



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

Proposed Immigration (Enhanced Risk Management) Amendment Bill: Objectives, scope and timelines

Date:	31 March 2025	Priority:	High
Security classification:	Sensitive	Tracking number:	REQ-0011382

Action sought		
	Action sought	Deadline
Hon Erica Stanford Minister of Immigration	Agree to the proposed objectives, scope, and timelines of the Immigration (Enhanced Risk Management) Amendment Bill	3 April 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	

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

Proposed Immigration (Enhanced Risk Management) Amendment Bill: objectives, scope and timelines

Date:	31 March 2025	Priority:	High
Security classification:	Sensitive	Tracking number:	REQ-0011382

Purpose

To seek your agreement to the objectives, scope, and timeline for the Immigration (Enhanced Risk Management) Amendment Bill.

Executive summary

You have directed officials to develop the Immigration (Enhanced Risk Management) Amendment Bill, for introduction in October 2025. The proposed Amendment Bill has three objectives, consistent with your priorities for the Immigration portfolio:

- Increase the effectiveness of the immigration compliance and enforcement system;
- Improve the integrity of the refugee and protection system;
- Improve the operation of the wider Immigration system.

Sitting under these objectives are thirteen proposed amendments (see Annexes One and Two). The policy work behind these amendments is continuing at pace. We seek your direction on some of the policy areas in this briefing, with further advice to follow in the coming weeks.

Deportation liability

We seek your direction on extending liability for deportation for criminal offending. Building on your feedback to advice in December 2024, we recommend a single option for extending liability [REQ-0006392 refers]. As shown in the diagram below, this expands who would be liable for deportation if convicted, using a graduated approach depending on the severity of the offending, combined with requiring the Immigration & Protection Tribunal (IPT) to consider aggravating factors when considering appeals on humanitarian grounds.

Conviction period ↓	Residence in NZ →	0 to <5	≥5 to <10	≥10 to <15	≥15 to <20
Convicted of an offence carrying a term of between 3 months and 2 years					
Convicted of an offence carrying a possible term of between 2 and 5 years					
Convicted of an offence & sentenced to an imprisonment term between 5 and 10 years		Liable for deportation under current settings			
<i>New 'tier' to deportation framework:</i> Convicted of an offence & sentenced to an imprisonment term of 10 years or more		Liable for deportation under current settings		Proposed option	

Rebalancing appeal rights for temporary visa holders

Onshore temporary class visa holders who are liable for deportation currently have similar appeal rights to the IPT as residence class visa holders. We seek your direction on which of these three

options you prefer for limiting IPT appeal rights against deportation for these temporary class visa holders:

1. Limit appeal rights based on the visa holder's time in New Zealand.
2. Limit appeal rights based on whether criminal offending caused them to be liable for deportation.
3. [Highest risk] No ability to appeal to the IPT against deportation for any temporary visa holder. We will explore if this could be limited to specific visa types (noting your intention to the Parent Boost space).

Disincentivising unmeritorious asylum claims

We provided advice in March 2024 about options to deal with a large number of unmeritorious asylum claims [2324-2089 refers]. This included two options which would need legislative change to implement:

Out of Scope

- Clarifying that a person who has withdrawn an asylum claim cannot apply for another visa could reduce unmeritorious claims.

Further work is needed to develop both of the legislative proposals, with advice to follow on 24 April 2025.

Out of Scope

The value of these proposals will also need weighing against decreasing pressure on the asylum and protection system – in part, due to the operational changes (including recruiting additional FTE) starting to take effect.

Timing and consultation

Achieving introduction in October 2025 is challenging. Constraints on policy, legal and drafting resource require us to maintain a tight scope on proposed amendments. We will monitor scope as further analysis progresses and keep you updated. We propose to manage time pressure (particularly for drafting) by splitting Cabinet policy decisions into two tranches:

- June 2025 – ECO consideration of Tranche 1 (4 June) and Tranche 2 (25 June).
- October 2025 – LEG consideration of Bill for introduction, and introduction to the House.

We also seek your agreement to begin targeted consultation with identified stakeholders. Genuine consultation will be essential to move quickly through the policy process, and to manage risks to particular proposals which we think will attract attention

Out of Scope

Recommended action

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

- a **Note** you have directed officials to proceed with two separate amendments to the Immigration Act in 2025:
 - a. the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill, to be introduced in April 2025, and
 - b. the Immigration (Enhanced Risk Management) Amendment Bill, to be introduced with an accelerated timeline in October 2025

Noted

- b **Agree** to the proposed objectives and scope of the Enhanced Risk Management Amendment Bill:

Objective	Scope
1. Increase the effectiveness of the immigration compliance and enforcement system	Enable more effective penalties for immigration offences
	Increase the consequences for criminal offending by visa-holders
2. Improve the integrity of the refugee and protection system	Disincentivise non-genuine asylum claims
	Adjust safeguards for asylum seekers (implement the third recommendation of the Casey Review)
3. Improve the operation of the Immigration system	Enhance system enablers, such as information sharing
	Rebalance appeal rights
	Strengthen immigration regulatory and decision-making processes

Agree / Disagree / Discuss

- c **Agree** that officials can commence targeted consultation with the following entities:
- Certain advocacy groups relevant to refugee policy (such as Amnesty International)
 - Immigration New Zealand Focus Group
 - Immigration and Protection Tribunal (IPT)
 - New Zealand Law Society
 - Members of the legal profession with a direct role in representing refugee and protection claimants (including those on the former Casey Review Focus Group)
 - New Zealand Refugee Advisory Panel
 - Office of the Ombudsman
 - Office of the Privacy Commissioner;
 - United Nations High Commissioner for Refugees

