New Zealand Law Society
Te Kāhui Ture o Aotearoa

Immigration (Enhanced Risk Management) Amendment Bill

Submission of the New Zealand Law Society Te Kāhui Ture o Aotearoa

29 April 2026

1 Introduction

1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Immigration (Enhanced Risk Management) Amendment Bill (**Bill**). The Bill will amend the Immigration Act 2009 (**Act**).

1.2 This submission, prepared with input from the Law Society's Immigration & Refugee Law Committee and Human Rights & Privacy Committee,[1] comments on amendments in the Bill which seek to (roughly, in clause-order):

(a) bar individuals who withdraw their asylum claim from applying for another visa (clauses 4 and 11);

(b) establish more significant consequences for providing false and misleading information, and concealing information (clauses 9, 16 and 21);

(c) grant immigration officers a new power to revoke deemed entry permissions (clause 10);

(d) remove temporary visa holders' rights to lodge appeals on humanitarian grounds (clauses 12, 13, 14, 15, 22 and 23);

(e) expand the circumstances in which residents can become liable for deportation (clause 17 and new clause 10 in Schedule 1);

(f) enable victims of offending to submit on deportation liability proceedings (clauses 19 and 24);

(g) expand information-gathering powers and powers to seize identity documents (clauses 26, 27, 32 and 33);

(h) improve transparency around decisions regarding residence and reporting requirements agreements (clause 34 and clause 11 of Schedule 1); and

(i) deter migrant exploitation (clauses 36 to 39).

1.3 While the Law Society welcomes several of these changes, we do not recommend the Bill proceed in its current form. In our view, further policy work is needed to avoid disproportionately harsh and unfair outcomes for visa holders, and inconsistencies with New Zealand's obligations under domestic and international law.

1.4 The Law Society **wishes to be heard** in relation to this submission.

2 Previous consultations relating to these policy proposals

2.1 In 2025, the Law Society participated in targeted consultation on some of these proposals. Brief, initial feedback was provided in meetings with officials, and in writing.

2.2 While some aspects of this consultation are referenced in materials relating to this Bill, they do not clearly identify where the Law Society objected to proposed changes, or reflect concerns that were raised by the Law Society. We are concerned to see that some

[1] More information about these committees is available on the Law Society's website: www.lawsociety.org.nz/professional-practice/law-reform-and-advocacy/law-reform-committees.

comments in Regulatory Impact Statements (**RISs**) relating to the Bill do not reflect feedback from the Law Society – for example:

(a) The RIS on changes to deportation liability provisions notes "the Law Society asked some clarification questions about the proposals".[2] It does not identify that the Law Society subsequently objected to these proposals, or refer to the legal and human rights concerns identified in the Law Society's written submission on the exposure draft.

(b) The RIS on limiting access to humanitarian appeals refers to consultation with stakeholders including the Law Society, and states "stakeholders were generally supportive of the proposal but raised concerns that the burden may simply shift from the [Immigration & Protection Tribunal] to the Courts through uptake of Judicial Review".[3] It does not refer to feedback from the Law Society opposing the proposal because of inconsistencies with New Zealand's domestic and international legal obligations.

2.3 It may also be desirable to consider – more broadly – how (and when) such submissions could be made publicly available at the time the Bill is introduced to Parliament, particularly where they relate to an exposure draft or substantive consultation. This would enable members of Parliament and the public to understand whether concerns raised during the policy development have been addressed, and how feedback has informed the design and the drafting of the Bill. We have appended the Law Society's written feedback on the exposure draft of the Bill to this submission (with permission) in case it is of assistance to the Select Committee.[4]

3 Preventing visa applications from those who withdraw their asylum claim

3.1 Clauses 4 (definition of 'claimant') and 11 seek to prevent asylum claimants from applying for other visas upon withdrawing their asylum claim. These amendments serve two purposes: first, they seek to address concerns that asylum claimants may be misusing the asylum claim process to enter New Zealand, and, once they are in New Zealand, apply for another type of visa that they would not have otherwise had access to.[5] Second, they seek to reduce delays and backlogs within the Refugee Service Unit (**RSU**) by removing spurious asylum claims.[6]

3.2 The Law Society is concerned that there does not appear to be any evidence to suggest the asylum claim process is being misused in this way, or to suggest these amendments will succeed in reducing delays and backlogs within the RSU. Officials have confirmed that:

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2 Ministry of Business, Innovation and Employment *Regulatory Impact Statement: Expanding criminal deportation liability* (26 May 2025) (**Deportation liability RIS**) at page 11.

3 Ministry of Business, Innovation and Employment *Regulatory Impact Statement: Limiting humanitarian appeal rights to the Immigration and Protection Tribunal for temporary visa holders* (21 May 2025) (**Humanitarian appeals RIS**) at page 3.

4 The Law Society has sought permission from officials to reference confidential consultations relating to the Bill, and to append a copy of its submission on the exposure draft of this Bill.

5 Withdrawal of claims RIS at [13].

6 Withdrawal of claims RIS at pages 1-2.

(a) While data exists on the number of claimants who withdraw their asylum claim and subsequently apply for another visa, it is unclear how many of these were genuine claimants whose asylum claims would have been approved if they had not been withdrawn.[7]

(b) Only a small number of individuals are likely to be prevented from applying for another visa as a result of these amendments, and officials expect these changes to have minimal impact.[8]

(c) These amendments could discourage individuals from withdrawing their claim, and this could in fact compound existing backlogs.[9]

3.3 These statements raise doubt as to whether these amendments will be capable of reducing the RSU's workload and delays.

3.4 It is also worth noting the RSU currently requires two years to determine an asylum claim (i.e., from the date of lodgement).[10] This is a significant length of time, and it is possible that individuals might choose to withdraw their asylum claim in this time to avoid being unreasonably adversely impacted by these delays. It would also not be unusual for an individual's circumstances to change over the course of two years in a way that makes another visa pathway available to them, or means the individual's asylum claim is no longer tenable, for example, because of:

(a) changes in the individual's home country (such as a change in Government), which may mean the individual is no longer at risk of harm or persecution; and

(b) changes to the individual's personal circumstances (for example, if they become employed, or enter into a relationship with someone who is able to sponsor them).

3.5 For these reasons, we query whether these reforms respond to an actual policy problem, and whether they will achieve their stated objective to reduce delays and backlogs within RSU.

3.6 We also note that the amendments in the Bill are the Minister's preferred policy option. Officials have indicated that their preferred option would be to amend section 150 to expressly *preserve* the ability of asylum claimants to apply for other visas once their asylum claim is withdrawn:[11]

> The Minister's preferred option in the Cabinet paper is Option 2 because of the potential to deter spurious claims and prevent misuse of the system. It also has a signalling effect. However, it may have the unintended policy consequence of causing claimants who would have otherwise withdrawn their claims not to withdraw, solidifying the existing backlog. It also allows less flexibility for genuine claimants who may find an alternative immigration pathway (which

7 Withdrawal of claims RIS at [13].
8 Withdrawal of claims RIS at [20] and [54].
9 Withdrawal of claims RIS at [48].
10 Withdrawal of claims RIS at page 1.
11 Withdrawal of claims RIS at [41]-[42].

would ultimately be less costly to the government than a successful asylum claim).

On balance, MBIE's preferred option is Option Three. This is because it provides more flexibility for genuine asylum claimants.

3.7 Any restrictions on an individual's ability to apply for a visa should be supported by compelling reasons and evidence, and subject to appropriate exceptions to avoid disproportionate outcomes for affected individuals. There do not appear to be compelling reasons or evidence to justify the reforms in the Bill, and the concern that some asylum claimants may be misusing the process appears to be based on assumption rather than evidence.

3.8 In our view, the objective of reducing delays and backlogs may be more appropriately met by introducing a process whereby claimants can apply to an immigration officer to withdraw their claim on the basis of a genuine change of circumstances, and give reasons for doing so. The officer could then determine whether the individual has genuine reasons for wanting to apply for a different visa and where this is the case, the individual can apply for a different visa and remove themselves from the asylum system. Such a framework is more likely to promote fairness and integrity within the immigration system, and help reduce backlogs within the RSU.

4 Establishing more significant consequences of providing false and misleading information, and concealing information

4.1 The Bill 'clarifies' some of the consequences for individuals who, either personally or through an agent, provide false or misleading information, or conceal relevant information. These consequences include:

(a) being declined a visa (clause 9, which inserts new section 93(7));

(b) becoming liable for deportation (clause 16(1), which inserts new section 158(1B)); and

(c) having lower prospects of succeeding in an appeal to the Immigration & Protection Tribunal (**IPT**) against deportation liability (clause 21, which inserts new section 202(cb)).

4.2 These are significant consequences, and we query whether they are proportionate in circumstances where:

(a) the individual had no intention of providing false or misleading information or concealing relevant information, and the provision or concealment of this information was merely due to an inadvertent error; or

(b) the information was provided or concealed by the individual's agent without the individual's knowledge.

4.3 While the Act already provides consequences for some instances of providing false and misleading information, and concealing information, these consequences are limited to refusals to grant visas or entry permissions.[12] Deportation liability (which could trigger

[12] Sections 58(6)(a), 112(6)(a) and 187(2)(d)(i).

deportation and cancellation of the residence visa) is a much more significant consequence, which may in certain circumstances be harder to justify as being proportional to the individual's conduct.

