



## 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<br>LEG-26-MIN-0039 Minute                                    | Office of the Minister of Immigration<br>Cabinet Office |
| 25 June 2025     | Immigration (Enhanced Risk Management) Amendment Bill: Further Decisions<br>ECO-25-MIN-0093 Minute   | Office of the Minister of Immigration<br>Cabinet Office |
| 4 June 2025      | Proposed amendments to the Immigration Act 2009: Immigration (Enhanced Risk Management) Amendment Bill<br>ECO-25-MIN-0084 Minute               | Office of the Minister of Immigration<br>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

### Further measures to address the increase in asylum claims

|                                 |               |                         |                      |
|---------------------------------|---------------|-------------------------|----------------------|
| <b>Date:</b>                    | 23 April 2025 | <b>Priority:</b>        | High                 |
| <b>Security classification:</b> | In Confidence | <b>Tracking number:</b> | BRIEFING-REQ-0013002 |

| Action sought  |   |               |
|--|---|---------------|
|  | Action sought   | Deadline      |
| Hon Erica Stanford<br><b>Minister of Immigration</b>           | Indicate your preferred option to the recommendations in this briefing. | 28 April 2025 |
| Hon Casey Costello<br><b>Associate Minister of Immigration</b> | For information.  | N/A           |

| Contact for telephone discussion (if required) |   |                    |             |
|--|---|--------------------|-------------|
| Name   | Position  | Telephone          | 1st contact |
| Sam Foley                                      | Manager, Immigration (International & Humanitarian) Policy                  | Privacy of contact |             |
| Stacey O'Dowd                                  | Manager, Immigration (Border and Funding) Policy                            | Privacy of contact | ✓           |
| Vanessa Jones                                  | Principal Policy Advisor, Immigration (International & Humanitarian) Policy | Privacy of contact |             |

| The following departments/agencies have been consulted     |
|--|
| Ministry of Foreign Affairs and Trade, Ministry of Justice |

**Minister's office to complete:**

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

**Comments**



# BRIEFING

## Further measures to address the increase in asylum claims

|                                 |               |                         |                      |
|---------------------------------|---------------|-------------------------|----------------------|
| <b>Date:</b>                    | 23 April 2025 | <b>Priority:</b>        | High                 |
| <b>Security classification:</b> | In Confidence | <b>Tracking number:</b> | BRIEFING-REQ-0013002 |

### Purpose

To seek your direction on further proposals to address the increase in asylum claims.

### Executive summary

There has been a significant increase in asylum claims since the reopening of the border in 2022 (five-fold) which has resulted in backlogs in processing and delays in determinations. Out of Scope

Out of Scope

A number of resource and operational improvements were made in mid-2024 to address this challenge. Although more claims are being determined per month than previously, the impacts of these changes are yet to be fully realised. However, claim volumes have not dropped as much as anticipated when the new funding (\$10.23 million for additional resources) was agreed. Backlogs are unlikely to be cleared without further changes to operational and/or policy settings.

Out of Scope

Out of Scope

### Clarifying section 150 of the Immigration Act 2009

Separately, we recommend amending section 150 of the Immigration Act 2009 (the Act) to clarify that if a claim is withdrawn before it is finally determined this will not have the effect of preventing the claimant applying for further visas onshore. This is intended to remove current ambiguity in the Act and also ensures that alternative immigration pathways are available for genuine claimants.

Any options involving legislative change will need to be progressed at pace to be included in the proposed Immigration (Enhanced Risk Management) Amendment Bill.

### Recommended action

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

- a **Note** that there has been a significant increase of asylum claims since the border reopened which has resulted in processing delays and backlogs, delaying recognising genuine claims  
*Noted*
- b **Note** that a number of resourcing and operational measures were put in place in mid-2024 to address the increase in claims, and that while improvements are visible, the impacts of these measures are yet to be fully realised  
*Noted*

Out of Scope

<sup>3</sup> China is not on either of the UK's designation lists. India is currently on the UK's list for expedited processing. Although the previous government made a change to include India on its "blanket ban" list, this change has not yet been brought into effect by the current government.

