



COVERSHEET

Minister	Hon Erica Stanford	Portfolio	Immigration
Title of Cabinet paper	Immigration (Enhanced Risk Management) Amendment Bill: minor amendment	Date to be published	18 August 2026

List of documents that have been proactively released

Date	Title	Author
July 2026	Immigration (Enhanced Risk Management) Amendment Bill: minor amendment	Office of the Minister of Immigration
6 July 2026	Immigration (Enhanced Risk Management) Amendment Bill: minor amendment CAB-26-MIN-0220 Minute	Cabinet Office

Information redacted

YES

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.

Some information has been withheld for the reason of legal professional privilege.

Office of the Minister of Immigration

Chair, Cabinet

Immigration (Enhanced Risk Management) Amendment Bill: minor amendment

Proposal

- 1 Cabinet is asked to agree to a further minor amendment to the Immigration (Enhanced Risk Management) Amendment Bill (the Bill), which is before the Education and Workforce Committee (EWC) and due to be reported back to the House by 14 August 2026.

Relation to government priorities

- 2 This proposal supports the Government objectives of ensuring regulatory systems work well and restoring law and order.

Executive summary

- 3 This paper seeks Cabinet agreement to a minor amendment to the Bill. The amendment would apply the Bill's strengthened deportation liability thresholds to pre-commencement offending where a conviction, guilty plea, or finding of guilt occurs after commencement.
- 4 The proposal has a limited retrospective effect, as it would apply to offending that has already occurred, where criminal proceedings have not begun or been completed when the legislation commences. I consider this be justified to ensure that broadly similar offenders are treated consistently under the new framework, and to support the Bill's objective of strengthening deportation consequences for criminal offending.
- 5 The New Zealand Bill of Rights Act 1990 (NZBORA) is not engaged by this change, as deportation liability is an administrative immigration consequence rather than a criminal penalty. **Legal professional privilege**
- 6 The number of people affected by the change is expected to be relatively small as it only applies to people on a resident visa who have committed a criminal offence prior to the Bill coming into force but are convicted after. Existing protections, including discretion within the immigration system and appeal rights to the Immigration and Protection Tribunal (IPT), would remain unchanged.

Background

Previous consideration

- 7 Cabinet first considered this proposal on 29 June 2026. At that meeting, Cabinet deferred consideration of the submission, and invited the Minister of Immigration to submit a revised paper, in light of the discussion at the meeting [CAB-26-MIN-0209].

The Immigration Act has a graduated deportation liability framework for criminals

- 8 Section 161 of the Immigration Act 2009 (the Act) establishes how residence class visa holders who commit criminal offences may become liable for deportation. Its graduated framework means that lower-level offending (such as driving offences) may trigger deportation liability where an individual has not held a residence class visa ("residence") for long.
- 9 As an individual's length of time in New Zealand as a residence class visa holder (or "resident") extends, the trigger for deportation liability rises. At present a person cannot be

made liable for deportation for an offence committed after they have held a resident visa for ten or more years, regardless of the severity of the crime.

The Bill proposes to tighten the settings around criminal deportation liability

- 10 The Bill amends section 161 to expand the deportation liability thresholds for residence class visa holders who commit criminal offences. The changes include extending the maximum time that a resident can be liable for deportation (from ten to 20 years of first holding a residence class visa), and making deportation liability a more likely consequence at the lower ends of offending.
- 11 The current transitional provisions provide that the amended thresholds apply to all residence class visa holders, regardless of when they were granted residence, but only in relation to offending that occurs after commencement.
- 12 Table 1 below sets out the existing Act thresholds, and the new thresholds proposed in the Bill. The proposal would adjust when they came into effect for individuals.

Table 1: Resident deportation liability for criminality: current Act and already proposed in Bill

Offence seriousness ↓	Time holding an RCV (years) →	0 to <5	≥5 to <10	≥10 to <15	≥15 to <20
Convicted of an offence carrying a maximum penalty of imprisonment of 3 months or more					
Convicted of an offence carrying a maximum penalty of imprisonment of 2 years or more					
Convicted of an offence and sentenced to an imprisonment term of five years or more		Status Quo			
New tier to deportation framework: Convicted of an offence and sentenced to an imprisonment term of 10 years or more					Amendment Bill

Proposed change

- 13 I propose that the new thresholds apply to offending that has occurred pre-commencement, but where a conviction (or, at the lower levels, a guilty plea or finding of guilt) has occurred on or post-commencement.
- 14 Without the amendment, there is a heightened risk that otherwise similar offenders may face different immigration consequences solely because of differences in the timing of criminal investigations, prosecutions, or court proceedings. Two people granted residence in 2016 who both commit serious violent offences this year (one immediately before commencement and one immediately after commencement), and who are both found guilty after commencement and sentenced to more than 10 years' imprisonment, would be treated differently. The first person would not be able to be deported, while the second would be liable for deportation.
- 15 The proposed change would also mean that historic offending in New Zealand (such as historic sexual offending) that comes to light and proceeds to a conviction in the future may be more likely to trigger deportation liability. This retrospectivity is consistent with the separate change in the Bill that captures historic, offshore offending that occurred before a person came to New Zealand (but where a conviction occurs after Royal assent).
- 16 The amendment would also align the transitional arrangements with the Bill's broader objective of strengthening compliance and enforcement tools. It would ensure that the Bill's strengthened deportation liability framework takes effect more promptly after commencement. It would also simplify implementation and operational administration, by ensuring that cases determined after commencement are assessed under a single deportation liability framework.

- 17 I consider that the public interest elements in being able to deport resident visa holders who have committed criminal offending make this a proportionate proposal.