Agree / Disagree / Discuss

Policy decisions sought – deportation liability

- d **Note** you considered advice on extending deportation liability in the context of Immigration (Fiscal Sustainability and System Integrity) Amendment Bill, [REQ-0006392 refers] and officials have developed a proposed option based on your feedback to extend deportation at both the lower end and higher end of offending and residence periods in New Zealand

Noted

- e **Agree** to the proposed option (outlined on page 6), which extends deportation liability for imprisonment terms of >10 years to people who have been resident in New Zealand for up to 20 years

Agree / Disagree / Discuss

- f **Note** that officials are progressing work on establishing aggravating factors that the Immigration Protection Tribunal could take into account when considering deportation appeals

Noted

Other policy areas

- g **Note** that officials are continuing analysis of the proposals for improving compliance and enforcement, and that further advice will be provided on options to disincentivise unmeritorious asylum claims on 24 April

Noted

h **Indicate** your preference between the three options identified to rebalancing appeal rights for temporary visa holders (noting that further analysis is underway):

EITHER

- a. Limit appeal rights based on the visa holder's time in New Zealand

Agree / Disagree / Discuss

OR

- b. Limit appeal rights based on whether criminal offending caused them to be liable for deportation

Agree / Disagree / Discuss

OR

- c. [Highest risk] No ability to appeal against deportation for some or all temporary visa holders (we will explore if this could be limited to specific visa types)

Agree / Disagree / Discuss

Timelines

i **Agree** that your office will liaise with the Office of the Leader of the House in order to secure an October 2025 introduction date for the Enhanced Risk Management Bill

Agree / Disagree / Discuss

j **Agree** to the following timeline, which seeks Cabinet agreement on key policy areas in two tranches to maximise legal drafting time:

- a. June 2025 – ECO consideration of Tranche 1 (4 June) and Tranche 2 (25 June) decisions
- b. October 2025 – LEG consideration of Bill for introduction, and introduction to the House.

Agree / Disagree / Discuss



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

Hon Erica Stanford
Minister of Immigration

31/03/2025

..... / /

Background

1. Earlier this year, your office submitted two Immigration legislative bids to the Leader of the House:
 - 1.1. Immigration (Fiscal Sustainability and System Integrity) Amendment Bill, which will be introduced to the House in April, and
 - 1.2. Immigration (Enhanced Risk Management) Amendment Bill, for introduction in 2026.
2. Following subsequent advice and discussions about the work programme, you directed officials to work towards an accelerated timeframe for the Enhanced Risk Management (ERM) Amendment Bill, targeting introduction in October 2025 [REQ-0010287 refers].
3. The origin of this Bill is Cabinet's agreement in 2024 [ECO-24-MIN-0255] that the Minister of Immigration should undertake a programme of regular targeted reviews of the Immigration Act 2009 (the Act), which would seek to keep the Act up to date and fit for purpose. Cabinet invited you to report back in 2025 with policy proposals for an Immigration Amendment Bill.
4. The Bill also progresses legislative options to reduce the pressure on the asylum and protection system. A range of options were identified in advice provided to you in March 2024 [2324-2089 refers]. At the time of that advice, operational changes were able to be progressed and have started to have a positive impact, but legislative options needed to wait for a suitable legislative vehicle.
5. The proposed scope of the ERM Amendment Bill will help strengthen the wider immigration system, uphold the integrity of the refugee and protection system, and support the Government's economic objectives by disincentivising migrant exploitation and ensuring responsible employers are not disadvantaged. The proposed Amendment Bill will build on the changes proposed in the Fiscal Sustainability and System Integrity Amendment Bill, which will be introduced in April.

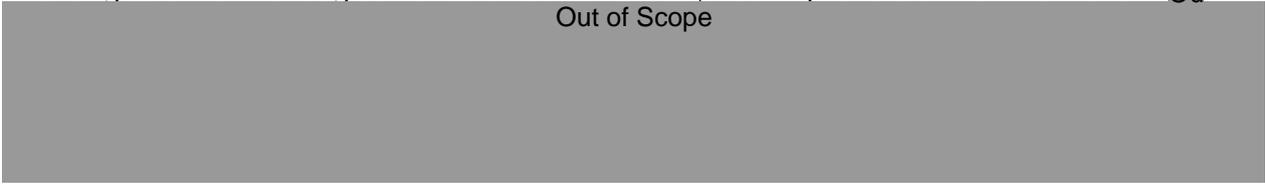
Objectives and scope of the ERM Amendment Bill

6. As part of the original legislative bid, we proposed two themes for the ERM Amendment Bill, focused around taking a stronger approach to compliance and enforcement, and improving the integrity of the refugee and protection system. We have further refined these themes, while balancing what can be achieved in the accelerated timeframe.
7. We now propose three objectives for the ERM Amendment Bill:
 - 7.1. Increase the effectiveness of the immigration compliance and enforcement system;
 - 7.2. Improve the integrity of the refugee and protection system;
 - 7.3. Improve the operation of the Immigration system.
8. Each objective has multiple work areas and amendments sitting underneath it. The table at **Annex One** summarises these amendments, and **Annex Two** has a summary of each proposed amendment.

Across these three objectives, we propose seven broad areas of change

9. Rapid policy work is being done across all the proposed amendments. Some topics are more advanced than others, as you have already provided direction or made policy decisions. This includes topics such as deportation liability [REQ-0006392 refers]. Some proposed changes are relatively simple, such as the amendment to implement the final Casey Review recommendation around safeguards for asylum seekers.