4.4 The amendments in the Bill (and existing provisions in the Act) also raise questions as to whether it is appropriate to 'penalise' (and, under clause 16(1) of the Bill, penalise severely) migrants who rely on agents for professional advice and assistance with the visa process (particularly, vulnerable migrants who engage agents because they do not fully understand relevant statutory requirements).

4.5 The Select Committee should seek advice from officials on these matters, and consider whether amendments are necessary to avoid disproportionately harsh outcomes for individuals, particularly in the circumstances identified at [4.2] above.

4.6 We also note the Law Society has previously recommended undertaking a holistic review of the false and misleading information settings within the immigration system, rather than progressing these reforms on a piecemeal basis. We remain of the view that this is necessary. A holistic review could also include consideration of provisions that are already in the Act, and contribute to the design of a new framework that maintains proportionality, improves legal certainty and fairness, and enhances the integrity of the immigration system.

5 New power to revoke entry permission

5.1 Clause 10 of the Bill inserts new section 113A into the Act. This new section will enable immigration officers to revoke entry permissions that are deemed to have been granted to individuals under regulations made under the Act.

5.2 If entry permission is revoked, the individual would become liable for turnaround: this means they could be arrested or detained, and placed on the first available craft leaving New Zealand.[13] The exercise of this power can therefore have serious, and, in some cases, irreversible consequences for individuals.

5.3 New section 113A(2) clarifies this power can be exercised only where "permitted or required by, and only in accordance with, immigration instructions". This is an important limitation on the exercise of this power; however, given the significant consequences it could have for individuals, we recommend the Select Committee consider whether additional safeguards, particularly in relation to the precise scope of the power, should be provided in primary legislation, rather than in immigration instructions. This would also mean the scope of this power could be clarified following public and Parliamentary scrutiny and input.

5.4 If immigration instructions are to safeguard against the arbitrary or inappropriate exercise of this power, they would need to be drafted in a way that:

(a) **Promotes fairness, transparency and accountability, and reduces the risk of errors:** revocation decisions that are made at the border[14] may be based on limited and incomplete information, and made within tight time constraints.

13 Sections 4, 107, 310, 319 440 of the Act.
14 Or elsewhere, under new section 113A(5).

These decisions could also involve individuals who may be experiencing trauma or mental health issues, or be impacted by cultural, language or communication barriers. All of these factors have the potential to increase the risk of errors during the decision-making process (for example, on matters pertaining to the individual's identity, admissibility or protection needs).

The immigration instructions should therefore ensure individuals are not summarily turned around at the border without any opportunity to seek a review of the decision to revoke entry permission. The instructions should require immigration officers to provide reasons for revoking an entry permission, and give affected individuals the opportunity to obtain legal advice and either seek Ministerial intervention,[15] or apply for judicial review where they wish to do so.

(b) **Upholds New Zealand's domestic and international rights obligations**: individuals who would be at risk of harm or persecution in their home country should be given a meaningful opportunity to submit a refugee and protection claim if their entry permission is revoked. This requires giving individuals adequate time to engage a lawyer and put together necessary information and documents to support their refugee and protection claim. Failing to do so risks breaching New Zealand's non-refoulment obligations under the Refugee Convention (noting these obligations apply regardless of the individual's entry status).

5.5 We acknowledge these would not require any amendment to the Bill, but we note these points here for officials to consider when implementing this provision.

6 Removing temporary visa holders' rights to appeal on humanitarian grounds

6.1 The following clauses of the Bill will, if enacted, prevent all visitor visa holders (**visitors**) and all temporary class visa holders who commit a crime from appealing their deportation liability to the IPT on humanitarian grounds:

(a) Clause 12, which replaces section 154 (Deportation liability if person unlawfully in New Zealand);

(b) Clause 13, which amends section 155 (Deportation liability if person's visa granted in error);

(c) Clause 14, which amends section 156 (Deportation liability if visa held under false identity);

(d) Clause 15, which amends section 157 (Deportation liability of temporary entry class visa holder for cause);

(e) Clause 22, which amends section 206 (Who may appeal to Tribunal on humanitarian grounds); and

(f) Clause 23, which amends section 207 (Grounds for determining humanitarian appeal).

15 Under section 109 of the Act.

6.2 In previous feedback to officials, the Law Society noted these amendments represent a significant departure from New Zealand's current legal framework and its human rights commitments.[16]

6.3 Humanitarian appeals from visitors and temporary visa holders can involve New Zealand citizen or resident children, partners, parents, grandparents, and other close family members, as well as circumstances of serious hardship, tragedy, or events that could not have reasonably been anticipated. Members of our Immigration & Refugee Law Committee have observed that, in their experience, a notable proportion of these appeals do ultimately succeed in the IPT – suggesting that genuinely compelling cases do frequently arise, which would benefit from an independent appeal process.

6.4 Removing appeal rights for these individuals could cause serious injustice in exceptional cases, and undermine principles of natural justice, proportionality and judicial oversight, and New Zealand's ability to meet its obligations under both domestic and international law, as we discuss below.

Limits on the right to natural justice

6.5 The RIS identifies that one of the policy objectives of these reforms is to uphold the principles of natural justice by ensuring individuals have an opportunity to give good reasons as to why deportation should not proceed, and to have their liability cancelled in the case of genuine argument against it.[17]

6.6 The right to natural justice is protected under section 27 of the New Zealand Bill of Rights Act 1990 (**Bill of Rights Act**). Core components of this right include the right to procedural fairness in decision-making, the right to be heard and the right to an unbiased decision-maker, all of which are protected by the statutory appeal pathway allowing humanitarian appeals from visitors and temporary visa holders. Removing the right to appeal to the IPT can therefore limit the right to natural justice, and mean affected visa holders could be deported without any opportunity to present humanitarian considerations. This risks undermining the fairness and integrity of the deportation process.

6.7 The RIS states the limits on natural justice are mitigated because the Bill maintains alternative avenues for individuals to be heard, such as judicial review.[18] In our view, these alternative avenues are inadequate, and do not sufficiently mitigate the limits on the right to natural justice:

(a) Ministerial intervention would be in the Minister's absolute discretion, and would not necessarily involve consideration of an individual's humanitarian circumstances, or result in the cancellation of an individual's liability for deportation.[19] This process therefore lacks transparency, accountability and consistency in decision-making.

16 A copy of that feedback is appended to this submission.
17 Humanitarian appeals RIS at page 13.
18 Humanitarian appeals RIS at pages 10 and 14-15.
19 Section 172(5) of the Act.

It is also worth noting that requests for Ministerial intervention are often considered by delegated decision-makers who are senior immigration officers. Decisions made in this way are less likely to constitute an independent review of the applicant's circumstances.

(b) The alternative option of providing "good reasons" as to why a deportation should not proceed[20] shifts the consideration of an individual's circumstances from the IPT to an immigration officer. While the IPT is required to consider humanitarian grounds as prescribed in section 207, immigration officers would not be required to do the same. Members of the Law Society's Immigration & Refugee Law Committee have also noted that, in their experience, compliance officers do not generally change their decision on the basis of good reasons, and are often overruled on this point when matters are subsequently appealed to the IPT on humanitarian grounds.

(c) Both this option, and the Ministerial intervention option discussed above, also prevent the IPT from maintaining independent judicial oversight of the exercise of Executive power during the deportation process. Judicial oversight helps to uphold the rule of law by reducing the potential for the arbitrary or inappropriate exercise of Executive powers. The removal of this oversight mechanism therefore has the potential to weaken the rule of law.

(d) Judicial review would be confined to re-examination of the decision-making process, and not the facts and merits of the case (except where the decision was unreasonable). Further, it would not enable the Court to overturn a decision to issue a deportation liability notice, or to stay a deportation while an application is being determined. Judicial review proceedings are also expensive, and legal aid may not always be available to applicants (noting legal aid is currently available for appeals to the IPT). While the issue of costs being prohibitive is briefly referenced in the RIS,[21] this issue is not addressed by the amendments proposed in the Bill.

(e) Similarly, complaints to the Office of the Ombudsman (a further option suggested in the RIS)[22] cannot result in a requirement that visas are granted, or deportations stayed, as the Ombudsman only has the power to make non-binding recommendations.

6.8 It is worth noting these limitations on natural justice are not identified or discussed in the Ministry of Justice's advice on the Bill's consistency with the Bill of Rights Act.

Breach of international obligations

6.9 The humanitarian appeals pathway is a forum for considering important humanitarian circumstances that are specific to each case – these include the best interests of children, family life and family unity considerations, the length and strength of connections to New

20 Sections 155(2), and 157(2) of the Act and clause 14 of the Bill.
21 Humanitarian appeals RIS at page 15.
22 Humanitarian appeals RIS at page 14.

Zealand, the situation in the individual's home country, and any potential risk of harm on the individual's return.

6.10 It is unlikely these matters would be considered in detail as part of the alternative appeal pathways that will remain available to visitors and temporary visa holders. Where that is the case, these amendments could lead to inconsistencies with New Zealand's international obligations, including under:

(a) the United Nations Convention on the Rights of the Child (for example, where a child is involved and the parent's deportation is not in the best interests of the child); and

(b) the International Covenant on Civil and Political Rights (**ICCPR**) and the International Covenant on Economic, Social and Cultural Rights (**ICESCR**), both of which protect the right to family life.[23]

6.11 These inconsistencies could also expose New Zealand to international complaints, for example to the United Nations Human Rights Committee, which monitors compliance with the ICCPR.