*Clarifying section 150 of the Act*

- i **Agree** to amend the Act to clarify that if a claim is withdrawn before it is finally determined this will not have the effect of preventing the claimant applying for further visas onshore (**recommended**)  
*Agree / Disagree*
- j **Agree** to amend the Act to limit the ability for an asylum claimant who withdraws a claim to apply for further visas (**not recommended**)  
*Agree / Disagree*

*General*

- k **Note** that the options involving legislative change will be progressed at pace in order to be included in the Immigration (Enhanced Risk Management) Amendment Bill  
*Noted*
- l **Note** that officials are discussing the proposals in this paper with the Immigration & Protection Tribunal on 1 May  
*Noted*
- m **Agree** to discuss this briefing with officials on 28 April.  
*Agree / Disagree*



Stacey O'Dowd  
**Manager, Immigration (Border and Funding)  
Policy**  
Labour, Science and Enterprise, MBIE  
23 / 04 / 2025

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

# Background

## Immigration (Enhanced Risk Management) Amendment Bill

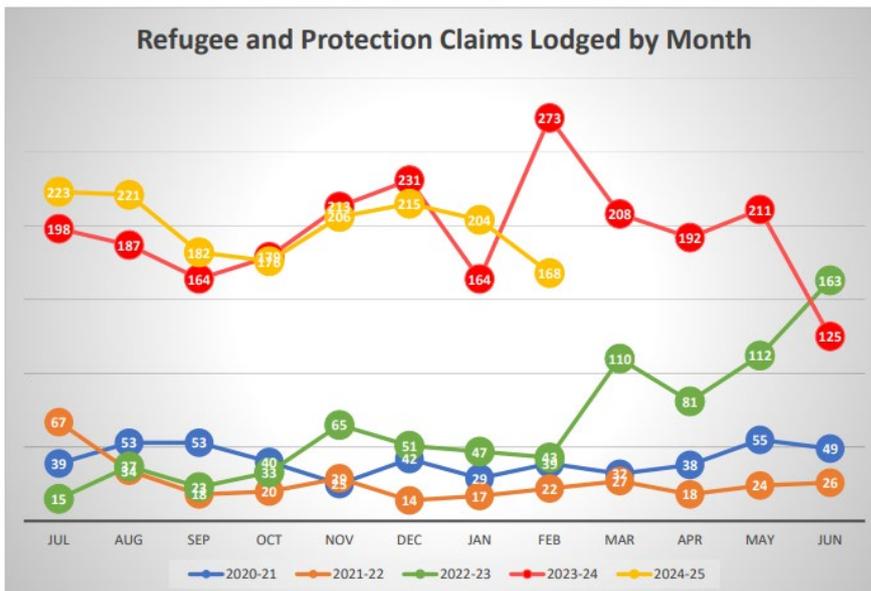
1. On 31 March 2025, you received a briefing considering the objectives, scope and timelines of the proposed Immigration (Enhanced Risk Management) Amendment Bill (the Bill, REQ-0011382 refers). This briefing signalled that two proposals relating to disincentivising asylum claims that appear to be unmeritorious<sup>4</sup> required further policy work and consultation before recommendations could be made. We have consulted on options with the Ministry of Justice, Ministry of Foreign Affairs and Trade and some immigration refugee lawyers.

### Obligations to asylum seekers

2. The right to seek asylum is recognised as a basic human right under the United Nations Declaration of Human Rights. New Zealand has obligations under the Refugee Convention, the Convention Against Torture and Articles 6 and 7 of the International Covenant on Civil and Political Rights incorporated into the Immigration Act 2009 (the Act) not to expel or return a refugee or asylum seeker to any place where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, or if there are substantial grounds to believe that the individual would be in danger of torture. Therefore, New Zealand would need to consider and determine all onshore refugee and protection claims to comply with our obligations under these conventions
3. Due to the nature of the claims, and the consequences of an incorrect determination (potential refoulement to a country in which the person will be persecuted), consideration of claims is complex and time-consuming process and claimants are afforded appropriate time for fairness and natural justice in order to put their best possible claim forward.

### Increasing numbers of refugee and protection claims

4. As you are aware, there has been a significant increase in refugee and protection claims since the re-opening of the border. 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 f



financial year to 31

<sup>4</sup> Stakeholders consulted provided feedback that the terminology “appeared unmeritorious” is unhelpful/inflammatory as it does not recognise the nuance that not all declined claims are spurious (some may just not meet the required legal test) and inappropriate given each case must be decided on its merits.

March. The associated challenges and pressures of the increase in claims has resulted in delays in making determinations and a backlog of unassigned and undetermined claims,<sup>5</sup> delaying recognising genuine claims.

5. While the increase is consistent with a worldwide pattern since borders opened after COVID-19, in New Zealand, Out of Scope

[Redacted]

6. Current processing time (before allocation) is approximately 460 days and as of March 2025 there were 3,492 undecided claims on hand. Once allocated, the determination process itself takes around 7.5 months. Delays in determining claims can incentivise more claims and impacts other parts of the immigration system as well as other public services such as legal aid, welfare, health, and education that asylum seekers can access. Processing delays may also place more vulnerable claimants in precarious and exploitative situations for longer periods in New Zealand. High number of claims also results in higher numbers of appeals, impacting the IPT workload.