10. Other topics still require substantial policy work to progress and below we seek your direction on some of the issues. After we have done more policy work, it may become clear that the intent behind some of the amendments can be achieved through either policy or operational changes rather than legislation – if that is the case, we will provide further information. **Out of Scope**



11. The rapid timelines involved in achieving an October introduction mean there is no policy, legal and drafting capacity to add more amendments to the proposal (unless others are removed). Similarly, some amendments may not be able to proceed if policy work reveals them to be more complex than our initial assessment. We will advise you if any items need to be de-scoped to achieve the planned introduction date.

We seek your direction on specific policy issues

Extending liability for deportation for criminal offending

12. In December 2024, you received advice on options for extending deportation liability for New Zealand residents who have been convicted of crimes [REQ-0006392]. Following this, you indicated that you would like to extend deportation liability both at the lower end of criminal offending and at the higher end, and requested further work on aggravating factors that might make someone less able to successfully appeal their deportation liability.
13. In response to this, we have developed a proposed graduated model (outlined in the diagram below), which we seek your agreement to.
- 13.1. At the lower end: For people resident in New Zealand for up to five years (increased from the current two years), extend liability for deportation if they are convicted of an offence carrying a sentence of three months to two years, and
- 13.2. At the higher end: For people resident in New Zealand for between 10 and 20 years, extend deportation liability if sentenced to ten years of detention or more.
14. We do not recommend extending deportation liability beyond twenty years, due to Bill of Rights Act concerns.

Conviction period ↓	Residence in NZ →	0 to <5	≥5 to <10	≥10 to <15	≥15 to <20
		Convicted of an offence carrying a term of between 3 months and 2 years	Yellow	Green	
Convicted of an offence carrying a possible term of between 2 and 5 years		Yellow	Green		
Convicted of an offence & sentenced to an imprisonment term between 5 and 10 years		Yellow		Green	
<i>New 'tier' to deportation framework:</i> Convicted of an offence & sentenced to an imprisonment term of 10 years or more		Yellow		Green	

15. As noted in our previous advice [REQ-0006392], there is a risk that extending the deportation liability period will not result in more deportations, as people can appeal their deportation on humanitarian grounds to the Immigration & Protection Tribunal (IPT), which may be allowed if the IPT determines it would be unduly harsh to deport them. This is especially true for people who have spent long periods of time in New Zealand and have significant connections to the community. In addition, it will not apply to citizens (people can be granted citizenship after five years on a residence class visa). We are progressing work to address the IPT issue, and will brief you in due course.

Rebalancing appeal rights for temporary visa holders

16. Onshore temporary class visa (TCV) holders who are liable for deportation currently have the right (as do residence class visa holders) to appeal deportation decisions on humanitarian grounds. This is despite TCV status indicating they only able to remain here for a limited period, and generally for a particular purpose. Offshore temporary class visa holders have no IPT appeal rights.
17. There is an opportunity to calibrate the appeal rights of TCV holders compared to residence class visa holders by limiting IPT appeal rights (on humanitarian grounds) for TCV holders. We have identified three possible options, which we seek your views on:
 - 17.1. **Limit appeal rights based on the visa holder's time in New Zealand.** No IPT appeal rights for TCV holders in New Zealand less than three months and no appeal on humanitarian grounds if a TCV holder is here less than 12 months (for example).
 - 17.2. **Limit appeal rights based on how someone became liable for deportation.** The restriction on using humanitarian grounds would be based on the circumstances under which a person becomes liable (e.g. criminal offending) **or** the amount of time they have been in New Zealand e.g. less than two years.
 - 17.3. **[Highest risk] No ability to appeal against deportation for some or all temporary visa holders.** No TCV holders can appeal their deportation liability to the IPT on humanitarian grounds. This would capture all long-term work **and** visitor visas, including AEWV and parents (although there would be an option to limit it to just visitor visas). Note that if this were to apply to all temporary visa types regardless of the person's connection to New Zealand, this would likely place us out of step with other countries. As part of further analysis, we can explore if limiting to specific visa products is an option.

Enabling applicants for residence to benefit from subsequent policy changes

18. The flexible powers proposed in the FSSI Bill will enable beneficial visa changes to be made to classes of non-citizens. For example, a class of persons could be granted residence class visas by Special Direction. However, those powers will not apply where applications are in train and Immigration New Zealand (INZ) should assess the applicants individually.
19. The recent changes to the Active Investor policy saw a number of existing applicants seek to transfer their applications to the new category. As the Act requires that residence applications are assessed against the Instructions in place at lodgement, this means that they must formally withdraw and reapply, which is resource intensive and expensive.
20. We propose amending the Act so that, where a new residence policy has transitional provisions that set out: who is covered, how they can indicate that they wish to withdraw their application and be deemed to have applied for the new policy, and any charges applicable, applicants can choose to be assessed against the new criteria if they consider they would benefit.

Disincentivising unmeritorious asylum claims

Proposals to disincentivise unmeritorious asylum claims require further work

21. Proposals relating to disincentivising unmeritorious asylum claims require further policy analysis and consultation with key stakeholders (including those that practice refugee and immigration law) before we can make policy recommendations. The value of these proposals also needs to be considered in the context of operational / resource improvements made to the Refugee Status Unit in mid-2024. While the full benefit of these changes is yet to be realised (for example additional 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. While it is too early to identify a trend, in February 2025, there was a drop in the number of claims received below 200 (168) and the RSU is anticipating 160 claims for March 2025.