Disproportionate outcomes for some visa holders

6.12 The amendments in the Bill prevent *all* visitors, and *all* temporary visa holders who commit an offence, from appealing to the IPT on humanitarian grounds. The blanket application of these amendments could result in disproportionate outcomes, for example, for:

(a) 'temporary residents' who have lived in New Zealand for years (sometimes decades), and have strong connections to New Zealand (including, for example, to New Zealand citizen partners or children), and then commit a minor offence (for example, a traffic-related offence);

(b) temporary visa holders who are on pathways to obtaining residence visas, and commit a minor offence;

(c) temporary visa holders who have pleaded guilty, been found guilty, or been convicted of an offence *overseas*:

(i) and there are concerns as to the legitimacy of the conviction (for example, where an individual was coerced into pleading guilty, or where an individual was convicted outside of a rights-compliant justice system); or

(ii) which relates to conduct that does not constitute an offence in New Zealand; or

(iii) and the conviction was subsequently overturned, or the visa holder was pardoned or their conviction was concealed under a clean slate scheme; or

[23] Article 23 of the ICCPR and Article 10 of the ICESCR.

(d) visitors whose circumstances suddenly change for reasons outside of their control (for example, due to war, natural disasters, medical emergencies, or serious illness of New Zealand-based family members).

Impacts on other aspects of justice and immigration systems

6.13 The RIS discusses how the removal of humanitarian appeal rights might "shift the burden to the High Courts as Judicial Review would become one of the only ways to challenge deportation liability".[24] The RIS notes this is likely to be a "small increase";[25] however, we query whether that will be the case, given the potential for judicial review applications to be framed around natural justice, disproportionality, unreasonableness, and failure to consider mandatory relevant considerations.

6.14 There is also a likelihood that the removal of this appeal pathway will result in an increase in the number of refugee and protection claims (and we note these impacts are not discussed in the RIS). The Law Society understands the RSU is already experiencing a significant increase in refugee and protection claims, and the challenges and pressures of this increase has resulted in delays in making determinations and a backlog of unassigned and undetermined claims.[26] Further increases to the RSU's workload would exacerbate these delays and backlogs.

Erosion of public confidence

6.15 Finally, there is a risk that the removal of an appeal pathway which enables independent, reasoned and transparent decisions regarding humanitarian circumstances could reduce accountability within the immigration compliance system, and ultimately erode public confidence in the credibility of the system. Poor public perception of the immigration compliance system could impact New Zealand's international reputation as a country that upholds fundamental human rights and maintains transparency.

Next steps

6.16 The IPT is an independent, specialist, and transparent decision-making body that is well-placed to take into account humanitarian and public interest factors, as well as domestic and international legal obligations, when deciding whether to allow an appeal. The right to appeal to the IPT is subject to a high threshold and robust public interest safeguards, ensuring that only the most compelling cases succeed.

6.17 We believe this remains the most appropriate process for independent, merits-based consideration of whether there are exceptional circumstances of a humanitarian nature that makes it unjust or unduly harsh to deport an individual. In our view, it would not be appropriate to remove this appeal process for the purpose of increasing the speed of the deportation process, as suggested in the RIS.[27]

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24 Humanitarian appeals RIS at page 15.
25 Humanitarian appeals RIS at page 4.
26 Ministry of Business, Innovation and Employment *Regulatory Impact Statement: Clarifying section 150 of the Immigration Act 2009 to prevent asylum claimants who withdraw their claims from applying for further visas* (26 May 2025) at [3].
27 Humanitarian appeals RIS, for example, pages 8 to 12

6.18 If it is necessary to increase the speed of the deportation process, the Select Committee could instead consider:

(a) whether there are other policy options which either do not require the removal of appeal rights (for example, increasing resources available to the IPT and Immigration New Zealand (**INZ**) to enable both bodies to process matters more quickly);[28] and

(b) whether a more graduated framework for restricting access to humanitarian appeals (which takes into account exceptional circumstances such as those we have identified above) would offer a more proportionate and rights-consistent approach to meeting the underlying policy objectives.

7 Expanding the circumstances in which residents can become liable for deportation

7.1 Clause 17 and new clause 10 in Schedule 1 propose to expand the circumstances in which residence class visa holders (**residents**) could become liable for deportation in two ways:

(a) By making deportation liability a more likely outcome for residents who commit certain types of offences; and

(b) By expanding the range of false and misleading submissions that make a resident liable for deportation.

7.2 These amendments weaken long-standing protections afforded to residents with strong ties to New Zealand, and raise concerns, including regarding proportionality and fairness, as we discuss below. These concerns are heightened when the amendments in clause 17 are read alongside:

(a) New clause 10 in Schedule 1 of the Bill, which provides that the amendments in clause 17 will have retrospective effect, and apply to residents regardless of whether their residence class visa was granted before, on, or after the commencement date.

(b) The amendments that will soon be made to section 161(1) by the Immigration (Fiscal Sustainability and System Integrity) Amendment Act 2025: section 20 of that Act will expand section 161(1) so it applies not only those who are convicted of a specified offence, but also to those who are found guilty of, or plead guilty to, such an offence.

Deportation liability for historic crimes committed outside New Zealand (clause 17(1))

7.3 Clause 17(1) provides that residents who have committed offences outside New Zealand before they were granted a visa are now liable for deportation. This clause, and the

[28] The IPT suggested preventing people from getting a stay to appeal to the High Court or Court of Appeals (Humanitarian appeals RIS at page 15).

corresponding provisions in clause 10 of Schedule 1, do not offer any flexibility to exclude convictions and guilty pleas/findings in other jurisdictions where:

(a) there are concerns as to their legitimacy (for example, where an individual was coerced into pleading guilty, or where an individual was convicted outside of a rights-compliant justice system);

(b) they relate to conduct that does not constitute an offence in New Zealand; or

(c) the conviction is subsequently overturned, or the convicted individual is subsequently pardoned or their conviction is concealed under a clean slate scheme.

7.4 We also note the Ministry of Justice has emphasised that deportation liability provisions must sit within a graduated framework in order to maintain proportionality between the various 'tiers' of offending, as well as between the consequences of offending and the harm caused by the offence.[29] While the Bill provides a graduated framework for offences that are committed *after* an individual is granted a visa, there is no equivalent framework for offences that are committed *before* an individual is granted a visa. As currently drafted, clause 17(1) would trigger deportation liability for *all* historic offending, including very minor offending. This could result in harsh and disproportionate consequences, for example, where an individual committed a very minor offence many years ago.

Extending the liability period for 'lower-end offending' (clause 17(2))

7.5 Clause 17(2) amends section 161(1)(a) of the Act, and extends the liability period for 'lower-end offending' (i.e., offences with a maximum penalty of three months' imprisonment) from two years to five years.

7.6 Section 161(1)(a) of the Act currently captures a wide range of offending, including anti-social offending[30] and strict liability offending[31], where culpability can vary significantly. Extending the liability for this type of lower-end offending from 2 years to 5 years risks capturing long term residents for minor offending committed years earlier, and resulting in disproportionate outcomes for these residents.

7.7 Officials have commented that:[32]

> The Minister was most interested in consequences for serious offending. In response we developed the proposed options, which also extend deportation liability at the lower end of offending and time someone has held an RCV to keep it proportional and maintain a graduated framework as emphasised by the MOJ.

7.8 While this approach might maintain proportionality between the various tiers of offending in section 161(1), it could also, in some circumstances, mean the consequences

29 Deportation liability RIS at pages 10 and 12.

30 For example, disorderly behaviour under section 3 of the Summary Offences Act 1981, disorderly assembly under section 5A of that Act, and associating with convicted thieves under section 6 of that Act.

31 For example, operating a motor vehicle recklessly under section 35 of the Land Transport Act 1998.

32 Deportation liability RIS at page 12.

for an individual (deportation liability, and potentially, deportation) are disproportionate to the harm caused by the offence committed by the individual. Where that is the case, the Bill is unlikely to give effect to the underlying policy objective of ensuring the consequences of offending are proportionate to the harm caused by each offence identified in section 161(1) of the Act.

7.9 We therefore invite the Select Committee to consider whether the graduated framework in clause 17(2) requires adjustment to ensure proportionate outcomes for residents.

Inadequate safeguards

7.10 The amendments in the Bill will require individuals who cannot be deported on humanitarian grounds to either succeed in a humanitarian appeal to the IPT,[33] or have their deportation liability cancelled by the Minister.[34]

7.11 While the humanitarian appeal pathway acts as a safeguard against deportations that would, for example, breach New Zealand's international obligations, it requires individuals to satisfy the high threshold of establishing "exceptional circumstances" before the IPT can consider whether it would be unjust or unduly harsh to deport the appellant from New Zealand, and whether it would be contrary to the public interest to allow the appellant to remain in New Zealand.[35] This means residents would need to overcome the additional hurdle of satisfying these tests in order to remain in New Zealand for humanitarian reasons.

7.12 We also note that Ministerial intervention may not necessarily result in a resident's deportation liability being cancelled. The Act empowers the Minister to make these decisions in the Minister's absolute discretion,[36] which means the Minister need not consider humanitarian circumstances, or provide reasons for refusing to cancel the person's liability for deportation.

