scope of this legislation, there are challenges in regulating intermediaries such as immigration advisers, and both the Immigration Advisers Licencing Act 2007 (IALA), and the Code of Conduct (last updated in 2014) should be reviewed
  - recommends that the ERM Bill provide clear guidance to the judiciary on Parliament's intent, and in particular how it interacts with the Bill of Rights Act 1990.
3. We consider BusinessNZ's concern regarding the infringement regime to be a question of operational implementation rather than legislative design, and we have connected them with the Immigration Compliance and Investigations team to discuss in more detail.
4. You have already agreed to a review of the IALA starting in 2026. Confidential advice to

## We seek your feedback on the attached draft Cabinet paper

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5. We have developed the draft second Cabinet paper attached at **Annex One**, which seeks Cabinet agreement to:
  - a. Strengthen immigration penalties for non-compliant and exploitative employers:
    - i. increase the penalty for migrant exploitation from seven to 10 years
    - ii. extend the time MBIE can issue infringement offence notices from 90 days currently, to up to 270 days from the date MBIE became aware of the offending
    - iii. introduce new employer infringement offences (this would be via regulations as per the current infringement framework, the paper notes this and that you will submit advice later in 2025)
    - iv. strengthen controls against false and misleading information
  - b. Strengthen compliance powers for immigration officers to request information if they have good cause to suspect that someone may be liable for deportation, for example if they visit a property

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<sup>1</sup> The IAA recently reviewed the Code of Conduct, based on an analysis of visa outcomes and complaint trends, and by benchmarking against similar regulatory bodies. The review found the Code to be mostly effective, and recommended targeted updates aimed at continuing its success, upholding high standards of conduct, and maintaining public trust. The IAA is working to commission an update to the Code, expected to take place over the next financial year, and details and specific timings for the project are still to be agreed.

- c. Limit humanitarian appeal rights to the IPT for all visitor visa holders and temporary visa holders who commit crimes
  - d. Prevent asylum claimants who withdraw their claims from applying for any other type of visas while they remain onshore
  - e. Modernise and improve information sharing provisions, including making it explicit that Immigration New Zealand can issue, receive, and contribute to other agencies' digital credentials, and
  - f. Enable non-compliant holders of deemed entry permission on arrival to have entry permission revoked and be turned around (discussed further at paragraph 8 below).
6. **Appendix One** to the Cabinet paper provides a summary of the entire set of policy changes proposed for the ERM Bill (updated slightly from the material appended to the first Cabinet paper, to reflect the new proposal (f) above).
7. **Appendix Two** to the Cabinet paper provides a summary of each of the above six proposals for which agreement is sought in the Cabinet paper. **Appendix Three** contains the five Regulatory Impact Statements covering the major amendments. An internal MBIE quality assurance panel has confirmed each of these at a minimum 'partially meets' the regulatory impact standards. This is primarily because of limited consultation.

### **We seek your agreement to add an additional, minor, amendment to the Bill**

8. Through the course of the policy process, we have identified one further proposal we suggest you add to the scope of the ERM Bill.
9. 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 on a visa-waiver) at the border, in an Immigration Control Area (an airport) and via their New Zealand Traveller Declaration (NZTD).
10. Some non-citizens / non-residents who arrive at the border are deemed by regulations to hold entry permission on arrival as it is impractical to require them to apply, be processed (by an eGate or Immigration officer (usually a Customs staff member)) and granted entry permission. The largest groups in this category are commercial air crew, crew and passengers of private aircraft, and (via sea) the passengers and crew of cruise and cargo vessels.
11. For a 'standard' traveller, if they are found to be inadmissible (for example, because they lied on their NZTD about goods they were carrying, or were found to be smuggling drugs or cigarettes) before entry permission is granted, they can be refused entry and "turned around" i.e. required to leave New Zealand on the next available craft. However, once a traveller holds entry permission, that entry permission must be formally revoked and they must be made liable for deportation under [section 157](#) of the Act (which also confers some appeal rights).
12. Insider threats (unlawful behaviours by trusted personnel) are a major concern to border agencies worldwide. The numbers of crew found to be smuggling have risen sharply **Pri**  
  
 There is no reason for them to remain in New Zealand as the offending is too low-level to make prosecution worthwhile. Further, it is unnecessarily burdensome to process them as people liable for deportation when, had they arrived as air passengers, they would simply have been refused entry and required to leave on the next available flight. (The equivalent for marine crew is either being required to leave by air at the employer's expense, or being confined to the vessel for the duration of its time in New Zealand waters.)
13. This approach means that border staff are spending time going through the steps of formally revoking entry permission and making the individuals liable for deportation, rather than undertaking higher impact work, such as either screening flights or profiling travellers to

prevent immigration-related harms to New Zealand, or facilitating the travel of low-risk travellers.

14. We propose to include an amendment in the ERM Bill so it is clear that a person who holds a deemed visa and entry permission may be refused entry and turned around. In practice, the amendment would enable you, as Minister, to certify Immigration Instructions that will enable deemed entry permission to be revoked. There is existing legislative drafting, as an equivalent provision ([section 113A](#)) was brought into force in 2020 as part of the COVID-19 legislation.
15. This proposal was not included in targeted consultation on the wider Bill proposals. If you agree to include it in the scope of the Bill, we suggest bringing this amendment to stakeholders', including airlines', attention during consultation on a draft Bill (expected in September).