### Resource and operation improvements have been made

7. A number of resource and operational improvements were made in mid-2024 to help manage the increase in claims, including an additional \$10.23m of funding in 2023/24. While the full benefit of these changes is yet to be realised (for example additional 52 FTE only commenced in January 2025 and new officers take some time to come up to speed), the RSU is determining more claims per month than previously. Although it is too early to identify a trend, in February and March 2025, there was a marginal drop in the number of claims received to below 200.
8. These changes are in addition to earlier steps by INZ to address and manage resourcing pressures and reducing unmeritorious claims through visa settings, for example changes to visitor visa processing in 2023 and requiring English translations to be provided with applications.<sup>6,7</sup> A more substantive update on the impact of the resource and operational improvements is attached at **Annex One**.

### Additional proposals to address numbers of claims

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9. This briefing considers some additional policy and operational options to further manage the increase in asylum claims and help clear system backlogs.

### Policy proposals

10. We have assessed two policy proposals that could be achieved either in Immigration Instructions or by amending the Act.

- a. Out of Scope

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<sup>5</sup> Figures valid as of 31 March: 3,492 on hand; 2,405 unassigned; 1,087 in-progress.

<sup>6</sup> Briefing 2324-1685, Options to address refugee and protected person claim processing challenges.

<sup>7</sup> We note there is other immigration work involving potential loosening of visa settings that may impact numbers of claims.

Out of Scope

b. **Proposal 2: clarifying section 150 of the Act in relation to the ability of claimants who withdraw claims to apply for further visas**

i. **A: Status quo.**

ii. **Legislative:**

**B:** Limit the ability of claimants who withdraw claims to apply for further visas onshore; OR

**C: (recommended)** Clarify that if a claim is withdrawn before it is finally determined this will not have the effect of preventing the claimant applying for further visas onshore (opposite effect of B above).