7.13 These pathways for remaining in New Zealand will therefore not be suitable in all circumstances.

Impacts on the IPT

7.14 It is also possible that residents who become liable for deportation as a result of these amendments would look to appeal to the IPT on humanitarian grounds in an attempt to avoid deportation. If this occurs, the amendments will result in an increased number of appeals to the IPT on humanitarian grounds. Officials have noted that "there may be a small increase in appeals to the IPT but this is expected to be minor".[37] However, we query whether this is a reasonable assumption, given officials have identified there is no reliable data regarding the potential impact these changes are likely to have.[38]

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33 Under section 161(2)(a) of the Act.
34 Under section 172 of the Act.
35 Section 207 of the Act.
36 Section 172(5).
37 Deportation liability RIS at page 16.
38 Deportation liability RIS at page 16, where officials confirm they have "not been able to reliably estimate the number of people likely to become liable for deportation if deportation liability settings were expanded".

Next steps

7.15 For the above reasons, the Law Society does not support clause 17 of the Bill or clause 10 in Schedule 1. If the Select Committee considers it is necessary to expand the deportation liability provisions to achieve underlying policy objectives, it should seek to modify the framework in the Bill to address the issues we have identified in this submission, and ensure proportionate outcomes for impacted residents.

7.16 The IPT would also need to be well-resourced to deal with the potential increase in appeals in a timely way.

8 Enabling victims of offending to submit on deportation liability proceedings

8.1 The Bill would enable the victim of an offence to:

(a) make a submission to the Minister when the Minister is determining whether to suspend or cancel the offender's liability for deportation (clause 19, which amends section 173 of the Act); and

(b) make submissions to the IPT during the offender's humanitarian appeal (clause 24, which amends section 208).

8.2 The Act already permits victims to be heard when the offence against them is the basis of the offender's deportation liability. The Bill would expand the pool of victims to include victims of offences that are *not* the basis of the deportation liability. The Law Society has previously objected to this change,[39] noting that the Immigration Act and the Victims' Rights Act 2002, when read together, suggest the right of victims to make submissions in deportation liability proceedings should be confined to those who are victims of the offence that forms the basis for the deportation action. Section 173 of the Immigration Act is currently explicit in this regard, requiring the Minister to consider submissions from victims of the relevant offence only. While section 48 of the Victims' Rights Act is less specific, its cross-reference to the Immigration Act, and the context of that legislative scheme suggests it should be interpreted consistently with the more detailed provisions of the Immigration Act.

8.3 We also note the policy rationale for this change is unclear. The IPT has confirmed it already considers impacts on victims when deciding appeals, and making this a statutory requirement is unlikely to change the way they consider appeals.[40] As a result, it is unclear what purpose these amendments seek to achieve.

8.4 Expanding this right to include unrelated crimes would also have significant practical and procedural implications: it could increase the complexity and length of deportation proceedings, and potentially encourage the introduction of evidence and arguments that are only tangentially related to the core issues (including historic offending that is unrelated to deportation liability). There is a risk that such submissions could prejudice the fairness of the process, particularly if they are not directly relevant to the grounds for deportation or the assessment of humanitarian factors.

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39 See pages 21-22 of the Appendix.

40 Deportation liability RIS at page 3.

8.5 It is also unclear how this proposal would be implemented in practice. For example:

(a) Would INZ be expected to proactively identify and notify all victims of all unrelated offences of their ability to submit on deportation liability proceedings? If so, how would INZ go about this task?

(b) If an individual alleges they are a victim of an unrelated offence, and asks to submit on a deportation liability proceeding on that basis, how would INZ ensure the individual is in fact who they claim to be (noting this could be particularly difficult where the offending is historic, or occurred overseas)?

8.6 While these matters might be relatively straightforward under the current statutory regime (where only the victim(s) of the offence giving rise to deportation liability is able to make a submission), they raise practical concerns when the scope of victims who can submit is broadened. We therefore recommend deleting clauses 19 and 24 of the Bill.

8.7 If these clauses are to remain despite the concerns we have raised, we suggest amending the Bill to clarify the types of offending that would trigger a victim's right to be heard. The current drafting of the Bill gives rise to inconsistent language:

(a) the Explanatory Note of the Bill states these provisions concern victims of 'serious offences';

(b) clauses 19 and 24 then refer to victims of 'offences'; and

(c) the term 'victim' in the Act is defined with reference to 'specified offences' in the Victims' Rights Act 2002.[41]

8.8 To avoid confusion, we suggest replacing the term 'serious offences' in the Explanatory Note of the Bill with the term 'offences' to ensure consistent language throughout the Bill and the Act.

9 Broader powers to request information and seize documents

9.1 The Act currently enables immigration officers to request information, and to seize identity documents where they have good cause to suspect someone is liable for deportation or turnaround.

9.2 The following clauses propose to expand these powers, and empower immigration officers to request information, and to seize identity documents where they have good cause to suspect someone *may be* liable for deportation or turnaround, or is breaching, or may be breaching, their visa conditions*:*

(a) Clause 26, which replaces section 280;

(b) Clause 27, which amends section 281;

(c) Clause 32, which amends section 309; and

(d) Clause 33, which amends section 310.

9.3 The RIS notes these amendments seek to:

41 Sections 173(6) and 208(7).

(a) improve the effectiveness of compliance and enforcement by equipping officers with powers that would enable them to identify immediately whether a person may be unlawfully in New Zealand, or subject to a deportation liability notice (the **primary objective**);[42] and

(b) reduce negative outcomes for migrants, as unlawful people are "more vulnerable to exploitation or living in precarious situations" (the **secondary objective**).[43]

9.4 The Law Society does not support these amendments. The current legal framework already provides robust information-gathering powers that are subject to important safeguards designed to protect individual rights and ensure procedural fairness. While the requirement for 'good cause' and the provision of information to the affected person remain, these powers risk undermining the balance between effective enforcement and the protection of privacy, due process, and rights guaranteed under sections 21, 22 and 27(1) of the Bill of Rights Act, which protect the right to natural justice and the rights to be free from unreasonable search or seizure, and arbitrary arrest and detention. We discuss these concerns in more detail below.

Limits on the right be secure against unreasonable search or seizure

9.5 Section 21 of the Bill of Rights Act affirms that everyone has the right to be secure against unreasonable search or seizure. This right seeks to protect individuals' personal property, dignity, and privacy.[44]

9.6 The Ministry of Justice has identified that the exercise of the powers proposed in the Bill would constitute a search or seizure for the purposes of section 21 of the Bill of Rights Act.[45] We agree these powers engage section 21 of the Bill of Rights: they have the ability to compel the provision of personal identifying information, production of identity documents, surrender of those documents, and disclosure of where they are held.

9.7 Section 21 is an important constraint on the exercise of state power, and any limits on the exercise of these powers must be reasonably justified and subject to judicial oversight.[46] Despite the significance of these powers, the RIS does not include a detailed assessment of whether the provisions in the Bill will place unreasonable and unjustifiable limits on this right: it simply identifies that these provisions will infringe on migrants' rights to privacy and the right to be secure against unreasonable search or seizure,[47] and concludes that these limits are reasonable.[48]

9.8 The Ministry of Justice has considered the limits on the section 21 right in more detail:[49] its advice on the Bill's consistency with the Bill of Rights Act notes (correctly) that the

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42 Ministry of Business, Innovation and Employment *Regulatory Impact Statement: Enabling more effective compliance powers for immigration purposes* (4 June 2025) (**Search and seizure RIS**) at [28].

43 Search and seizure RIS at [29].

44 BORA advice at [15], referring to *Hamed v R* [2011] NZSC 101, [2012] 2 NZLR 305 at [161].

45 Ministry of Justice *Consistency with the New Zealand Bill of Rights Act 1990: Immigration (Enhanced Risk Management) Amendment Bill* (6 March 2026) (**BORA advice**) at [17].

46 See *Dotcom v Her Majesty's Attorney-General* [2014] NZSC 199.

47 Search and seizure RIS at [45].

48 Search and seizure RIS at page 13.

49 BORA advice at [19].

reasonableness of a search power can be assessed with reference to the purpose of the search and the degree of intrusion on the values which the right seeks to protect (i.e., dignity, privacy, and the protection of personal property). However, the Ministry concludes the powers in the Bill are consistent with its purposes and are reasonable in the circumstances because they apply to information that will assist immigration officers in carrying out their core functions in relation to border security and broader immigration compliance.[50] We disagree with this assessment and conclusion.

9.9 New section 280 in clause 26 does not clearly specify what constitutes 'good cause to suspect' that an individual may be liable for deportation and turnaround, or may be breaching visa conditions. It therefore grants a very broad power to immigration officers without any clear constraints as to when the exercise of this power might be appropriate and proportionate in the circumstances. While section 280 of the Act already includes the requirement that there be 'good cause to suspect' a person, this power is exercised in much narrower circumstances than those contemplated in the Bill (as noted at [9.2] above). The inclusion of this requirement in new section 280 is therefore not an adequate constraint on the exercise of these powers.

9.10 The absence of clear constraints creates scope for the arbitrary and inconsistent exercise of these powers, as well as discrimination against certain individuals, and could result in disproportionately harsh outcomes for individuals (particularly where the individual becomes liable to arrest and detention under clause 32).

9.11 The Ministry of Justice's analysis also lacks careful consideration of the consequences the exercise of the powers could have on individuals. Clauses 32 and 33 could result in the seizure of an individual's identity documents (which are central to the individual's personal autonomy, movement, and proof of status), as well as liability for arrest and detention, and potentially, deportation from New Zealand. These are severe consequences, and care must be taken to ensure they are proportionate to the objectives of these amendments.

9.12 Together, these concerns cast doubt on the Ministry of Justice's advice that these provisions in the Bill place only reasonable and justifiable limits on the right to be secure against unreasonable search or seizure. They also raise concerns as to whether these amendments will give effect to the secondary objective of these reforms (to reduce negative outcomes for migrants).