Designating a safe country of origin to prioritise or accelerate unfounded asylum claims

- 22. The safe country of origin concept (SCO) is applied to countries whose citizens and residents should not receive protection since those countries are generally considered safe. Early policy work has identified that there are different ways to design a safe country mechanism and the level of effectiveness and risks are dependent on the approach taken. The SCO concept is common throughout EU members, and the UK.
- 23. One approach is to use a safe country mechanism as a tool to prioritise and/or accelerate abusive or manifestly unfounded claims. This type of design is permitted under international law. Conversely, a more blanket approach would refuse applications from a designated safe country entirely. A blanket approach, which would have the most operational impact, carries the most of risk of challenge, has significant human rights implications and is not endorsed by the UNHCR. Designation of a safe country does not establish an absolute guarantee of safety for all, so even with appropriate safeguards built into the mechanism there is a risk that some people in need of protection could be declined.
- 24. Key trade-offs to consider will be maintaining the integrity of an asylum system by considering applications on their merits, meeting international obligations and maintaining our reputation, supporting efficiency within the system, and protecting the system from spurious claims. Genuine and well-targeted consultation will be essential to ensure appropriate safeguards to any SCO approach, and to manage potential concerns, including by identifying any operational approaches that may achieve the desired outcome.

Clarifying that a person who has withdrawn an asylum claim cannot apply for another visa

- 25. Early policy work on the proposal to clarify that a person who has withdrawn their asylum claim cannot apply for another visa while onshore has identified a risk of unintended policy consequences. Specifically, the risk that asylum applicants who would have otherwise withdrawn their claim, will elect not to do so. This will have flow-on effects for other parts of the system, such as increased pressure on courts, and could prolong the time these individuals remain onshore. While further policy work is needed to make a recommendation, it may be that the risks outweigh the possible benefits of progressing this proposal.
- 26. Key trade-offs to consider will be legal clarity/certainty, ensuring the integrity of the labour market and immigration systems, protecting the rights of genuine claimants, and minimising costs to the system.

Timing and consultation

Timelines

- 27. In line with your direction, we are working to enable the Bill to be introduced on 23 October 2025. A timeline is provided below with key milestones. To enable this timeline to be met and to manage constraints, especially around the preparation of drafting instructions, we propose to split ERM policy decisions into two Cabinet papers:
 - 27.1. **Tranche 1:** work able to progress quickly, to go to ECO on 4 June.
 - 27.2. **Tranche 2:** more complex work requiring more consultation, to go to ECO on 25 June.

Action	Date
Ministerial direction received on scope	31 March

Action	Date
Officials continue policy work, prepare Cabinet Policy papers, and Regulatory Impact Statements (RIS)	31 March – 7 May
Tranche 1	
Draft Cabinet paper and RIS provided for Ministerial consultation	8 May
ECO consideration of Tranche 1 paper	4 June
Drafting instructions provided to PCO	18 June
Tranche 2	
Draft Cabinet paper and RIS provided for Ministerial consultation	29 May
ECO consideration of Tranche 2 paper	25 June
Drafting instructions provided to PCO	9 July
PCO works with MBIE to draft the Amendment Bill 9 July to 1 September [7 weeks]	
Targeted external consultation commences on an exposure draft of the legislation	1 September
New Zealand Bill of Rights Act 1990 vet completed by Ministry of Justice	29 September
Draft Cabinet Legislation Committee (LEG) paper and final draft Bill provided to Minister's office for ministerial consultation	2 October
Final LEG paper to Minister for approval and lodging	16 October
LEG consideration of Bill for introduction	23 October
Introduction to the House	28 October
First Reading of Bill, referral to Select Committee	4 November
Select Committee consideration 4 November to 4 May 2026 [6 months]	
Second Reading	May 2026
Committee of the Whole House	May 2026
Third reading and enactment	May/June 2026

28. Taking a two-tranche approach to decisions provides the best chance at meeting an October introduction date. The Parliamentary Counsel Office has advised that the proposed timelines relating to drafting the legislation are feasible, if we proceed with the two-tranche approach.
29. As the proposed introduction date for the ERM legislation has been accelerated compared to the legislation bid that you sent to the Leader of the House, your office will need to engage with the office of the leader of the House to confirm an introduction in October can be scheduled.

Consultation

We seek your agreement to conduct targeted consultation as we prepare policy advice

30. We propose to conduct targeted consultation with the following entities as we prepare policy positions, and prior to Cabinet decisions:
- 30.1. Certain advocacy groups relevant to refugee policy (such as Amnesty International)
 - 30.2. Immigration New Zealand Focus Group
 - 30.3. Immigration and Protection Tribunal (IPT)
 - 30.4. New Zealand Law Society
 - 30.5. Members of the legal profession with a direct role in representing refugee and protection claimants (including those on the former Casey Review Focus Group)
 - 30.6. New Zealand Refugee Advisory Panel
 - 30.7. Office of the Ombudsman
 - 30.8. Office of the Privacy Commissioner;

30.9. United Nations High Commissioner for Refugees

31. We propose wider (but still targeted) consultation on an exposure draft in September.

Next steps

32. If you agree to the proposed scope and approach for the ERM Amendment Bill, officials will continue working towards Cabinet decisions in early and late June. As part of the policy process, and subject to your agreement, we will conduct targeted consultation. A report-back on that consultation will be included in subsequent advice.
33. Although we have sought some policy decisions from you in this briefing, we will need further detailed policy decisions from you in the coming weeks. We will provide a briefing with further advice about the refugee and protection system on 24 April 2025.

