



COVERSHEET

Minister	Hon Erica Stanford	Portfolio	Immigration
Title of Cabinet paper	Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024	Date to be published	22 April 2024

List of documents that have been proactively released

Date	Title	Author
February 2024	Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024 <i>Regulations available on New Zealand Legislation website here</i>	Office of the Minister of Immigration
7 March 2024	Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024 LEG-24-MIN-0025 Minute	Cabinet Office

Information redacted

YES / NO [select one]

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Office of the Minister of Immigration
Chair, Cabinet Legislation Committee

Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Immigration (Infringement Offence, Fees, and Forms) Amendment Regulations 2024.

Amending the Immigration (Carriers' Infringement Offences, Fees, and Forms) Regulations 2012

- 2 I am seeking Cabinet approval to an amendment of the Immigration (Carriers' Infringement Offences, Fees, and Forms) Regulations 2012:
 - 2.1 to include the form for the infringement and reminder notices for the new immigration infringement offences created by the Worker Protection (Migrant and Other Employees) Act 2023 (the Act);
 - 2.2 to amend the name of these regulations from the 'Immigration (Carriers' Infringement Offences, Fees, and Forms) Regulations 2012' to the 'Immigration (Infringement Offences, Fees, and Forms) Regulations 2012'; and
- 3 These regulations do not require new policy decisions as they give effect to previous policy and legislative decisions (CAB-20-MIN-0100 and CAB-22-MIN-0415 refers).

The regulations will allow immigration officers greater enforcement options to address migrant exploitation —implementing the Worker Protection (Migrant and Other Employees) Act 2023

- 4 Temporary migrant workers make an important contribution to New Zealand's economy, by helping to address short-term labour and skills shortages. However, migrant workers are more vulnerable to exploitation than New Zealand workers. A 2019 review into Temporary Migrant Worker Exploitation found that existing measures were not adequate to appropriately address migrant exploitation. In response, a package of legislative, policy and operational changes aimed at reducing temporary migrant worker exploitation in New Zealand was progressed.
- 5 To enable greater enforcement action against lower-level offending, the Worker Protection (Migrant and Other Employees) Act 2023 was passed into

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law and came into force on 6 January 2024. Amongst other actions to broaden the range of enforcement tools to address migrant exploitation, the Act amended the Immigration Act 2009 to create three new infringement offences for when an employer:

- 5.1 allows a person who is not entitled under the Immigration Act 2009 to work in the employer's service to do that work (\$1,000 per worker for individuals or \$3,000 per worker for body corporates);
 - 5.2 does not employ a person in a way that is consistent with a work-related condition of that person's visa (\$1,000 per worker for individuals or \$3,000 per worker for body corporates);
 - 5.3 fails to provide documents requested by an immigration officer either immediately or, if that is not practicable, within 10 working days (\$1,000 per notice).
- 6 Enabling infringement offences provides a cost-effective mechanism to address lower-level offences before they escalate into more serious exploitation, and combined with the stand-down list¹ will ensure that detected non-compliant employers are prevented from hiring migrants.
- 7 To enable immigration officers to issue infringement notices for the new employment infringement offences, the form of infringement notices and reminder notices must be prescribed in regulations made under Section 400 of the Immigration Act 2009. There are already regulations under the Immigration Act 2009 for existing infringement offences by carriers and persons in charge of craft. Amending these regulations to include the new infringement offences is the simplest approach and will mean that they will cover all infringement offences under the Immigration Act 2009.

Changing the name of the regulations will reflect that all infringement offences under the Immigration Act 2009 are included in the amended regulations

- 8 Having the amended regulations address all infringement offences under the Immigration Act 2009 will require changing the name of these regulations from the 'Immigration (Carriers' Infringement Offences, Fees, and Forms) Regulations 2012' to the 'Immigration (Infringement Offences, Fees, and Forms) Regulations 2012' to reflect the broader scope.

Timing and 28-day rule

- 9 The regulations relating to the new employment infringement offences will come into effect 28 days following gazettal on 11 April 2024.
- 10 I am not seeking a waiver of the 28-day rule.

¹ Under the changes made by the Act to the Immigration Act 2009, employers who commit certain offences can be put on this list, which will prohibit them from supporting a migrant's visa for a set period. Under the Act, this information can then be made publicly available.

Compliance

- 11 The regulations comply with:
- 11.1 the principles of the Treaty of Waitangi;
 - 11.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 11.3 the principles and guidelines set out in the Privacy Act 2020;
 - 11.4 relevant international standards and obligations;
 - 11.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 12 There are no grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 13 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 14 The impact analysis requirements apply to the proposals being given effect through the Worker Protection (Migrant and Other Employees) Act 2023 and a regulatory impact statement was submitted at the time that policy approval relating to that Act was sought [DEV-20-MIN-0034].

Publicity

- 15 The Ministry of Business, Innovation and Employment intends to notify stakeholders when the regulations have been made.

Proactive release

- 16 This paper will be proactively released within 30 business days, subject to any redactions as appropriate under the Official Information Act 1982, following final decisions by Cabinet.

Consultation

- 17 The Ministry of Justice and the Department of Prime Minister and Cabinet have been consulted.

Recommendations

I recommend that the Cabinet Legislation Committee:

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- 1 **note** the Worker Protection (Migrant and Other Employees) Act 2023 was passed into law on 6 July 2023 introducing three new employment immigration infringement offences to the Immigration Act 2009 to proportionately respond to lower-level offending against migrant workers by employers (CAB-20-MIN-0100 and CAB-22-MIN-0415 refers);
- 2 **note** to enable immigration officers to issue infringement notices for the new employment infringement offences, the form of infringement notices and reminder notices must be prescribed in regulations under Section 400 of the Immigration Act 2009;
- 3 **note** that the Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024 will give effect to paragraph 1 above;
- 4 **authorise** the submission of the Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024 to the Executive Council;
- 5 **note** that the Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024 come into force on 11 April 2024.

Authorised for lodgement

Hon Erica Stanford

Minister of Immigration

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