Limits on other rights

9.13 The search and seizure provisions in the Bill also engage other rights affirmed in the Bill of Rights Act:

(a) If an individual fails to provide information or surrender an identification document, they will become liable to arrest and detention under sections 309 and 310 of the Act (as amended by clauses 32 and 33 of the Bill). These search and seizure provisions in the Bill therefore also engage the right not to be arbitrarily arrested or detained (affirmed in section 22 of the Bill of Rights Act).

50 BORA advice at [20].

(b) The amendments enabling the seizure of identity documents also engage the right to natural justice, affirmed by section 27(1) of the Bill of Rights Act. While the Bill requires immigration officers to inform individuals of their suspicions when exercising search and seizure powers, there is no express requirement for independent review before surrender is demanded, no stated time limit for return of surrendered documents, and no express mechanism for contesting the necessity of surrender at the point of exercise. These raise questions as to whether the amendments in the Bill place reasonable and justifiable limits on the right to natural justice, as required under section 5 of the Bill of Rights Act.

(c) Immigration compliance powers are typically exercised in circumstances where an individual's nationality, place of birth, ethnicity, or language (which are all prohibited grounds of discrimination under the Human Rights Act) could influence suspicion. It is therefore possible the exercise of search and seizure powers in the Bill could engage the right in section 19 of the Bill of Rights Act to be free from discrimination on the grounds of discrimination in the Human Rights Act 1993.

9.14 The Law Society is concerned to see the Bill and related materials do not discuss whether, and to what extent, these rights are engaged in relation to the amendments in clauses 26, 27, 32 and 33, and whether any limitations on these rights are reasonable and justifiable, as required by section 5 of the Bill of Rights Act.

9.15 Similarly, there is little discussion in the RIS and other accompanying material of the infringement of the right to privacy. Information regarding an individual's identity, nationality and residential address, and documentary proof of identity, constitute personal information, and engage a reasonable expectation of informational privacy. While privacy is inherent in the section 21 right to be secure against unreasonable search and seizure, we consider it also warrants consideration as a standalone right recognised under Privacy Act 2020 and the ICCPR.[51]

Impacts on the privilege against self-incrimination

9.16 The amendments in clauses 26, 27, 32 and 33 do not appear to sit comfortably alongside privilege against self-incrimination (recognised in section 60 of the Evidence Act 2006). Where a person is required to produce information or identification in the context of suspected violation of visa conditions or unlawful presence in New Zealand, questioning from an immigration officer could bleed into questions that violate that privilege. Again, the materials relating to the Bill do not discuss these points.

Impacts on transparency and accountability

9.17 The Bill does not require immigration officers exercising these powers to record or provide reasons as to why they believe they have good cause to suspect an individual, or to identify any factors which give rise to such suspicions. This has the potential to reduce transparency and accountability within the immigration compliance process.

51 Article 17.

Next steps

9.18 For the reasons given above, the Law Society recommends deleting clauses 26, 27, 32 and 33.

9.19 If the Select Committee determines that these provisions must remain in the Bill, we recommend seeking advice from officials regarding the rights impacts identified above, as well as on the privilege against self-incrimination, and considering whether amendments to the Bill could address the concerns we have raised in this submission.

9.20 We also recommend making the following amendments to constrain the exercise of these search and seizure powers, and to improve transparency and accountability within this enforcement framework:

(a) Clarifying what constitutes 'good cause to suspect' an individual, and prescribing in the legislation any factors that must guide the exercise of discretion under these clauses.

(b) Requiring immigration officers to provide written reasons for requesting information and the surrender of identity documents.

(c) Establishing a process for individuals to challenge the surrender of their identity document.

(d) Amending new section 280(2) in clause 26 to remove the ability of an immigration officer to do "1 or more" of the things listed in subsection (3). As currently drafted, this subsection could have disproportionate consequences where it allows an immigration officer to immediately require a person to produce their identity documents for inspection upon their suspicion that the person "may be" liable for deportation or breaching a visa condition. If the person supplies their full name, date of birth, country of birth, nationality and residential address, that should suffice for the purposes of conducting the checks necessary to ensure that the person is complying with visa conditions. There would then be no need to compel the person to produce an identity document unless the officer had a good reason to suspect that the person was deliberately misleading the officer about their identity and/or visa status. A more proportionate structure of the powers in subsection (3) would be to first require the person to supply their full name and other details, and if there is good reason to suspect that they were deliberately misleading the officer, the officer may then compel them to produce identity documents or advise where their identity documents may be found.

10 Decisions regarding residence and reporting requirements agreements

10.1 Clause 34 and clause 11 of Schedule 1 of the Bill amend section 315 of the Act to remove the qualification that decision-making regarding residence and reporting requirements agreements is to be in the immigration officer's absolute discretion. This change would enable greater transparency, accountability, fairness and compliance with human rights obligations by requiring officers to consider applications on their merits and provide reasons for their decisions. The Law Society supports this change.

10.2 The Select Committee could also consider whether it would be appropriate to specify any factors immigration officers would need to consider when deciding whether to offer or agree to residence and reporting requirements. These could be set out in primary legislation, and be accompanied by operational standards and guidance which require immigration officers to record reasons for their decisions. These additional measures could help enhance consistency and transparency within the decision-making process.

11 Deterring migrant exploitation

11.1 Clauses 36 to 39 of the Bill seek to deter employers from exploiting migrant workers by:[52]

(a) replacing section 357 of the Act, and increasing the penalties for migrant exploitation from seven years to ten years;

(b) amending section 359A to clarify that an employer who provides incorrect or incomplete information to an immigration officer, or fails to provide information required under section 277, commits an infringement offence; and

(c) amending section 360 to extend the timeframe for issuing infringement notices for certain employer infringement offences.

11.2 The Law Society supports principled efforts to strengthen employer accountability and address migrant exploitation. However, any legislative amendments must be proportionate, evidence based, and assessed against their likelihood of deterring exploitation and improving system integrity, as we discuss below.

Increase to penalties (clause 36)

11.3 Offending under section 351 of the Act can involve serious conduct and cause significant harm to migrant workers. It is therefore appropriate to periodically review the penalties for these offences to ensure they continue to reflect the gravity of the offending.

11.4 However, any changes to maximum penalties must remain evidence-based and proportionate. The current 7-year maximum sentence was introduced to reflect Parliament's assessment of the seriousness of the offence at the time, and any increase requires clear justification, including evidence that a longer maximum sentence is necessary to achieve improved deterrence, accountability, or protection outcomes.

11.5 While the RIS discusses how the current maximum penalty has influenced the penalties for exploitation offences,[53] it does not present evidence which confirms that deterrence has been undermined by the current maximum penalty, or that victim protection would be materially improved by a lifting the maximum sentence. Lawyers who practise in this area have noted that, in their experience, accountability gaps are more often caused by detection, investigation and resourcing challenges, rather than by constraints imposed by current statutory maximum penalties.

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52 Ministry of Business, Innovation and Employment *Regulatory Impact Statement: Strengthening immigration penalties for non-compliant and exploitative employers* (12 June 2025) (**Migrant exploitation RIS**) at [32].

53 Migrant exploitation RIS at [26].

11.6 In the absence of evidence regarding the effectiveness of these reforms, we query whether the underlying policy objective could be better achieved by:

(a) improving consistency in how investigations are conducted, and how enforcement action is taken;

(b) allocating additional resources to increase investigative capacity; and

(c) strengthening other victim protection mechanisms, including the operation of Migrant Exploitation Protection Visa (**MEPV**) (as discussed below).

11.7 An increase to the maximum penalty could be appropriate if credible evidence regarding its effectiveness becomes available. However, any increase should be accompanied by careful consideration of proportionality and coherence across the Act, and should not be a substitute for stronger measures for detecting, investigating, and holding a greater number of exploitative employers to account in the first place.

New infringement offences (clause 38)

11.8 Clause 38 expands section 359A of the Act by:

(a) creating a new infringement of providing incorrect or incomplete information to an immigration officer; and

(b) providing that a failure to comply with a requirement under section 277 of the Act is an infringement offence.

11.9 Lawyers have observed that such conduct is frequently used to obstruct compliance activities under the Act, and to frustrate employer accountability. The Law Society therefore supports clause 38 as a measured and proportionate expansion of the infringement regime. However, the effectiveness of these amendments will depend on whether they will be accompanied by measures to improve the identification of these offences (and these include, for example, measures to support migrant workers who report exploitation). These issues are discussed further in relation to clause 39.

Extending the timeframe for issuing an infringement notice (clause 39)

11.10 Clause 39 inserts new section 360(4) so that, for specified employment infringement offences under section 359A, the timeframe for issuing reminder notices and notices of hearing is extended from six months to six years from the date on which the infringement offence is committed.

11.11 We note this is not one of the reform options considered in the RIS (the RIS only analyses the status quo against extensions up to either 90 days or 9 months after becoming aware of the offending).[54] As a result, it is unclear whether such a significant extension could be justified when officials have identified that "the vast majority of cases" are discovered within six months of the offence being committed.[55] In our view, clause 39 should remain in the Bill only if there is evidence to suggest the proposed extension to the notice period from six months to six years is necessary to deter exploitation.

