



COVERSHEET

Minister	Hon Erica Stanford	Portfolio	Immigration
Title of Cabinet paper	Immigration Financial Sustainability and System Integrity Amendment Bill	Date to be published	10 April 2025

List of documents that have been proactively released

Date	Title	Author
3 April 2025	Immigration (Fiscal Sustainability and System integrity) Amendment Bill: Approval for Introduction LEG-22-MIN-0044 Minute	Cabinet Office
26 March 2025	Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Approval for Introduction	Office of the Minister of Immigration
26 March 2025	REQ-0009920 Immigration Amendment Bill: final Cabinet paper and Bill for lodgement	MBIE
24 February 2025	REQ-0009651 Immigration Amendment Bill - draft Cabinet paper and Bill for ministerial consultation	MBIE
12 February 2025	REQ-0008378 Immigration (Fiscal Sustainability and System Integrity) Amendment Bill - drafting decisions	MBIE
21 January 2025	REQ-0007504 Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Exposure draft feedback	MBIE
18 November 2024	REQ-0005172 Immigration amendment Bill: documents for release for targeted consultation	MBIE
13 November 2024	Immigration Amendment Legislation - Addition to Bill and Planning for Future Reviews ECO-24-MIN-0255 Minute	Cabinet Office
13 November 2024	Immigration Amendment Legislation - Addition to Bill and Planning for Future Reviews	Office of the Minister of Immigration
2 November 2024	REQ-0005823 Cabinet paper for lodgement: Immigration Amendment Legislation - addition to Bill and planning for future reviews	MBIE
24 October 2024	REQ-0005298 Draft Cabinet paper amending the definition of mass arrival	MBIE
8 October 2024	REQ-0004179 Immigration Amendment Bill – Mass Arrivals definition and transitional arrangements proposals	MBIE
20 September 2024	Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Policy Proposals ECO-24-MIN-0198 Minute	Cabinet Office
12 September 2024	Immigration Financial Sustainability and System Integrity Amendment Bill - policy proposals	Office of the Minister of Immigration
6 September 2024	2425-0891 Immigration Amendment Bill: Cabinet paper for lodgement	MBIE
22 August 2024	2425-0747 Immigration Amendment Bill: draft Cabinet paper for Ministerial consultation	MBIE
13 August 2024	2024-0352 Immigration Amendment Bill: draft Cabinet paper for feedback	MBIE
17 July 2024	2024-0286 Immigration Amendment Bill: update for meeting on 17 July 2024	MBIE

2 July 2024	2324-3802 Fiscal Sustainability Amendment Bill - update and key decisions	MBIE
4 April 2024	2324-2168 Proposed Immigration (Fiscal Sustainability) Amendment Bill: scope and timeframes	MBIE

<p>Information redacted</p> <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 at this time.</p> <p>Some information has been withheld for the reasons of: national security or defence, privacy of natural persons, confidential advice to Government, information subject to an obligation of confidence, free and frank expression of opinion and legal professional privilege.</p>	<p>YES</p>
--	-------------------

[© Crown Copyright. Creative Commons Attribution 4.0 International \(CC BY 4.0\)](https://creativecommons.org/licenses/by/4.0/)

IN CONFIDENCE

In Confidence

Office of the Minister of Immigration
Chair, Cabinet Legislation Committee

Immigration (Fiscal Sustainability and System Integrity) Amendment Bill: Approval for Introduction

Proposal

1. This paper seeks approval for the introduction of the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill (the Bill).
2. It asks Cabinet to note six decisions I have made during the legislative drafting process, and to confirm one policy decision.

Policy

3. The Bill makes targeted amendments to the Immigration Act 2009 (the Act) to improve the fiscal sustainability and the integrity of the immigration system.

Cabinet decisions

4. In September 2024, the Cabinet Economic Policy Committee (ECO) considered the paper *Immigration (Fiscal Sustainability and System Integrity) Amendment Bill – Policy Proposals* [ECO-24-MIN-0198]. ECO agreed to the policy decisions below, and invited me to issue drafting instructions to amend the Act to give effect to them. Cabinet confirmed these decisions [CAB-24-MIN-0362], agreeing to:
 - 4.1. better meet the Government’s fiscal sustainability goals by
 - 4.1.1. expanding the immigration levy payer base, so immigration system costs can be more fairly shared across those that create the risks or receive the benefits of immigration, and
 - 4.1.2. creating a new immigration levy or levy making power, to expand the funding purposes of levy funding to other services or infrastructure where there is a clear and quantifiable link to immigration;
 - 4.2. better meet the Government’s immigration system integrity goals by:
 - 4.2.1. implementing the recommendations of independent reviews, requiring judicial warrants in some cases, strengthening protections for asylum claimants where the Crown is seeking their detention, and enabling residence class visas to be cancelled to manage security threats;
 - 4.2.2. capturing more cases where money is extorted for job offers, and ensuring people who commit crimes are appropriately liable for deportation;
 - 4.2.3. enabling the Minister of Immigration (the Minister) to, with appropriate safeguards, exercise flexible powers to more efficiently respond to situations that are unusual or outside the immigration system’s control, and that pose operational challenges.