Retrospective nature and New Zealand Bill of Rights Act

- 18 While there is a presumption, reflected in section 12 of the Legislation Act 2019, that legislation should not apply retrospectively without good reason, the Bill already contains a retrospective element in relation to deportation. This is by expanding the range of historic offending that may be taken into account, by applying the amended deportation liability thresholds to all residence class visa holders, including when the relevant offending and conviction took place before the current Act was in force.
- 19 The amendment proposed in this paper would extend that approach, by ensuring that cases which are at an early investigation stage or are still progressing through the criminal justice system when the legislation commences are determined under the new deportation liability framework. I consider there is a strong policy rationale for making this change, as it ensures broadly similar cases are treated consistently, rather than producing materially different immigration outcomes solely because one conviction occurred shortly before commencement and another shortly afterwards.
- 20 Retrospectivity is limited, because the amendment would only apply where offending has already occurred, but the criminal justice process has not been completed when the legislation commences. In practice, this is principally expected to affect cases that are still under investigation, being prosecuted, or before the courts (and any cases yet to be reported and/or investigated).

The numbers affected are likely to be low

- 21 The vast majority of residence class visa holders will never be affected by these changes, as only a small minority of residents commit criminal offences that engage the deportation liability framework. The impact of this amendment will be largely limited to cases progressing through investigation, prosecution, or the courts at commencement (a roughly 12–18-month period), plus any where the offending has occurred prior to commencement, but no complaint or allegation has been made by that point, and who would not already be liable for deportation under the current framework.

Deportation is not automatic

- 22 In the 2025 calendar year, 325 residence class visa holders were made liable for deportation under section 161. Currently, on average, fewer than 20 percent of residents who are made liable for deportation are actually deported.
- 23 Deportation is not an automatic consequence of liability. There are protections for all migrants who are made liable for deportation, including high levels of discretion within the immigration system specifically to enable consideration of edge cases and individual circumstances. Residents also have a right of appeal to the independent Immigration and Protection Tribunal on humanitarian grounds.

Cost-of-living Implications

- 24 This proposal has no implications for New Zealanders' cost of living.

Financial implications

- 25 This proposal has no financial implications.

Legislative Implications

- 26 If Cabinet agrees to this change, and it is endorsed by the EWC, it could potentially be
incorporated into the revision-tracked version of the Bill. Alternatively, it could be
incorporated through amendment in the House.

Impact Analysis and Compliance

Regulatory Impact

- 27 A Regulatory Impact Statement was submitted when the original policy decisions were made [ECO-25-MIN-0084]. Due to the constrained time available to prepare this proposal, it has not been assessed under either the previous or current (from 1 July 2026) Regulatory Analysis framework.

Population Implications

- 28 This proposal affects a very small subsection of migrants: specifically, non-citizens who have held residence in New Zealand for up to two decades, who have committed crimes but (who as at the date of enactment) have not completed court proceedings, and who would not previously have been liable for deportation due to the duration of their residence.

Principles of Good Legislative Design

- 29 The Legislation Design and Advisory Committee's (LDAC's) Legislation Guidelines¹ provide a reference for assessing whether draft legislation conforms to accepted legal and constitutional principles. Principle 12 relates to retrospective legislation. While the proposal does not fit within the situations when the LDAC guidance suggests retrospective legislation might be appropriate, as noted above, I consider that the public interest elements in being able to deport resident visa holders who have committed criminal offending mean this a proportionate proposal.

Human Rights

- 30 Section 26(1) of the NZBORA protects against penalties being applied retrospectively to criminal offending. MBIE's view, confirmed in the Ministry of Justice's pre-introduction BORA vet of the Bill, is that deportation liability is an administrative consequence of, rather than a penalty for criminal offending, and that therefore section 26 of NZBORA is not engaged (although parallels may be drawn).

Legal professional privilege

Device Type	Percentage of Respondents
Smartphone	95%
Tablet	90%
Feature Phone	85%
Smartwatch	80%

Device Type	Percentage of Respondents
Smartphone	92%
Tablet	88%
Smartwatch	75%
Smart TV	68%
Smart Home Device	55%

¹ <https://www.ldac.org.nz/guidelines>

Consultation

- 33 Due to the relatively brief time available to prepare this paper, officials have not been able to undertake standard agency consultation. The Ministry of Justice Human Rights Team were consulted, and their comments were taken into account during the development of the paper.

Proactive Release

- 34 This paper will be proactively released, subject to redactions as appropriate, consistent with the Official Information Act 1982.

Recommendations

The Minister of Immigration (the Minister) recommends that Cabinet:

1. **note** that the Immigration (Enhanced Risk Management) Amendment Bill (the Bill) is before the Education and Workforce Committee (EWC), and is due to be reported back by 14 August 2026;
2. **note** that the Bill amends section 161 of the Immigration Act 2009 (the Act) to expand the deportation liability thresholds for residence class visa holders who commit criminal offences, where that offending occurs on or after the Bill is enacted;
3. **note** that the Bill already includes targeted retrospective elements in regard to deporting people who have committed criminal offences, through broadening the situations where historic offending may be taken into account when determining deportation liability;
4. **agree** to amend the Bill so that the new thresholds apply to offending that has occurred pre-commencement, where a conviction (or guilty plea/finding of guilt) occurs on or post-commencement;
5. **invite** the Minister of Immigration to seek EWC's agreement to incorporate the amendment in paragraph 4 above into the revision-tracked version of the Bill; and
6. **note** that, otherwise, the amendment in paragraph 4 above will be made through an Amendment Paper to the Bill at the Committee of the Whole House stage.

Hon Erica Stanford
Minister of Immigration