54 Migrant exploitation RIS at pages 16-20.
55 Migrant exploitation RIS at page 18.

Other improvements needed to the infringement scheme

11.12 Research has identified that the low levels of employer accountability could be attributed to offending employers 'falling out of the system' at various stages of the infringement scheme, including the initial reporting, triaging and referral processes that must be completed before a notice can be issued.[56] The amendments in this Bill will not address those gaps in the infringement scheme.

11.13 In our view, improvements are also needed to other aspects of the infringement scheme. In particular, there should be greater emphasis on encouraging and facilitating reports of exploitation in the first instance, for example, by:

(a) enabling victims of exploitation to extend their MEPV for an additional period of at least six months;

(b) reducing the burden on victims by moving away from the heavy reliance on sustained victim engagement with the infringement process;

(c) enabling civil proceedings (for example, for the recovery of wages) to progress alongside enforcement action under the infringement scheme (noting the civil proceeding would focus on remedies for the victim, and enforcement action would focus on sanctions and deterrence); and

(d) ensuring there is adequate resourcing and specialist enforcement capability to effectively carry out enforcement tasks such as forensic examinations of employment records.

11.14 The Law Society therefore invites the select committee to consider clauses 36 to 39 of the Bill not as discrete amendments, but as part of a much broader system that must work coherently to prevent exploitation and uphold the integrity of New Zealand's immigration framework. Improving employer accountability requires more than higher penalties and longer enforcement tail-ends: it requires a more holistic review of both the policy and operational settings of the scheme, and processes that enable victims to report exploitation safely, support those who assist victims, and equip agencies to act effectively.

Jesse Savage
Vice-President

56 Dhilum Nightingale *Migrant Exploitation in Aotearoa New Zealand: Improving Employer Accountability* (December 2025).

APPENDIX

Stakeholder feedback template
Consultation on exposure draft of the Immigration (Enhanced Risk Management) Amendment Bill

General comments

This feedback has been prepared with input from members of the New Zealand Law Society's Immigration & Refugee Law Committee. The short consultation timeframe and the limited background information available to us has meant we have not been able to meaningfully engage with these proposals and provide detailed feedback. The highly confidential nature of this consultation has also meant we have been unable to seek feedback from the wider profession and other relevant law reform committees, particularly our Criminal Law Committee and Human Rights & Privacy Committee.

We also note that some of our earlier verbal feedback has not been accurately represented in the *Appendix 2: Summary of proposals* document. For example, the document refers to stakeholders (including the Law Society) being 'supportive' of some of the proposals where that has not been the case. While we may not have expressed specific concerns at the time (for example, because of limited information being made available to us at the time), or may have remained neutral on some proposals (for example, where they engage policy matters outside our remit), it is not correct to represent those discussions as support for those proposals.

Proposal 1	Do you support this proposal?	Comments
Make deportation a more likely consequence at both the higher and lower ends of offending, across a longer period of residence in New Zealand, and enhance our ability to deport resident class visa holders who commit the most serious offences, by setting out factors that the IPT must consider when determining appeals.	Do not support	These proposals raise significant legal and human rights concerns, and risk undermining established protections for residents, particularly in relation to proportionality, humanitarian considerations, and New Zealand's international obligations. The materials relating to the Bill do not include any analysis or detailed consideration of these points. We also note the Education and Workforce Select Committee is still to report to the House on the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill 138-1 (which will make a significant amendment to section 161 of the Immigration Act 2009), and further amendments could be made to section 161 as that Bill progresses through the House. As a result, it is difficult to comment on precisely how the changes in this Bill will interact with section 161 of the Act.

		In our view, these reforms should only be progressed following a holistic review of the policy settings relating to the entire deportation liability framework for both temporary and resident class visa holders. This review should: • be evidence-based; • include careful consideration of interactions with the criminal jurisdiction and the Sentencing Act 2002; • ensure any new framework is consistent with the New Zealand Bill of Rights Act 1990 (**NZBORA**); • ensure compliance with New Zealand's international obligations under the 1951 Convention Relating to the Status of Refugees, the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the 1966 International Covenant on Civil and Political Rights; and • strike an appropriate balance between the rights and interests of the affected person in each case, the public interest, and the integrity of the immigration system. We also note that recent case law demonstrates that the IPT already considers the seriousness of offending, the public interest, and humanitarian factors (and the IPT has also confirmed this at page 2 of the *Summary of proposals* document). Any legislative changes must preserve the Tribunal's ability to conduct a nuanced, case-by-case assessment to avoid unjust or disproportionate outcomes.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Key Bill clauses	Stakeholder comments / suggestions for improvement
Clause 18, s161 amended (Deportation liability of residence class visa holder convicted of criminal offence)	

Key Bill clauses	Stakeholder comments / suggestions for improvement
New Part 4 inserted into Schedule 1AA, 8 (Application of amendments affecting deportation liability of residence class visa holder convicted of criminal offence)	

Proposal 1a	Do you support this proposal?	Comments
Clarify the range of false and misleading submissions that make a resident class visa holder liable for deportation	Choose an item.	See our comments above. We also recommend undertaking a more holistic review of the false and misleading information settings, rather than progressing these reforms on a piecemeal basis. The current strict liability approach can result in harsh and disproportionate outcomes, particularly for individuals who are not personally culpable. A holistic review of these settings, and the types of false and misleading information that should trigger deportation liability, could help improve legal certainty, fairness, and the integrity of the immigration system.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Key Bill clauses	Stakeholder comments / suggestions for improvement
Clause 4(2), s4 amended (Interpretation – definition of 'immigration matter')	
Clause 6, s28 amended (Automated decision making in relation to visas, etc)	
Clause 10, s93 amended (Obligation to inform of all relevant facts, including changed circumstances)	
Clause 17, s158 amended (Deportation liability of residence class visa holder due to fraud, forgery, etc)	

Key Bill clauses	Stakeholder comments / suggestions for improvement
Clause 21, s201 amended (Persons who may appeal to Tribunal on facts)	
Clause 22, s202 amended (Grounds for determining appeal on facts)	
Clause 35, s342 amended (Provision of false or misleading information)	
New Part 4 inserted into Schedule 1AA, 7 (Application of amendments affecting deportation liability of residence class visa holder due to fraud, forgery, etc)	

Proposal 1b	Do you support this proposal?	Comments
Extend deportation liability to include historic crimes	Choose an item.	See our comments under Proposal 1 above.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Key Bill clauses	Stakeholder comments / suggestions for improvement
Clause 18(1), s 161 amended (Deportation liability of residence class visa holder convicted of criminal offence)	

Proposal 1c	Do you support this proposal?	Comments
Clarify when the time resets for deportation liability	Choose an item.	See our comments under Proposal 1 above.

Submissions are subject to the Official Information Act 1982. Please outline clearly any objections you may have to the release of any information in your submission, and in particular, which part(s) you consider should be withheld and the grounds for doing so. If your submission contains any confidential information, please indicate this on the front of the submission. Any confidential information should be clearly marked within the text.

	Do you believe this proposal is accurately reflected in the Bill?	Comments
	Choose an item.	

Key Bill clauses	Stakeholder comments / suggestions for improvement
Clause 18(8), s 161 amended (Deportation liability of residence class visa holder convicted of criminal offence)	

Proposal 1d	Do you support this proposal?	Comments
Clarify the definition of administrative error	Choose an item.	See our comments under Proposal 1 above.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Key Bill clauses	Stakeholder comments / suggestions for improvement
Clause 5, s8 amended (Meaning of granting visa or entry permission as result of administrative error)	
Clause 7, new 62A inserted (Visas that are void from time of grant)	
Clause 9, new s79A inserted (Temporary visa granted to residence class visa holder void from time of grant)	

Proposal 2	Do you support this proposal?	Comments
Extend the time MBIE has to detect and respond to an offence, from 90 days from the date of the offending, to 270 days from the date MBIE became aware of the offending	N/A	If clause 37 of the exposure draft is enacted, the references in the Summary Proceedings Act 1957 to '6 months after the date on which the infringement offence is alleged to have been committed' would be taken to mean the earlier of: • the date that is 6 years after the date on which the infringement offence is alleged to have been committed; or • the date that is 12 months after the date on which the informant became aware of the conduct alleged to constitute the infringement offence. These amendments could, in some circumstances, be inconsistent with section 372 of the Immigration Act, which sets a 2-year limitation period from the date the offence became known or should have become known to an immigration officer. This inconsistency could be addressed, for example, by clarifying that the 2-year limitation period in section 372 does not apply to employment infringement offences under section 359A. However, we note that the current 2-year period reflects a deliberate policy choice to balance the need for effective enforcement with the rights of individuals to certainty and timely resolution of their legal status. Any adjustments or exceptions to this 2-year period must be supported by evidence which shows these amendments are necessary and proportional (for example, statistics on why, and how often, infringement notices could not be issued within current timeframes). We understand from verbal discussions with MBIE officials and from the *Summary of proposals* document that it is not always possible to issue an infringement notice within current timeframes (for example, because exploited migrants often do not report their employer's behaviour until after the employment relationship has broken down, and because more complex investigations can take longer than 90 days to complete). Statistics and trends on these topics could also help assess whether these proposed amendments are an appropriate response to this policy problem.