Annexes

Annex One: Overview of work areas and proposed amendments

Annex Two: Summary of proposed amendments

Annex One: Overview of work areas and proposed amendments

Annex One: Overview of work areas and proposed amendments

Objective	Work areas	Summary of proposed amendments
Increase the effectiveness of the immigration compliance and enforcement system	Enable more effective penalties for immigration offences	<ol style="list-style-type: none"> 1. Increase penalties for migrant exploitation offences. 2. Confidential advice to Government 3. Introduce new infringements to cover the provision of false and misleading information, and a failure to provide documents when requested. 4. Extend the timeframe in which an infringement notice can be issued (currently 90 days).
	Increase the consequences for criminal offending by visa-holders	<ol style="list-style-type: none"> 5. Extend the period in which residents can become liable for deportation when convicted of a crime, and make it easier to deport people who commit the most serious crimes. 6. Address unintentional gaps in deportation liability, e.g. some instances of providing false and misleading information. 7. Limit substantive appeal rights for onshore temporary visa holders who are liable for deportation.
Improve the integrity of the refugee and protection system	Disincentivise non-genuine asylum claims (<i>further advice to follow on 24 April</i>)	<ol style="list-style-type: none"> 8. Out of Scope 9. Clarify that a person who has withdrawn their asylum claim cannot apply for another while onshore.
	Ensure sufficient safeguards for asylum seekers	<ol style="list-style-type: none"> 10. Respond to recommendation 3 of the 2022 Casey KC Review, to change Residence and Reporting Requirements Agreements (RRRA) so they are not a matter within the absolute discretion of an immigration officer.
Improve the operation of the Immigration system	Enhance system enablers	<ol style="list-style-type: none"> 11. Modernise and improve information sharing provisions for compliance and risk management purposes. 12. Ensure the Act can support wider Government priorities in relation to digital identity credentials.
	Strengthen immigration regulatory and decision-making processes	<ol style="list-style-type: none"> 13. Enhance / enable flexibility for residence visa applicants to benefit from policy changes.

Annex Two: Summary of proposed amendments

Proposed amendments 1-4: Enable more effective penalties for immigration offences

What is the purpose of this proposal?

To strengthen the enforcement regime for, and disincentivise non-compliance by, immigration system users (including employers, applicants and sponsoring individuals).

What are the key points of the proposal?

The Immigration Act 2009 (the Act) imposes penalties for non-compliance with immigration requirements, including criminal offences and a framework for infringements, which carry lesser penalties for strict liability offences. However, we are seeing situations arise where:

1. Confirmed offending is not meeting the bar for criminal prosecution but there is no relevant infringement offence, for:
 - a. employers who provide false or misleading information, e.g. in an accreditation or job check application, or as part of verification activities, which is criminalised under section 342(1)(b) of the Act.
 - b. aiding and abetting a person to be unlawful or to operate outside their visa conditions, which is criminalised under section 343(1)(d) of the Act;
 - c. failing to provide documents when requested under section 277 of the Act, which is criminalised under section 344(a) of the Act.
2. MBIE is required to issue an infringement within 90 days of the date of the offending, so that formal notices can be given and any challenge can be raised within the timeframe required by the Summary Proceedings Act 1957. As most offending by employers under section 359A(1)(a) and (b) is only detected through post-decision checks, often it is not discovered until after the 90-day timeframe has passed, or there is insufficient time to investigate properly and ensure a quality decision is made with any limited time that may be available. While it is an option to file criminal charges outside the 90-day timeframe, the offending does not usually meet this threshold. This results in breaches going unpenalised.
3. The 'false and misleading' offence under section 342 of the Act is unclear as to whether information provided directly to an automated system (e.g. ADEPT) is within scope of the offence.
4. Actions taken by controlling third parties (e.g. those using labour hire services) and other entities (e.g. subcontractors) are not covered by the definition of employer in the Act, so these entities cannot be prosecuted under employer offences, e.g. at sections 350 (employing a person not entitled to do the work), 351 (exploitation), 359A (employer infringement offences) of the Act. This results in the same or similar level of harm being caused by those who are not technically the 'employer' going unpenalised.
5. The penalties¹ for committing migrant exploitation offences under section 351(1) of the Act are less than those for equivalent offences in other enforcement regimes.

¹ Imprisonment for a term not exceeding seven years and/or a fine not exceeding \$100,000 under in section 357(3) of the Act, and imprisonment for a term not exceeding five years, a fine not exceeding \$100,000 under section 357(4) of the Act.

The following regulatory changes may address many of the identified issues. Further work over April will confirm the feasibility of these proposals.

1. Introducing new employer infringements via regulations for providing false or misleading information, and failing to provide documents when requested under section 277 of the Act. This change to regulations could be developed and progressed alongside the development of the Bill and be implemented simultaneously. However, changes to the Act are also needed to enable the infringement offence for false and misleading information (see 2 below).
2. Amending section 342 of the Act to clarify that information provided directly to an automated system is in scope of the offence, and to create a new employer-focused section of the offence, as the basis for an infringement offence to be prescribed through regulations.
3. Introducing a new infringement offence in the Act to replace the current section 343(1)(d) offence for aiding and abetting a person to be unlawful or operate outside their visa conditions (pending further work to confirm this is an appropriate candidate for an infringement).
4. Exempting the infringement regime from timing provisions under the Summary Proceedings Act 1957 provisions, to allow infringement notices to be issued for 90-days from the time MBIE becomes aware of the offending, rather than 90-days from the date of the offence.
5. Clarifying the definition of 'employer' in the Act so that the employer offence provisions apply to controlling third parties (and potentially subcontractors) as well as employers;
6. Increase the maximum imprisonment term set out in the section 357 penalty provision to 10 years imprisonment for migrant exploitation offences.

What are the risks and how will these be managed?

