



## COVERSHEET

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

### List of documents that have been proactively released

| <b>Date</b>       | <b>Title</b>  | <b>Author</b>                         |
|-------------------|---|---------------------------------------|
| 3 April 2025      | Immigration (Fiscal Sustainability and System integrity) Amendment Bill: Approval for Introduction<br>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<br>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<br>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                                  |

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|--------------|---|------|
| 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 |

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|--|-------------------|
| <p><b>Information redacted</b></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><b>YES</b></p> |
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[Restricted]

Office of the Minister of Immigration

Cabinet Economic Policy Committee

**Immigration Amendment Legislation: addition to Bill** Confidential advice to Government

**Proposal**

- 1 This paper seeks Cabinet’s agreement to:
  - 1.1 make one change to the scope of the upcoming Immigration (Fiscal Sustainability and System Integrity) Amendment Bill, by adding an amendment to the definition of a mass arrival group
  - 1.2 Confidential advice to Government

**Relation to government priorities**

- 2 The Immigration (Fiscal Sustainability and System Integrity) Amendment Bill supports a range of government objectives, including constraining calls on taxpayer funding and expecting value for money and fiscal sustainability for public services, restoring law and order, ensuring regulatory systems work well, and upholding the New Zealand National Party and New Zealand First Coalition Agreement undertaking to *Commit to enforcement and action to ensure those found responsible for the abuse of migrant workers face appropriate consequences*.
- 3 The scope addition proposed in this paper relates to restoring law and order and ensuring regulatory systems work well. Confidential advice to Government

**Executive Summary**

- 4 In September 2024 Cabinet agreed to policy proposals for the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill (the Bill) [ECO-24-MIN-0198], to support the immigration system to be more fiscally sustainable and to better support the integrity of the system.
- 5 Officials have recently identified a gap in the Act which means that a large number of asylum seekers arriving in New Zealand might not fit the definition of a mass arrival as set out in legislation, and therefore could not be managed through the bespoke mechanisms established in law. This is because the definition excludes people who arrive on a scheduled international service. As such an arrival could however compromise our immigration and courts systems, and potentially introduce significant risk at the border, I seek Cabinet’s agreement to amend this definition to include people arriving on a scheduled international service.
- 6 Confidential advice to Government

7 Confidential advice to Government

**Background**

*Immigration (Fiscal Sustainability and System Integrity) Amendment Bill*

8 In September this year, Cabinet agreed to policy proposals to support the fiscal sustainability of the immigration system and strengthen its integrity [ECO-24-MIN-0198]. The Bill consists of:

8.1 fiscal sustainability proposals, to enable the immigration levy to be charged to more people or entities that generate costs for or benefit from the immigration system, and to enable that revenue to be used for more purposes (supported by appropriate limitations and safeguards)

8.2 system integrity proposals, to implement the recommendations of independent reviews, to enable residence class visa to be cancelled to manage security threats, to capture more cases where money is extorted for job offers, to ensure people who commit crimes are appropriately liable for deportation, and to enable the Minister of Immigration to exercise flexible powers to more efficiently respond to situations that are unusual or outside the immigration system’s control, and that pose operational challenges.

*Mass arrival readiness*

9 A mass arrival is defined in the Act as a group of 31 or more individuals arriving irregularly in New Zealand<sup>1</sup> (most likely organised by transnational people smugglers or traffickers). Responding to such an event would place significant pressure on New Zealand’s immigration and courts systems. Officials would need to ascertain the identities of arrivals and identify whether any individuals in the group were likely to pose a risk to security or public order, while humanely addressing their health and welfare needs and managing them in a way that protected them and the New Zealand community. Planning for a mass arrival envisages that some or all members of the group may be securely detained (probably at the Mangere Refugee Resettlement Centre) on a group warrant of commitment at least for a short amount of time until those objectives have been addressed.

10 In 2019, officials realised that 96-hour time limit for applying for, and deciding, a mass arrival group warrant of commitment did not allow for adequate legal representation for the members of a mass arrival group during the court process. In May this year, Parliament passed the Immigration (Mass Arrivals) Amendment Act 2024, which allows for a mass arrival group to be held in warrantless detention for up to seven days before a Judge must hear a case for a warrant to hold the members of the group for longer.

11 Following the passing of that Amendment Act, officials have continued work identifying challenges that could, in future, have the potential to impede the efficient operation of the immigration system. Through this work officials have identified that the definition of a mass arrival group in the Act may become such an impediment.

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<sup>1</sup> This definition was inserted into the Act by the Immigration Amendment Act 2013.