		Without this evidence, it is difficult to justify altering the current framework, which provides a fair and effective balance between the rights of individuals, and the need to hold them accountable.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Key Bill clauses	Stakeholder comments / suggestions for improvement
Clause 37, s360 amended (Infringement offences)	

Proposal 3	Do you support this proposal?	Comments
Increase the penalties for migrant exploitation offending from seven to 10 years	N/A	The current 7-year maximum sentence was set to reflect what was considered to be the seriousness of the offence at the time, and any increase to that sentence must be evidence-based and proportionate. The documents relating to the Bill do not offer any evidence to show that a higher maximum sentence would materially improve deterrence or victim protection, and care must be taken to ensure that any legislative change does not undermine fundamental legal principles or result in disproportionate or inconsistent sentencing. It is also worth noting that, while the 7-year maximum sentence may be out of step with some other offences that cause similar harm to victims (the *Summary of proposals* document suggests robbery as an example), the amendments in the Bill will put this penalty out of step with other penalties in sections 355 to 358 of the Immigration Act. In the absence of evidence to justify these amendments, the focus should be on effective enforcement, victim support (including review of MEPV settings and the impact of the changes made in late 2024), and the consistent application of existing penalties, rather than relying on an increase to maximum sentences.

		However, if there is evidence to show that the current maximum sentence is not an effective deterrent, there may be some justification for the proposed increase. This should only proceed, however, with fuller consideration of the additional aspects set out above, and the settings for other penalties in the Immigration Act.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	**Stakeholder comments / suggestions for improvement**

Clause 36, s357 replaced (Penalties: employers)

Proposal 4	**Do you support this proposal?**	**Comments**
Introduce new infringement offences for: • providing false or misleading information, or withholding relevant information (for example, in an accreditation or job check application, or as part of an investigation or verification activity); and	Support	This proposal may be broadly consistent with the existing legal framework and is supported by case law and administrative practice emphasising the importance of honesty and compliance in immigration matters.[1] We therefore support this proposal in principle, but note that the necessity and proportionality of these offences must be carefully assessed, and robust procedural

[1] In *Singh v Ministry of Business, Innovation and Employment* [2023] NZHC 2139, the High Court emphasised that deliberate dishonesty in immigration applications subverts the integrity of New Zealand's immigration controls and is deserving of severe penalties. Similarly, *New Zealand Police v Mohammed Idris Hanif* [2018] NZDC 7557 involved charges under section 342(1)(b) for supplying false information, illustrating the application of existing offences and the seriousness with which they are treated. *Singh v Chief Executive of The Ministry of Business, Innovation and Employment* CA880/2013, [2014] NZCA 220, related to the concealment of relevant information which can lead to significant consequences, including deportation, further underscoring the importance of honesty and transparency in immigration processes.

Proposal 4	Do you support this proposal?	Comments
• failing to provide documents when requested under section 277 of the Act (which allows an immigration officer to enter an employer's premises and request wage and time records). These infringement offences will be made via Regulations regulations in 2026.		safeguards must be in place to ensure compliance with the NZBORA. The *Summary of proposals* document does not discuss this proposal, and we cannot offer further feedback without additional information regarding these proposed offences (for example, whether the offence of providing false or misleading information will be a strict liability offence, or whether it will require the person to know they are providing false or misleading information).

Proposal 5	Do you support this proposal?	Comments
Make it easier for an immigration officer to request information when there is good cause to suspect someone may be unlawfully in New Zealand or potentially liable for deportation.	N/A	The proposal to enable immigration officers to request information and seize identity documents where they have good cause to suspect a person may be breaching, or may have breached, the conditions of their visa must be approached with caution. The current legal framework already provides robust information-gathering powers that are subject to important safeguards designed to protect individual rights and ensure procedural fairness. Although the requirement for 'good cause' and the provision of information to the affected person remain, expanding the use of these powers risks undermining the balance between effective enforcement and the protection of privacy, due process, and rights under section 21 of the NZBORA. Section 21 of the New Zealand Bill of Rights Act 1990 is an important constraint on the exercise of state power. The Supreme Court in *Dotcom v Her Majesty's Attorney-General* [2014] NZSC 199 made clear that searches and seizures must be reasonable, and that judicial oversight is generally required to ensure this.

		However, the materials relating to the Bill do not discuss in detail whether the expanded information-gathering and document seizure powers place unreasonable and unjustifiable limit on the section 21 right to be free from unreasonable search and seizure. While the adjustment of the statutory language to persons who 'may' be liable for deportation is briefly addressed in the *Summary of proposals* document, the expanded use of the provision in the case of suspected breach of visa conditions is not. The need for (and likely impact of) this extension, and its potential to engage rights protected under NZBORA, do not appear to have been fully considered. The proposal to expand the use of section 280 is not accompanied by comparatively strengthened safeguards. We also note that, while the *Summary of proposals* document acknowledges there are 'risks of actual or perceived operational overreach developing over time', it does not discuss what 'robust and justifiable criteria' could act as safeguards against this potential for overreach. The experience of other statutory regimes and the guidance of recent case law suggest that the key to effective and lawful immigration enforcement lies not in the unchecked expansion of powers, but in the careful calibration of authority and safeguards to protect both the public interest and individual rights.[2] Those safeguards should not be left as a matter of operational policy. If this proposal is to proceed, we suggest providing for additional safeguards to prevent unreasonable or arbitrary intrusions into personal privacy – these could include, for example, specific requirements to report on the

[2] In *Tamiefuna v R*, [2025] NZSC 40, the Supreme Court emphasised that privacy principles, while relevant, are not binding under New Zealand law, but that section 21 of the NZBORA is the key standard for assessing the lawfulness and reasonableness of searches. The Court also noted New Zealand's obligations under the International Covenant on Civil and Political Rights, which includes a right to privacy. This reinforces the need to interpret domestic law in a manner consistent with international human rights standards. Cases such as *Smith v R* [2020] NZCA 499 and *R v Alsford* ([2017] NZSC 42) also emphasise the importance of lawful conduct by authorities, the need for good faith, and the requirement to balance law enforcement objectives with the protection of individual rights and privacy.

		collection and use of information and documents under this provision, as well as redress, for example, through the return of wrongly seized documents.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 26, s280 replaced (Power of immigration officer to request information and documents where liability for deportation or turnaround suspected)	
Clause 27, s281 amended (Power to require information from person liable for deportation or turnaround)	
Clause 32, s309 amended (Persons liable to arrest and detention)	
Clause 33, s310 amended (Purpose for which arrest and detention powers may be exercised)	

Proposal 6	Do you support this proposal?	Comments
Remove the right to appeal to the Immigration and Protection Tribunal (IPT) on humanitarian grounds for temporary class visa holders who commit a crime and all visitor visa holders.	Do not support	The proposal to remove the right to appeal to the IPT on humanitarian grounds for temporary class visa holders who commit a crime and all visitor visa holders would represent a significant departure from New Zealand's current legal framework and its human rights commitments. The existing right is already subject to a high threshold and robust public interest safeguards, ensuring that only the most compelling cases succeed. Its removal would undermine principles of natural justice, proportionality, judicial oversight and

		New Zealand's obligations under both domestic and international law. As a result, this law change would require compelling justification and would likely face significant legal challenges if enacted. The current framework strikes a careful balance between the interests of the state and the rights of individuals, and its erosion would risk causing serious injustice in exceptional cases. Section 27 of the NZBORA guarantees the right to natural justice in decisions affecting a person's rights or interests. The right to appeal to an independent tribunal is a core component of natural justice, particularly in significant matters such as deportation, which can have life-altering consequences. Removing this right would mean that affected individuals could be deported without any opportunity to present humanitarian considerations, undermining the fairness and integrity of the process. Section 5 of the NZBORA requires that any limitation on rights be reasonable and demonstrably justified in a free and democratic society. Deportation is a severe measure, and the right to appeal on humanitarian grounds acts as a proportionality check, ensuring deportation is not unduly harsh in exceptional cases. The Courts have also emphasised that deportation decisions must be justified as a proportionate response to a legitimate end.[3] It is also likely that the removal of this appeal right will breach New Zealand's international obligations (particularly under the Convention on the Rights of the Child, where a child is involved and the parent's deportation is not in the best interests of the child). The *Summary of proposals* document suggests the ability to give good reasons why deportation should not proceed, and to seek Ministerial Intervention would help manage the risk of deporting individuals with genuine humanitarian grounds to remain in New Zealand. In our view, these are not adequate safeguards against this

[3] *Samuela Alitalia Helu v Immigration and Protection Tribunal* [2015] NZSC 28.

		risk. Our Immigration & Refugee Law Committee members have observed that INZ's compliance officers do not generally change their decision on the basis of good reasons, and are often overruled on this point when matters are appealed to the IPT on humanitarian grounds. Verbal discussions with MBIE officials also seem to support this view, with officials previously advising that around 60% of appeals are overturned by the IPT on humanitarian grounds. Further, the Minister's absolute discretion to grant a visa means Ministerial Intervention is unreliable as a humanitarian safeguard. The *Summary of proposals* document also seems to suggest that alternative avenues of appeal, such as judicial review and complaints to the Ombudsman, could act as safeguards. However, these processes may not stay a deportation process, and, in any case, the Ombudsman's recommendations are not binding on Immigration New Zealand. The reasons given for this change (lengthy and cost of humanitarian appeals, the need to reflect the differences in status or expectations between residents and temporary visa holders, and temporary visa holders having only a 'limited' connection to New Zealand) do not, in our view, justify restricting temporary visa holders' ability to access humanitarian appeals.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 13, s154 amended (Deportation liability if person unlawfully in New Zealand)	
Clause 14, s155 amended (Deportation liability if person's visa granted in error)	