The policy resource is limited to deliver this work, and prioritisation may be required to ensure proposals for change have the greatest scale of impact (ie the first three). While changes to the legislation will make issuing infringements easier, the ultimate number of offences investigated and sanctioned will depend on immigration system capacity. Clear priorities with regular monitoring and reporting to ensure desired outcomes are being achieved will help to manage capacity risks.

Proposed amendments 5-6: Extend the period in which residents can become liable for deportation when convicted of a crime

What is the purpose of this proposal?

This proposal will disincentivise immigration non-compliance by:

- extending the period in which New Zealand Resident Class Visa (RCV holders) may automatically become liable for deportation if they have been convicted of a crime, and
- limiting the Immigration and Protection Tribunal's (IPT) scope to overturn their deportation on humanitarian grounds.

We are also proposing a range of minor and technical changes to address gaps in deportation liability provisions, in line with the existing policy intent.

What are the key points of the proposal?

When a migrant applies for and is approved lawful entry into a country, they effectively enter into a social contract, being that their lawful presence is subject to the condition that they abide by all domestic laws. As such, RCV holders may become liable for deportation if they are convicted of a criminal offence. There is currently a graduated framework that determines a person's liability for deportation based on the seriousness of the offending, the sentence that they receive and the length of time the person has held a RCV when the offending took place.

The proposal is to amend the deportation liability framework to extend the period during which a RCV holder may hold a RCV and become automatically liable for deportation, both for lower-level and more serious offending.

Our advice remains that extending liability beyond 20 years as a resident is unlikely to be consistent with the New Zealand Bill of Rights Act 1990 (NZBORA).

A related proposal is to outline additional factors that the IPT must consider when determining an appeal, and rebalancing them to place greater weight on the seriousness of the offending. This is because on its own, extending the deportation liability period for RCV holders may not result in more people actually being deported, as the longer a resident has been in New Zealand, the more likely it is that they will successfully appeal their deportation to the IPT on humanitarian grounds.

Who was consulted and what was the feedback?

MBIE has consulted with the Ministries of Justice, Foreign Affairs and Trade, and the Departments of Corrections and Internal Affairs. The Ministry of Justice advised there should be a graduated framework to ensure the consequence of offending (liability for deportation) are proportionate to the criminal offence (this advice is reflected in the proposal above).

What are the risks and how will they be managed?

There are human rights implications to balance. While we have tried to manage these by maintaining a graduated framework, the risks of inconsistency with NZBORA remain.

Proposed amendment 7: Limit substantive appeal rights for temporary class visa holders who are liable for deportation

What is the purpose of proposal?

To rebalance appeals rights in the immigration system so that temporary class visa (TCV) holders that are liable for deportation do not have the same appeal rights to the Immigration Protection Tribunal (IPT) as residence class visa holders¹.

What are the key points of the proposal?

Onshore TCV holders who are liable for deportation currently have similar IPT appeal rights against deportation liability as residence class visa holders, despite their right to be in New Zealand being limited to a short period of time and/or a particular purpose. The ability for TCV holders to appeal deportation liability also has a practical impact, because in cases where Immigration New Zealand (INZ) wants to take swift compliance action, they cannot serve a deportation order until the appeal period has expired or the appeal has been heard.

There is an opportunity to improve fairness of the immigration system by limiting IPT appeal rights for TCV holders who are liable for deportation. The following proposals are indicative of (standalone) options that could be pursued, in some cases in combination with one another:

- 1. Limit appeal rights based on time in New Zealand:** no IPT appeal rights for TCV holders in New Zealand for three months or less, and no appeal on humanitarian grounds if a TCV holder is here less than 12 months (for example). This would capture most visitor visa holders, some students and Accredited Employer Work Visa (AEWV) holders (i.e during their first year).
- 2. Limit appeal rights based on how someone became liable for deportation:** for example, a person who became liable due to criminal offending could be prohibited from appealing on humanitarian grounds. This would capture any TCV holder who became liable for deportation based on criminal offending, regardless of temporary visa type or length of time in New Zealand.
- 3. [High risk] No appeal rights for any TCV holder:** no ability to appeal deportation liability at the IPT on humanitarian grounds for any TCV holders. This would capture all long-term work, student and visitor visa holders, including AEWV and Parent and Grandparent visitor visa holders. We will explore if this option can be limited to specific visa products.

Further work is needed to understand the implications of each proposal, and which would best meet your policy objectives.

What other proposals have been considered?

We also examined two further proposals. However, our assessment is that these issues do not require legislative change at this time for the reasons outlined below.

Clarify ministerial discretion

- The Immigration Act 2009 (the Act) is clear that a refugee and protected person/claimant whose claim is declined and is therefore liable for deportation may appeal to the IPT

¹ The appeals framework is set out in Part 7 of the Immigration Act 2009. It allows people to appeal to the IPT on decisions relating to refugee and protection status, residence class visas, and deportation, and sets out procedural requirements for making an appeal.

regarding both the refugee and protection decision and any potential deportation liability². The Act does not provide for an appeal to the Minister following a decision by the IPT.

- Under section 172 of the Act, the Minister does have a role in deportation liability and may cancel or suspend liability for deportation at any time by written notice (a decision of absolute discretion).

Streamlined asylum claim related appeals

- Section 194(6) of the Act requires appeals against refugee and protection decisions and deportation liability to be brought to the IPT together. Where a person lodges an appeal against deportation liability on humanitarian grounds, the IPT will consider the refugee and protection appeal first, so no legislative change is warranted.

What are the risks and how will these be managed?