11. If the options requiring legislative change are preferred, the Bill is a vehicle for these.

Out of Scope

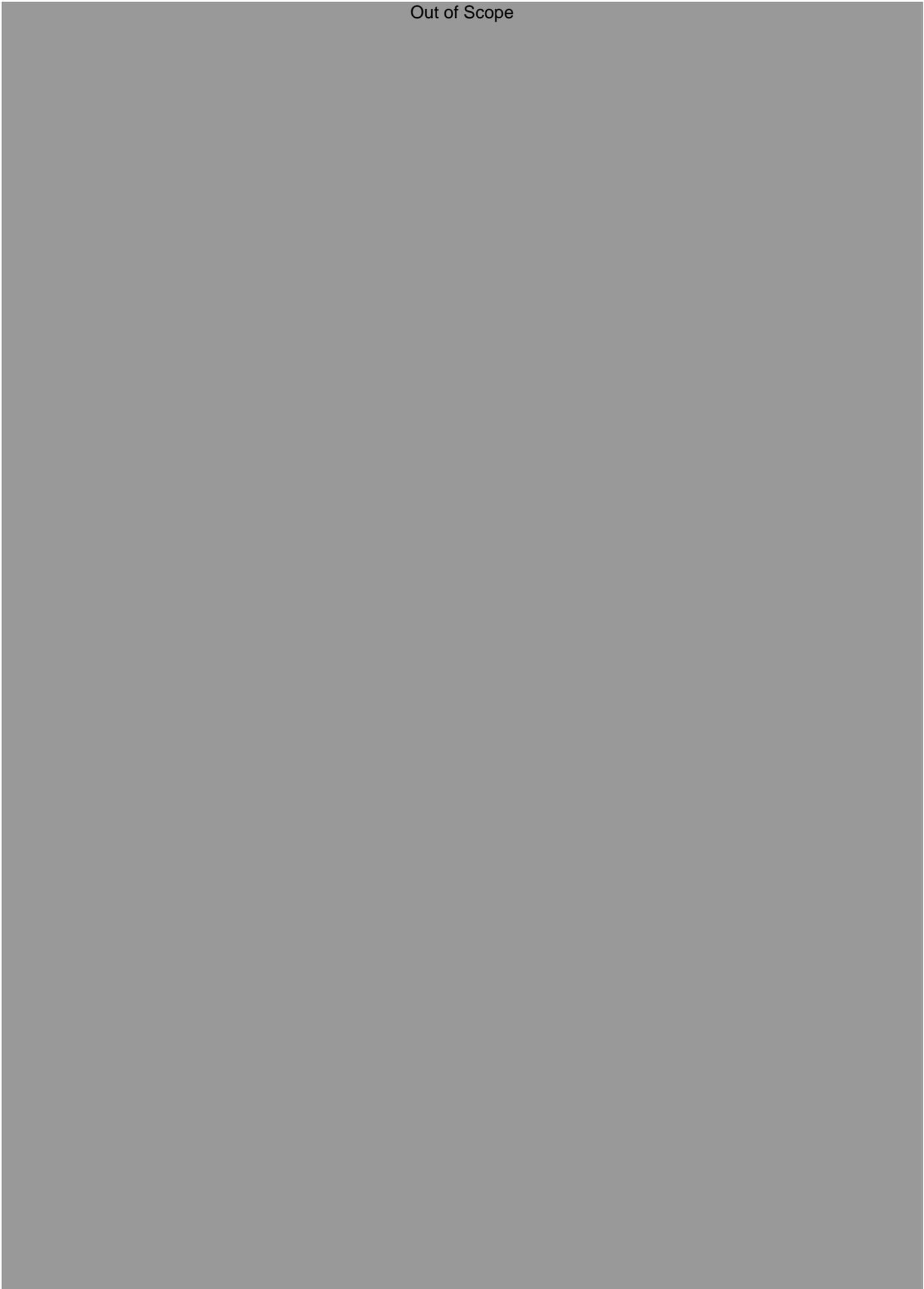
Out of Scope

Out of Scope

Out of Scope



Out of Scope



## **Policy proposal 2: Clarifying section 150 of the Act in relation to the ability for claimants who withdraw to apply for further visas**

### **Problem definition and proposal**

31. Section 150 of the Act makes special provision relating to claimants granted temporary visas. This includes asylum claimants who are granted temporary visas while their claim is processed.
32. Currently, if a person's claim is finally determined, section 150 prohibits them from applying for and being granted a further visa of any class or type unless they have been recognised as a refugee or protected person. However, section 150 is currently ambiguous as to whether a claimant on a temporary visa who has withdrawn their claim is considered to have their claim finally determined, and is therefore prohibited from applying for a different visa. Some claimants and their legal representatives may be using the ability to withdraw their claim and apply for a different visa nefariously, 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.

33. The number of claims withdrawn between 2023/24 and 2024/25 (as of March) was 387, of which:
- 57 went on to be granted another visa (interim, resident, student, visitor, work);
  - 75 withdrew their claim and then left New Zealand;
34. Data shows the remaining claimants either:
- a. claimed asylum while already holding a valid visa, and subsequently withdrew their claim; or
  - b. had left New Zealand before withdrawing their claims (under section 142 of the Act, a claim is deemed to be withdrawn if the claimant leaves New Zealand).
35. This shows that 57/387 (14%) claimants may have used the asylum process to enter New Zealand and then relied on changing circumstances to qualify for another type of visa that they would not have otherwise had access to. It is not clear how many of these were genuine claimants whose claims would have been approved if they had not withdrawn.

## Options

| Option |  | Description  |
|--------|--|--|
| A      | Status quo   | No change.   |
| B      | Amend section 150 to clarify that once an asylum claim is withdrawn, a further visa cannot be applied for  | Clarifying section 150 in this way would treat withdrawn claims the same way as declined claims, preventing an asylum claimant who has withdrawn a claim from applying for a further visa. |
| C      | Amend the Act to clarify that section 150 preserves an ability to make further applications for visas once an asylum claim is withdrawn ( <b>recommended</b> ) | This would have the opposite effective of the above option.  |

## Criteria

36. A full options analysis is attached at Annex Four. We considered the following criteria when evaluating the above options:
- Protection of genuine asylum seekers
  - Maintaining integrity of asylum system
  - Efficiency of processing and resources
  - Certainty of the law.

## Feedback from targeted expert consultation

37. The immigration refugee lawyers consulted did not see a significant benefit in limiting the ability to apply for further visas after withdrawing a claim for asylum and were supportive of clarifying section 150.

## Options analysis and recommendation

38. Officials recommend progressing Option C, clarifying the ability to make further visa applications after an asylum claim is withdrawn by amending section 150 of the Act. Although this option does not provide an additional tool to reduce inflow of claims, it reduces ambiguity in the law and may protect genuine claimants who choose to take another immigration pathway. It may also incentivise the use of complementary pathways to protection for genuine refugees, remove processing pressure on the RSU and take pressure of the system in other places, for example, in terms of welfare and housing. This option is supported by stakeholders.
39. Option B is not recommended due to the risk of unintended policy consequences, namely that preventing claimants who withdraw their claim from applying for other visa types may disincentivise some claimants from withdrawing, thereby compounding the existing backlog. It also allows less flexibility for a small number of claimants who are genuine, but otherwise find a different immigration pathway while their claims are processed.