**We also propose a minor clarification to the removal of appeal rights for some temporary visa holders who are liable for deportation**

16. We identified for the purposes of drafting instructions (and achieving the policy intent) that the proposal related to limiting appeal rights for all visitor visa holders needed to be clearer.
17. We seek your confirmation to restrict the right to appeal to the IPT on humanitarian grounds for visitor visa holders where:
  - They are formally liable for deportation (i.e. their visa was granted in error, they used a false identity, or they are liable for “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.
18. A risk has been identified that visitor visa holders may seek an interim visa to provide an avenue to appeal to the IPT. To address this, we also seek your confirmation to restrict the right to appeal to the IPT on humanitarian grounds for those who are unlawful due to expiry of an interim visa, **if** their previous visa was a visitor visa.
19. These clarifications have minimal risk, because they relate to people who become unlawful due to their visa expiring as a result of their own inaction, opposed to their being made liable due to a decision by the state.

**We are working to address feedback from the Legislation Design and Advisory Committee**

20. LDAC provided four key pieces of feedback. The table below summarises LDAC’s view, and our proposed approach to responding to their advice.

Legislative amendment proposal	LDAC feedback and recommendation (summarised by MBIE)	Proposed approach
Amending section 342 of the Act to clarify that providing false or misleading information to an automated system is in scope of that offence	Legislating to avoid doubt can have wider unintended consequences, including by casting doubt on other parts of the regime and other regimes, or on the status of the power before the change (raising the question of whether the change needs to be made retrospective. LDAC	MBIE has broadly accepted the LDAC feedback and changed the Cabinet paper to reflect the broader policy intent being sought (i.e. clarification) and will work with the legal team, and the Parliamentary Counsel Office (PCO), to consider exactly which

Legislative amendment proposal	LDAC feedback and recommendation (summarised by MBIE)	Proposed approach
<p><b>Proposal (a)(iv)</b>, on page 3 above.</p>	<p>recommends an alternative approach that focuses on the automated system in question, rather than the offence itself (a different section of the Act).</p>	<p>section should be amended to achieve that intent.</p>
<p>Extending the timeframe for enforcing or challenging an employer infringement notice through the courts, from a de facto current 90 days from the date of offending, to 270 days after MBIE becomes aware of the offending</p> <p><b>Proposal (a)(ii)</b> on page 3 above.</p>	<p>Offending that is not immediately identifiable is unsuitable for an infringement offence.</p> <p>Further, the amendment would depart from the timelines set out in the Summary Proceedings Act 1957.</p> <p>LDAC is not aware of any other infringement offence regime that has changed the limitation period for issuing an infringement notice.</p>	<p>MBIE continues to work through options in response to this advice.</p>
<p>Limit humanitarian appeal rights to the IPT for temporary class visa holders who commit crimes, and all visitor visa holders</p> <p><b>Proposal (c)</b> on page 4 above.</p>	<p>A person affected by a decision should have an adequate pathway to challenge that decision through a re-examination of the facts (not just the process) unless there are factors that would make an appeal inappropriate.</p>	<p>MBIE has considered this feedback and holds the view that:</p> <ul style="list-style-type: none"> <li>• There are sufficient safeguards in the system, including the good reasons review and appeal to the Minister of Immigration, and</li> <li>• There are sound policy reasons why the groups who this policy affects should not have the same appeal rights as resident class visa holders.</li> </ul>
<p>Create an infringement offence, via regulations, for the provision of false and misleading information by employers</p> <p><b>Proposal (a)(iii)</b> on page 3 above.</p>	<p>LDAC advises against creating an infringement offence for the provision of false and misleading information because:</p> <ul style="list-style-type: none"> <li>• It is a dishonesty offence and is not typically considered low-level offending (as infringements should be)</li> <li>• Whether information is false or misleading can be subjective and context specific, and</li> <li>• It may be seen as ‘downgrading’ the offending.</li> </ul>	<p>See discussion from paragraph 21 below.</p> <p>MBIE proposes to work through this feedback in a separate process to the ERM Bill, as these changes would be made via regulations rather than primary legislation.</p> <p>We will provide you with further advice in July 2025.</p>

### Proposed approach in relation to LDAC feedback on infringement offences

21. In the table above, we note that LDAC advised against creating an infringement offence for the provision of false and misleading information.

22. We note that, without infringement notices, MBIE has limited options to respond to most employer offending. The vast majority of cases do not meet the threshold to justify a prosecution for providing false or misleading information, so the only sanction available is revoking an employer's accreditation. However, this is a lighter penalty than an infringement notice – it does not carry a fine, or a stand-down period (the employer can reapply for accreditation the next day), or result in the employer's name and offending being published on the stand-down list.
23. There are also many offending employers who never held accreditation in the first place, and the only alternative response available in these cases is employer education and placing a warning in Immigration IT systems in case they try to support a visa in future. We estimate that retaining the status quo could result in the lost opportunity to sanction approximately 22 offending employers per annum.
24. We will provide you further advice from July 2025 as part seeking agreement to establishing new infringements via regulations (the infringement regime is established in regulations not the Act).

## Next steps

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25. We remain on track to introduce the Bill in late October 2025. Key next steps include:

Action	Date
<b>Second set of policy proposals (this focus of this briefing)</b>	
Draft Cabinet paper provided for feedback	29 May 2025
Agency consultation	29 May – 6 June 2025
Ministerial consultation	9 – 18 June 2025
Cabinet paper lodged	19 June 2025
ECO consideration	25 June 2025
<b>PCO works with MBIE to draft the Bill from 9 July to 1 September 2025 [7 weeks]</b>	

## Annex

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Annex One: Draft Cabinet Paper - *Proposed amendments to the Immigration Act 2009: Immigration (Enhanced Risk Management) Amendment Bill – further decisions*

**Annex One: Draft Cabinet Paper - Proposed amendments to the Immigration Act 2009: Immigration (Enhanced Risk Management) Amendment Bill – further decisions**

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