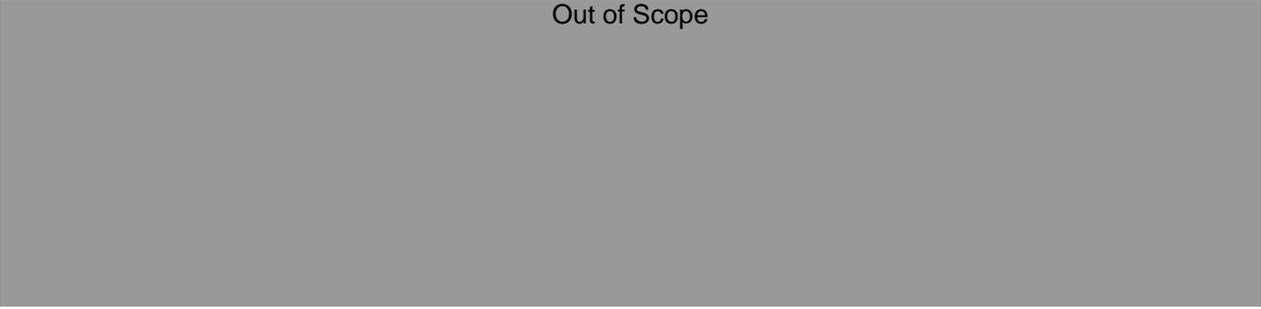
There are likely to be New Zealand Bill of Rights Act 1990, natural justice and international human rights implications associated with limiting (or in the case of option 3; removing) appeal rights. For instance, we note that for TCV holders, an appeal on humanitarian grounds is the only appeal right available to them and removing this right – especially for the entire visa class per option 3 - may raise 'access to justice' and international obligation questions. Further work is required to identify implications (e.g. the potential for more Judicial Reviews), risks and mitigations for the options.

² Section 162 states if a person is liable for deportation because their refugee or protected person status is cancelled, they may appeal to the IPT. Under section 194 a person may appeal to the IPT against a decision of a refugee and protection officer to in relation to declining a claim, declining to accept for consideration a claim, ceasing to recognise the person as a refugee or protected person or cancelling recognition.

Out of Scope



Out of Scope



Proposed amendment 9: Disincentivise non-genuine asylum claims by limiting the ability for a person who has withdrawn their asylum claim to apply for another visa onshore

What is the purpose of this proposal?

This proposal aims to uphold the integrity of the refugee and protection system by disincentivising unmeritorious asylum claims whilst ensuring appropriate safeguards are in place to not disadvantage genuine claimants.

What are the key points of the proposal?

At present, if a person's refugee or protected person claim is *declined*, the Immigration Act 2009 (the Act) prohibits them from applying for and being granted a further visa of any class or type. However, the Act is ambiguous at present about the ability of an asylum claimant who has been granted a temporary visa to apply for a further visa if they have *withdrawn* their claim. Clarifying that claimants may not apply for another visa if they have withdrawn their claim would make clear that there is no onshore pathway for an asylum seeker to obtain a different visa in order to remain in New Zealand, unless they are recognised as a refugee or protected person.

The number of claims withdrawn between 2023/24 and 2024/25 to date is 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,
- Data shows the remaining claimants were either:
 - Claimed asylum while already holding a valid visa, and subsequently withdrew their claim, or
 - 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).

A change to the Act would be preferable, but further work is needed to determine if legislative change is required. It may be possible to clarify via immigration instructions that claimants cannot be granted another visa if they have withdrawn their claim. This would confirm that there is no onshore pathway for an asylum seeker to obtain a different visa to remain unless they are recognised as a refugee or protected person. We will provide advice on 24 April 2025 regarding options for change, Out of Scope

What are the risks and how will these be managed?

The proposal could mean that applicants who would have otherwise withdrawn their asylum claim may elect not to do so. It is difficult to estimate the number of potential claimants that may be disincentivised. This may increase the workload of the Immigration and Protection Tribunal and place burdens on other parts of the immigration system to determine these claims and may ultimately have little impact on reducing unmeritorious claims. Claimants who would have otherwise withdrawn their claim may opt not to withdraw that claim in order to remain in New Zealand. This would create flow-on costs to the system including the costs of reaching a determination.

Proposed amendment 10: Ensure sufficient safeguards for asylum seekers (responds to recommendation 3 of the 2022 Casey review)

What is the purpose of the proposal?

To respond to and address recommendation 3 from the 2022 Victoria Casey KC review (the Casey review) into the detention of asylum seekers. Casey recommended that a Residence and Reporting Requirements Agreement (RRRA) should not be a matter of ‘absolute discretion’ of an immigration officer.¹

What are the key points of the proposal?

This proposal is that “absolute” is removed from section 315(2) of the Immigration Act 2009 (the Act), shifting RRRAs from being at the “absolute discretion” to at the “discretion” of Immigration New Zealand (INZ) officers. This is in line with the recommendation of the Casey review, and further enables the additional key aspects of that recommendation, which were that:

1. Refugee and protection claimants’ requests for a RRRA, or to vary the conditions of one, must be considered,
2. If requested, refugee and protection claimants should be entitled to a statement of reasons if a request regarding a RRRA is declined, and
3. RRRA decisions should have better oversight by the courts and the Ombudsman.

Shifting RRRA decision-making from “absolute discretion” to simply “discretion” removes the current protections under section 11 of the Act which restrict many elements of challenge or oversight based upon “absolute discretion”.

This proposed change would additionally better align with the:

- 2012 United Nations High Commissioner for Refugees (UNHCR) Guidelines on the Detention of Asylum Seekers, and
- New Zealand Bill of Rights Act 1990, which requires a presumption of liberty unless there are good reasons to restrict an individual’s freedom of movement.

What are the risks and how will these be managed?