### **International comparisons**

40. Both the UK and Canada allow claimants who have withdrawn their claim to apply for other visa types.

Out of Scope



### **Next steps**

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Out of Scope

46.

47. If you prefer the legislative options [redacted] Out of Scope [redacted] Proposal 2, Option B or C, not recommended) we will need to progress work quickly to include the proposals in the Bill. This will mean working towards Cabinet decisions in late June. [redacted] Out of Scope [redacted]

48. We have further stakeholder meetings scheduled 1 – 6 May (for example with the IPT and Law Society) and recommend further targeted consultation depending on your preferred options.

## Annexes

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Annex One: Update on existing measures to improve claims processing

Annex Two: [redacted] Out of Scope [redacted]

Annex Three: [redacted] Out of Scope [redacted]

Annex Four: Options analysis: Clarifying section 150 of the Act in relation to the ability for claimants who withdraw to apply for further visas

## Annex One: Update on existing measures to improve claims processing

1. To address the pressures on refugee and protection claim processing because of the increase in claims, Cabinet agreed on 1 July 2024 to increase refugee and protection claim processing funding by \$10.23 million per annum (an increase of 52 full time equivalent (FTE) across MBIE. This total included 23 FTE in the RSU (two additional Refugee Protection teams), two FTE for INZ's Privacy and Ministerial team, five FTE for the Specialist Assessment Team within Visa Operations, and 22 FTE for the Country Research and Open Source team in MBIE Intelligence Unit in Digital, Data and Insights. Processing is funded through the Immigration Levy.
2. The full complement of additional 23 FTEs for claim processing was in place in January 2025.
3. As of 31 March 2025, RSU had 46 Refugee and Protection Officers (RPOs) onboard (two RPO positions remain vacant due to staff movements/leave without pay):
  - a. Twenty-eight RPOs had less than one year's experience (five RPOs with less than six months' experience, and
  - b. 19 RPOs with less than three months' experience).
4. RPOs undertake comprehensive training, and on average it takes about nine months for them to reach full competency and carry a full case load. All training and development of new staff is done in-house and is very demanding on managers and technical teams.
5. Although the new RPOs are still in training, and therefore have a lower caseload than an experienced RPO, they are having a noticeable effect on the number of claims in progress. For example, in April-May 2024, 119 claimants were interviewed; whereas there are 200 interviews scheduled for April-May 2025.
6. The new resourcing is also translating into higher decision numbers. For example, in 2023/24 the RSU determined 704 claims, the highest number of decisions since 2003/04, and a significant increase from the 482 claims determined in 2022/23. In the first three quarters of 2024/25 the RSU has determined 728 claims, and is on target to decide at least 1,000 claims by the end of this financial year.

Out of Scope

**Annex Four: Options analysis: Clarifying section 150 of the Act in relation to the ability for claimants who withdraw to apply for further visas**

| <b>Criteria</b>                               | <b>Option A – Status quo</b>   | <b>Option B – Amend s150 to limit further applications</b>   | <b>Option C – Clarify ability to make further applications by amending section 150 (recommended)</b>                               |
|---|--|--|--|
| <b>Protection of genuine asylum seekers</b>   | Flexibility for a small number of claimants who are genuine, but find a different immigration path while their claims is processed | Less flexibility for a small number of claimants who are genuine, but find a different immigration path while their claims is processed  | Flexibility for a small number of claimants who are genuine, but find a different immigration path while their claims is processed |
| <b>Maintaining integrity of asylum system</b> | May incentivise unmeritorious claims<br><br>May incentivise abuse of system by agents  | May have a signalling effect around NZs stance on not tolerating unmeritorious claims  | May incentivise unmeritorious claims<br><br>May incentivise abuse of system by agents  |
| <b>Efficiency of processing and resources</b> | Ultimately less costly to the government for those few genuine claimants who change immigration paths                              | Will disincentivise current claimants from withdrawing their claims who otherwise would have, solidifying system backlog and increasing cost to NZ<br><br>May disincentivise future unmeritorious claims, numbers highly speculative | Ultimately less costly to the government for those few genuine claimants who change immigration paths                              |
| <b>Legal certainty</b>                        | Section 150 remains ambiguous  | Section 150 clarified by legislative amendment   | Section 150 clarified by legislative amendment   |