IN CONFIDENCE

5. Cabinet noted that the previous Government agreed to the residential out-of-hours visits, electronic monitoring and cancellation of residence status proposals [CBC-23-MIN-0008 and CAB-23-MIN-0441].
6. In November 2024, ECO considered the paper *Immigration Amendment Legislation: Addition to Confidential advice to Government* [ECO-24-MIN-0255], and agreed to include an amendment to the definition of a mass arrival group within the Bill, such that the definition captures all possible ways a mass arrival group may enter New Zealand. This was confirmed by Cabinet [CAB-24-MIN-0445].

Drafting decisions made under delegated authority

7. In September 2024, Cabinet [ECO-24-MIN-0198] authorised me to make decisions, consistent with the policy proposals in the paper under ECO-24-SUB-0198, that might arise during the drafting and consultation process. The most substantive of those decisions are listed below, for noting by this Committee and, in one instance, for the Committee's confirmation.

I have approved six drafting changes under my delegated authority

8. Cabinet is asked to note the six following changes which I approved during the drafting process. They are consistent with the policy proposals, and fall within my delegated authority. They refine or narrow the scope of the Cabinet approvals and, accordingly, I wish to bring them to your attention:
 - 8.1. aligning the required considerations for a certification for a Special Direction for a class of persons with what the Minister must be satisfied of for a Special Direction for a class of persons;
 - 8.2. clarifying that the chief executive, rather than the Minister, is responsible for the annual publishing of the number of times and the reasons that class Special Directions have been used in the year, and the previous three years (if relevant);
 - 8.3. clarifying how a judge can consider issues around the confirmation, or not, of the identity of a person who has claimed refugee or protected person status, when considering an application for a warrant of commitment;
 - 8.4. specifying the scope of the extended immigration levy, by spelling out in primary legislation which groups can be charged for which funding purposes (specifically, education, health, and labour market training);
 - 8.5. establishing that sponsors of parents may be liable to pay an extended immigration levy in specified circumstances;
 - 8.6. defining 'out-of-hours' for the purpose of immigration compliance activity as:
 - 8.6.1. Monday to Friday between 8pm and 7am¹ on the following day
 - 8.6.2. Any time on a Saturday or Sunday, and
 - 8.6.3. Any time on a public holiday.

¹ This timeframe is a change from the timeframe included in the exposure draft of the Bill for consultation with stakeholders (7pm to 8am).

I also seek Cabinet’s confirmation of my decision to remove the term “port” from the list of entities that can be charged a levy

9. The September Cabinet policy paper proposed that airports be able to be levied, to recover immigration system costs where international flights are introduced or reinstated [ECO-24-MIN-0198, minute 4.1.2]. Confidential advice to Government

Confidential advice to Government

[Redacted text]

On that basis, I have directed officials to remove the term “port” from the list of entities that can be charged a levy.

11. As this decision is not however technically within the scope of a decision “consistent with the policy proposals in the paper”, Cabinet is invited to confirm it.

Why a Bill is required

12. Changes to immigration charges of the nature already agreed by Cabinet (broadening who can be charged a levy and what immigration levy funding can be spent on) can only be enabled through changes to the Act. Similarly, the system integrity changes (amending warrant of commitment settings, migrant exploitation offences, and enabling the Minister of Immigration to exercise certain powers more flexibly) can only be enabled through legislative changes: there are no feasible non-regulatory alternatives that would achieve equivalent outcomes.

Impact analysis

13. Seven individual Regulatory Impact Statements (RISs) were prepared when the policy work was undertaken². They were reviewed by MBIE quality assurance panels and were submitted at the point that Cabinet Committee approval of the major policy changes relating to the Bill was sought [ECO-24-SUB-0198].
14. The change made to the definition of a mass arrival group under ECO-24-MIN-0255 was not considered by the Ministry for Regulation to be sufficiently material to require a RIS.
15. The panels determined that each RIS meets the quality expectations for regulatory impact analysis. With regard to the proposal to expand the immigration levy payer base, the panel noted that it will be important that the development of the regulations makes a clear case for levying each additional specified group and assesses the financial impacts for existing and new levy-payers, and that it would also be useful to that future analysis to assess the net revenue impacts for the Crown. On the proposal to expand the purposes the immigration levy can be used for, the panel similarly noted that will be important that the development of those regulations makes a clear and compelling case for using levy funding for specific new uses.