**I propose to amend the definition of a mass arrival to ensure it captures all possible ways a mass arrival group may enter the country**

12 A mass arrival group is currently defined in section 9A of the Act as:

**9A Meaning of mass arrival group**

- (1) In this Act, **mass arrival group** means a group of more than 30 people, each of whom falls within 1 or more of the classes of person described in paragraphs (a) to (f) of section 115(1), who arrive in New Zealand—
- (a) on board the same craft; or
  - (b) on board the same group of craft at the same time; or
  - (c) on board the same group of craft and within such a time period or in such circumstances that each person arrived, or intended to arrive, in New Zealand as part of the group.
- (2) In subsection (1), **craft does not include a craft travelling to New Zealand in the course of a scheduled international service.**

13 **[Restricted]** At the time the term “mass arrival group” was first defined, the most likely craft was considered to be a superannuated fishing or cargo vessel that had been obtained by people smuggling or transnational criminal organisations, as a means to illegally transport people to New Zealand. This reflected the global people smuggling environment at that time, and in particular the experiences of Canada<sup>2</sup> and Australia.

14 **[Restricted]** Since 2013, the business model of people smuggling and transnational criminal organisations has become more sophisticated. While the threat of a maritime arrival persists, New Zealand now faces additional threats at the air border. **National security or defence**

15 Canada has been experiencing a surge of asylum claims by people arriving on international commercial flights<sup>3</sup>. While Canada has made changes to visa settings to seek to combat this (including reimposing visa requirements on Mexican citizens), significant numbers continue to arrive through this channel. Officials consider that many of those claimants would be unlikely to be approved asylum if they sought protection in New Zealand.

16 These numbers represent significant profits for people smugglers, and highlight the increasingly sophisticated techniques that people smuggling and transnational criminal organisations are using to try to subvert border protection measures globally, as well as the scale at which the business of people smuggling operates.

17 The definition set out in the Act is, therefore, no longer fit for purpose, and I seek to amend it to remove the carve-out for ‘scheduled international services’ (section 9A(2)). This means that, no matter how a mass arrival group may arrive in New Zealand, we will have the appropriate tools at our disposal to ensure the safe and secure management of its members, and to minimise the risk of significant disruptions to our immigration and courts systems.

<sup>2</sup> The MV Sun Sea arrived at Vancouver in August 2010 with 492 asylum seekers on board, after setting off from the Gulf of Thailand six weeks earlier.

<sup>3</sup> See for example [Surge in asylum claims at Canadian airports in 2023 | CTV News](#), which notes that between January and September 2023, the Canada Border Services Agency (CBSA) processed 26,585 asylum claims at airports, representing a 54 per cent increase from 2022's total of 17,165.

18 This proposal would strengthen the integrity of the immigration system, and therefore fits within the overall objective of the Bill.

# Confidential advice to Government



## **Cost-of-living Implications**

25 This paper has no cost of living implications.

## **Financial Implications**

26 This paper has no financial implications.

## Legislative Implications

- 27 This paper proposes two sets of legislative change. The first will amend the definition of a mass arrival, which will be done in the upcoming Immigration (Fiscal Sustainability and System Integrity) Amendment Bill. Confidential advice to Government

## Impact Analysis

### *Regulatory Impact Statement*

- 28 The Treasury has provided an exemption for a Regulatory Impact Statement on the proposal to amend the definition of a mass arrival, as it is a relatively minor and technical change. Confidential advice to Government

### *Climate Implications of Policy Assessment*

- 29 The Treasury has provided an exemption for a Climate Implications of Policy Assessment on the proposal to amend the definition of a mass arrival, as it will not have any impact on our emissions. Confidential advice to Government

## Population Implications

- 30 This paper has no population implications.

## Human Rights

- 31 This paper does not engage our human rights obligations.

## Consultation

- 32 The following agencies were consulted in the development of this paper and their feedback incorporated: the Department of Prime Minister and Cabinet, the Ministries of Foreign Affairs and Trade, Justice (Human Rights Team), and Pacific Peoples, and the New Zealand Customs Service.

## Communications

- 33 I do not propose any publicity or media release for the proposals in this paper prior to the introduction of the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill.

## Proactive Release

- 34 This paper will be proactively released upon the introduction of the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill to the House, with redactions consistent with the Official Information Act 1982.

## Recommendations

- 35 The Minister of Immigration recommends that Cabinet:

### *Additional item for the Immigration (Fiscal Sustainability) Amendment Bill*

- 1 note that Cabinet has recently agreed to policy proposals for the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill (the Bill) [ECO-24-MIN-0198];

- 2 note that the definition of a mass arrival group exempts groups arriving on a scheduled international service whose members then claim asylum at the border,
- 3 note that changes in international organised people smuggling trends mean that such an arrival is now a viable possibility, and that it would be appropriate to amend the definition to address the risk that it would pose to our immigration and courts systems;
- 4 agree 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 the country;

**Confidential advice to Government**



Approved for lodgement

Hon Erica Stanford  
Minister of Immigration