We see minimal risk of implementation relating to this proposal as it gives effect to the final legislative recommendation of the Casey review and aligns with UNHCR Guidelines on the Detention of Asylum Seekers.

¹ A RRRA is a flexible, less restrictive alternative to arrest and detention for lower risk individuals liable for arrest and detention

Proposed amendments 11-12: Modernise and improve information sharing provisions

What is the purpose of this proposal?

This proposal will better facilitate transparent sharing of information between MBIE, other government agencies and third parties, to:

- better manage immigration-related risks to New Zealand (including addressing immigration non-compliance, migrant exploitation, and organised crime),
- support agencies to prevent information-related harms in the delivery of their services, and
- enable MBIE to issue digital identity credentials, or provide information to support the use of digital identity credentials.

What are the key points of the proposal?

MBIE proposes three changes to the Immigration Act 2009 (the Act):

1. Broaden the disclosure and direct access provisions of the Act by:
 - a. updating the 'specified agencies' list, and enabling the Act to also support excluded agencies to prevent information-related harms where appropriate,
 - b. expanding the groups of individuals about which information can be shared, and
 - c. widening the list of purposes justifying the disclosure of, or access to, information in line with agencies' regulatory responsibilities.

These changes would enhance MBIE's ability to disclose and receive information necessary to establish or verify identity, check matters relating to character,¹ and determine whether a person is an 'excluded person'. We will also look to broaden domestic information sharing powers to align more with those already in the Act pertaining to international sharing (under section 305).² Compliance, investigation, and verification activities within MBIE and other agencies would be beneficiaries of the improved information flows. For example, these reforms would help avoid situations where information cannot clearly be disclosed to determine whether individuals are eligible for, and detect fraud in relation to, benefits, such as New Zealand Superannuation, that require verification for eligibility.

2. Make explicit in the Act that Immigration New Zealand (INZ) can issue, receive, and contribute to other agencies' verifiable digital credentials, including credentials related to identity and immigration status.

This would address concerns about the clarity of current legislative frameworks for the issuance of digital credentials, reduce any risk associated with the scope of legal authority for the issuance or verification of digital credentials, and signal the Government's direction.

3. Enhance privacy protections in the Act, by requiring MBIE to publish information about how individuals' information can be accessed, matched, and corrected.

What are the risks and how will these be managed?

The primary risk associated with these amendments is that stakeholders (including the public) may regard expansion of information sharing between government agencies as going beyond reasonable expectations of how far sharing should extend. This will be managed through communication focusing on the objectives and protections, including that the changes are targeted and will be made in consultation with the Office of the Privacy

¹ We will look to improve clarity in terms of how 'character' matters relate to other agencies' functions.

² MBIE is able to enter into agreements to share information internationally for the prevention, detection, investigation, prosecution, or punishment of immigration or other offences; or the processing of international passengers; or border security.

Commissioner (which is entrusted to protect personal information in accordance with the Privacy Act 2020).

We also note that, regardless of any legislative changes, the details around the development of information sharing agreements made under the enhanced legislative framework would be a follow-on activity, resulting in more detailed protection of information.

Proposed amendment 13: Enable applicants for residence to benefit from policy changes

What is the purpose of this proposal?

This proposal is intended to make it easier for people who have residence visa applications in progress to transition to new policies, where they consider that that would benefit them.

What are the key points of the proposal?

Background / context

The Immigration Act 2009 (the Act) provides that Immigration New Zealand (INZ) staff have the ability to make exceptions to instructions for applicants for temporary visas (so can, if there is good reason, grant a visa to a person who does not meet all of the policy instructions). It establishes however, at section 72, that only the Minister, or (under current delegations) a Designated Decision Maker (DDM)), can grant visas to residence applicants who do not meet policy requirements.

The Act also states that residence applications must be determined in accordance with the residence instructions in force at the time the application was made. This provides certainty for applicants and ensures Cabinet's policy decisions are upheld. It also means it is difficult for people who have made applications for residence, before new policies have been signalled or introduced, to benefit from any new policies' changes. They must either withdraw, and submit an entire new application, or request or be the beneficiary of a Ministerial decision to afford them discretionary treatment (such as a special direction waiving fees on a new application, or waiving application requirements). As INZ will have incurred costs from its initial processing of the first application, it is unlikely there would be a refund any of the initial fee and levy charges.

The flexible powers proposed in the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill (FSSI) will enable beneficial changes to be made to classes of visa holders. However, those powers will not (and should not) apply where applications are in progress and INZ should assess individual applications (to ensure, for example, that applicants meet character requirements, do actually qualify as dependent family members, or lawfully own the funds they propose to invest).

Proposed change

MBIE proposes the Act be adjusted to provide that, where a policy includes transitional provisions, people can indicate to INZ that they wish their existing application to be considered under the new immigration instructions. It would be made clear that the Minister can certify instructions enabling transition. Instructions would establish how decisions on residence applications can proceed under the new transitional provisions framework, and would need to set out which classes of applicants are eligible; and how applicants can indicate that they wish to be deemed to have applied. Consideration would also be given to whether an additional fee should be applicable and if required, to amend the Act to ensure such a fee can be prescribed.

If this change had been in place when changes to the Active Investor Plus visa were made, Cabinet could have agreed that applicants under the previous Investor categories had the option to transfer their applications for consideration under the new category. MBIE considers applicants should be able to make individual choices, as they are best placed to decide whether a new residence policy on balance benefits them.

What are the risks and how will these be managed?

The implementation of the change will need to be well designed to optimise the efficient transfer of applications where that is in the best interests of the applicant, to reduce unnecessary costs to INZ or the applicant.