² The RIS relating to the proposals to create the power to cancel a residence class visa held by a person who cannot be deported, and to establish electronic monitoring, had been completed and assessed by an MBIE panel in 2023.

Compliance

16. The Bill complies with each of the following:
 - 16.1. the principles of the Treaty of Waitangi;
 - 16.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 (see from paragraph 17);
 - 16.3. the disclosure statement requirements (a disclosure statement has been prepared and is attached to this paper);
 - 16.4. the principles and guidelines set out in the Privacy Act 2020;
 - 16.5. relevant international standards and obligations;
 - 16.6. the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

New Zealand Bill of Rights Act 1990

17. Specific rights implications arising from proposals are:
 - 17.1. the right to be secure against unreasonable search and seizure (s 21 of the New Zealand Bill of Rights Act 1990 (NZBORA)), where the requirement to apply for a judicial warrant before visiting a dwelling out of hours will strengthen the rights of overstayers or suspected overstayers,
 - 17.2. the right not to be arbitrarily detained (s 22 of the NZBORA), where independent reviews of the immigration system recommended legislative change to strengthen the application of the principle that any restriction of liberty should be the minimum congruent with achieving the objectives of that restriction of liberty.
18. Consistent with s 23(5) of NZBORA, electronic monitoring provisions will benefit asylum claimants, and people who are liable for deportation, who might otherwise have been detained in prison facilities. The additional requirements for applications for Warrants of Commitment may benefit people seeking international protection, consistent with s 9 of NZBORA.
19. A NZBORA vet is currently in progress.

Consultation

20. The following agencies were consulted on the proposed amendments to the Act and their feedback was incorporated: the Ministries of / for Education, Ethnic Communities, Foreign Affairs and Trade, Health, Justice, Pacific Peoples, Primary Industries (Biosecurity), Regulations and Transport; the Departments of Corrections, Inland Revenue, Internal Affairs and Prime Minister and Cabinet; the New Zealand Customs Service; the New Zealand Police, and the Treasury.
21. Officials also carried out targeted consultation on an exposure draft of the Bill with stakeholders, including Business New Zealand, the Casey Review Focus Group (including Amnesty International New Zealand and the Office of the United Nations High Commissioner for Refugees), the New Zealand Council of Trade Unions, the Employers and Manufacturers Association, MBIE's Immigration Focus Group (which includes representatives from e-Migration, the New Zealand Association of Immigration Professionals and Ryman Healthcare), the New Zealand Law Society, and the Office of the Ombudsman.

Binding on the Crown

22. The Act is binding on the Crown. This Bill does not propose to change this.

Creating new agencies or amending law relating to existing agencies.

23. Not applicable.

Allocation of decision making powers

24. Not applicable.

Associated regulations

25. Changes to the form used to make an application for a warrant of commitment for a refugee or protected person claimant will require an amendment to the Immigration (Certificate, Warrant, and Other Forms) Regulations 2010. I expect to bring a paper to this Committee seeking approval of relevant Amendment Regulations shortly after this Bill receives Royal assent.
26. I had previously intended to undertake a review of immigration charges in parallel with Parliament's consideration of the Bill, in order to implement the proposal to expand the immigration levy payer-base. It is no longer my intention to progress this review in 2025.
27. Changes to the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 will follow future immigration fee and levy policy reviews.

Other instruments

28. Not applicable.

Definition of Minister/department

29. The Bill does not contain a definition of Minister, department, or chief executive of a department.

Commencement of legislation

30. Most of the provisions in the Bill will come into force on the day after the date of Royal assent. The provisions relating to decisions about applications for a warrant of commitment come into force three months after the date of Royal assent, to ensure that all forms and procedures are aligned. The provisions enabling electronic monitoring will come into effect 12 months after the date of Royal assent.

Parliamentary stages

31. I plan to introduce the Bill on Monday 7 April 2025, and to have the first reading on Thursday 10 April 2025. A standard six-month period of Select Committee consideration will see the Bill reported back in late September 2025 and passed before the end of the year.

Publicity

32. I intend to issue a press release when the Bill is introduced. This will be accompanied by the proactive release of relevant Cabinet papers and the publication of the RISs, to inform people who are interested in making submissions on any aspects of the Bill to the Select Committee considering it.

Proactive Release

33. I intend to proactively release this paper, and the associated policy paper, at the point that the Bill is introduced, subject to any redactions consistent with the Official Information Act 1982.

Recommendations

34. The Minister of Immigration (the Minister) recommends that the Committee:
 - 1 **note** that the Minister has requested that the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill (the Bill) hold a category 4 priority (to be passed by the end of 2025 if possible) on the 2025 Legislation Programme;
 - 2 **note** that Cabinet has agreed to amend the Immigration Act 2009 (the Act), as follows:
 - 2.1 in September 2024, when making the substantive policy decisions, to:
 - 2.1.1 better meet the Government's fiscal sustainability goals by expanding the immigration levy payer base and creating a new levy making power to expand the purposes to which the immigration levy can be put; and
 - 2.1.2 better meet the Government's immigration regulatory system integrity goals by:
 - 2.1.2.1 implementing the recommendations of independent reviews, requiring judicial warrants in some cases, strengthening protections for asylum claimants where the Crown is seeking their detention, and enabling residence class visas to be cancelled to manage security threats;
 - 2.1.2.2 capturing more cases where money is extorted for job offers, and ensuring people who commit crimes are appropriately liable for deportation;
 - 2.1.2.3 enabling the Minister to, with appropriate safeguards, exercise flexible powers to respond to situations that are unusual or outside the immigration system's control, and that pose operational challenges;
 - 2.2 in November 2024, to amend the existing definition of a mass arrival group in the Act, such that the definition captures all possible ways a mass arrival group may enter New Zealand [ECO-24-MIN-0255];

[ECO-24-MIN-0198]

IN CONFIDENCE

- 3 **note** that Cabinet authorised the Minister to make decisions, consistent with the policy proposals in the paper under ECO-24-SUB-0198, that might arise during the drafting and consultation process [ECO-24-MIN-0198];
- 4 **note** that the Minister has made the following drafting decisions, consistent with the authorisation in paragraph 3 above, which are consistent with Cabinet’s policy decisions, but which refine or narrow their scope:
- 4.1 aligning the required considerations for a certificate for a Special Direction for a class of persons (“a class Special Direction”) with what the Minister must be satisfied of for a Special Direction for a class of persons;
 - 4.2 clarifying that the chief executive, rather than the Minister, is responsible for the annual publishing of the number of times and the reasons that class Special Directions have been used in the year, and the previous three years (if relevant);
 - 4.3 clarifying how a judge can consider issues around the confirmation, or not, of the identity of a person who has claimed refugee or protected person status, when considering an application for a warrant of commitment;
 - 4.4 specifying the scope of the extended levy, by spelling out in primary legislation which groups can be charged for which funding purposes (specifically, education, health, and labour market training);
 - 4.5 establishing that sponsors of parents may be liable to pay an extended health levy; and
 - 4.6 defining ‘out-of-hours’ for the purpose of immigration compliance activity as:
 - 4.6.1 Monday to Friday between 8pm and 7am on the following day
 - 4.6.2 Any time on a Saturday or Sunday, and
 - 4.6.3 Any time on a public holiday;
- 5 **note** that one decision made by the Minister (to remove “ports” from the list of entities that could be charged an immigration levy) was technically outside the scope of the authority in paragraph 3 above, as it was not consistent with the policy proposals;
- 6 **agree** to confirm the decision in paragraph 5 above, namely the removal of the term “ports” from the list of entities that may be charged an immigration levy;
- 7 **note** that Cabinet invited the Minister to undertake a review of immigration charges in parallel with Parliament’s consideration of the Bill, and to reflect the outcome of the review through amendments to the Immigration (Visa, Entry permission, and related Matters) Regulations 2010 [ECO-24-MIN-0198];
- 8 **note** that there is no longer an intention to undertake a review of immigration charges in parallel with Parliament’s consideration of the Bill;
- 9 **agree** to rescind the invitations in minutes 18 and 19 of ECO-24-MIN-0198;
- 10 **agree** that implementation of the levy proposals in the Bill will be considered as part of any future immigration fee and levy reviews;
- 11 **approve** the Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;

I N C O N F I D E N C E

- 12 **agree** that:
 - 12.1 the Minister may approve minor and technical changes to the Bill, prior to introduction;
 - 12.2 the Parliamentary Counsel Office can make minor proofreading and editorial changes to the Bill prior to introduction;
- 13 **agree** that the Bill be introduced on 7 April 2025;
- 14 **agree** that the government propose that the Bill be:
 - 14.1 referred to the Education and Workforce Committee for consideration; and
 - 14.2 enacted by the end of 2025.

Authorised for lodgement

Hon Erica Stanford
Minister of Immigration