Clause 15, s156 amended (Deportation liability if visa held under false identity)	
Clause 16, s157 amended (Deportation liability of temporary entry class visa holder for cause)	
Clause 23, s206 amended (Who may appeal to Tribunal on humanitarian grounds)	
Clause 24, s207 amended (Grounds for determining humanitarian appeal)	

Proposal 7	Do you support this proposal?	Comments
Enable holders of deemed entry permission who are found to be inadmissible to enter New Zealand (for instance due to smuggling drugs or other contraband) to be turned around at the border.	N/A	This proposal appears to be largely consistent with New Zealand's current legislative framework and supported by case law, which provide for the refusal of entry permission and immediate removal in cases of inadmissibility, and grants border officials broad discretion to act in the national interest.[4] However, the current powers are subject to important limitations to ensure compliance with procedural fairness, and with New Zealand's obligations under international law. If implemented, this particular proposal should also include safeguards to prevent the return of individuals to situations where they may face torture or other serious harm, and must provide an opportunity for individuals to raise refugee and protection claims. There must also be mechanisms in place to ensure decisions to

[4] In *Jiang v Chief Executive of the Ministry of Business, Innovation and Employment* [2020] NZHC 1439, the High Court affirmed that entry permission is not automatic, even for visa holders, and that immigration officials have broad discretion to refuse entry, particularly where false information is provided. *Wenzel v The Minister of Immigration* [2019] NZHC 1005 related to an individual with significant criminal convictions who it was held was ineligible for visas or entry permission, subject to special directions or exceptions. In *David John Higgs v Minister of Immigration* [2022] NZHC 1333, the Court reiterated that holding a visa does not guarantee entry permission, which is assessed separately at the border. This distinction underpins the legal basis for turning around individuals who are found inadmissible upon arrival.

		revoke entry permissions are proportionate, justified in the circumstances, and consistent with both domestic and international legal requirements. This will require any operational documents and guidance to be carefully structured to ensure immigration officers comply with relevant legal obligations.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	**Stakeholder comments / suggestions for improvement**
Clause 11, new s113A inserted (Revocation of deemed entry permission)	

Proposal 8	**Do you support this proposal?**	**Comments**
Change decision-making around RRRAs from being in the "absolute discretion" to the "discretion" of IOs (final Casey Review recommendation)	Support	Changing the decision-making standard for RRRAs from 'absolute discretion' to 'discretion' would represent a significant shift towards greater transparency, accountability, and compliance with human rights obligations. While the current model provides administrative efficiency, it has been criticised for its lack of transparency and limited avenues for review. A discretionary model would require decision-makers to consider applications on their merits and provide reasons, enhancing procedural fairness and alignment with both domestic and international legal standards. However, this change is also likely to introduce greater administrative complexity and potential for judicial review. These legislative changes should therefore be accompanied by operational changes and guidance (for example, around

		requirements to keep written records of reasons for decisions) to ensure the new framework operates effectively and fairly. The overall effect would be a more rights-consistent and transparent process.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 34, s315 amended (Persons may instead agree to residence and reporting requirements)	
New Part 4 inserted into Schedule 1AA, 9 (Application of amendment relating to ending of agreement as to residence and reporting requirements)	

Proposal 9	Do you support this proposal?	Comments
Do not allow an applicant for asylum or protected status to apply for other visa types, while they remain in New Zealand, if they withdraw their asylum claim.	Do not support	While we understand the intent behind this proposal to bar applicants without genuine reasons, we do not support this proposal in its current form. New Zealand's immigration laws already impose significant restrictions on the ability of asylum seekers to apply for other visa types while in New Zealand, and any proposal to further prohibit such applications for individuals who withdraw their claims must be carefully assessed against the requirements of the NZBORA and New Zealand's international obligations. A blanket prohibition is likely to be disproportionate and may risk inconsistency with the principles of fairness, and proportionality. Any additional restrictions should be supported by compelling reasons and evidence, and subject to appropriate exceptions and safeguards to ensure compliance with domestic and international legal standards. At present, there do not appear to be compelling reasons or evidence to justify this proposal, and the 'concern that some

		claimants may be abusing the asylum process to gain initial entry to the labour force, with the aim of remaining in New Zealand although they do not qualify for protection' appears to be based on an assumption, unsupported by evidence. As identified in the *Summary of proposals* document, it is a very small number of individuals who withdraw asylum claims and go on to apply for another visa. Further, this proposal disregards the fact that: • with claims taking much longer to process because of current backlogs (the *Summary of proposals* document notes that the time between lodging a claim and allocating it to a decision maker is approximately 460 days), it would not be unusual for an applicant's circumstances to change in that time, which either makes another visa pathway available (this would often be a partnership or work visa), or means their claim is no longer tenable; • applicants may also choose to apply for another visa in that time to avoid being unreasonably adversely impacted by these delays; and • applicants who withdraw their claim and proceed through a different visa pathway take pressure off the asylum claims system, and preventing them from switching to another pathway will simply add to the Refugee Status Unit's workload and worsen delays. The underlying policy objectives may be more appropriately met by introducing a process whereby applicants can apply to withdraw their claim on the basis that they have a genuine change of circumstances, and give reasons for doing so. This would help officials determine whether they have genuine reasons for applying for a different visa, and if so, applicants can apply for a different visa and take themselves out from the claims system when a new visa pathway opens up to them. However this process would need to have adequate safeguards to ensure those with genuine changes in circumstances are not barred from applying for a different visa.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**

	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 4(1), s4 amended (Interpretation – definition of claimant)	
Clause 12, s150 amended Special provision relating to claimants granted temporary visas)	

Proposal 10	Do you support this proposal?	Comments
Allow residence class visa applicants to benefit when visa settings change after they have submitted an application	Support	We support this proposal. However, it could be helpful to amend clause 8 to clarify that if an applicant does not make a request under subsection (1A), the immigration officer or Minister must decide the application in accordance with the old instructions. This will help ensure the decision to have an application decided in accordance with new instructions rests solely with the applicant.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 8, s72 amended (Decisions on applications for residence class visa)	

Proposal 11	Do you support this proposal?	Comments
Enable the electronic service of deportation liability notices where a physical address cannot be located	Support	Enabling electronic service in cases where a physical address cannot be located would enhance administrative efficiency and reduce the risk of individuals evading service by failing to provide a current address.

		However, this must be balanced against the risk of injustice to individuals who may not receive notice of proceedings that have profound consequences for their rights and interests. Electronic service must only be used where the individual has *designated* an electronic address for service, or where the immigration officer or Minister have good reasons to believe that an electronic address they hold is correct and is frequently monitored (for example, because it was provided in a recent visa application). Visa applications could be modified for this purpose so applicants can indicate if they wish to designate an email address for service. We discourage any further expansion of electronic service, as it would likely raise various rights and natural justice concerns. We also note that the current legal framework encourages methods of service that are likely to ensure *actual notice* to reflect the importance of procedural fairness and the right to be heard. Any reforms must include robust safeguards to ensure affected individuals are adequately informed of any changes, and have a genuine opportunity to respond. This is essential to maintain the integrity of the immigration system and to uphold New Zealand's domestic and international human rights obligations.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 19, s 170 amended (Deportation liability notice)	

Submissions are subject to the Official Information Act 1982. Please outline clearly any objections you may have to the release of any information in your submission, and in particular, which part(s) you consider should be withheld and the grounds for doing so. If your submission contains any confidential information, please indicate this on the front of the submission. Any confidential information should be clearly marked within the text.

Proposal 12	Do you support this proposal?	Comments
Make it easier for immigration information to be shared with other agencies in support of their functions, aligning the Act with other comparable systems, combined with enhanced privacy protections	N/A	We have been unable to seek feedback on this proposal from our Human Rights & Privacy Committee. However, our initial high-level views are that any information sharing powers should be justified, proportionate, and subject to oversight, with particular attention to the rights and interests of affected individuals. While increased information sharing can support the effective administration of immigration and related functions, it must not come at the expense of fundamental rights to privacy and due process. Privacy is a core value in New Zealand law, informed by both domestic and international obligations. Any reform must therefore ensure that privacy protections are maintained with mechanisms for transparency, accountability, and redress. The reforms should ultimately strike a fair and lawful balance between operational efficiency and the protection of individual rights.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 25, s272 amended (Purpose of Part)	
Clause 28, s294AAB amended (Information sharing)	
Clause 29, new sections s294AAC (Information sharing agreements) **and 294AAD** (Publication of information sharing agreements) **inserted**	

Clause 30, s301 amended (Disclosure of immigration information to verify eligibility for publicly funded services)	
Clause 31, s302 to 303C repealed	
Clause 38, new s383AA inserted (Publication of statement on collection, storage, and use of information)	

Proposal 13	Do you support this proposal?	Comments
Make it clear that the Act enables the use of immigration information for digital credentials	N/A	See our brief comments on proposal 12 above.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 29, new section 294AAC inserted (see subsection 5(c))	

Proposal 14	Do you support this proposal?	Comments
Enable a victim to submit on deportation liability proceedings, even if they are a victim of a separate crime to the one giving rise to the deportation liability.	Do not support	The statutory framework in the Immigration Act and the Victims' Rights Act 2002, when read as a whole, suggests the right of victims to make submissions in deportation liability proceedings should be confined to those who are victims of the offence that forms the basis for the deportation action. Section 173 of the Immigration Act is explicit in this regard, requiring the Minister to consider submissions from victims of the relevant offence only. While section 48 of the Victims' Rights Act is less specific, its cross-reference to the Immigration Act, and

		the context of that legislative scheme suggests that it should be interpreted consistently with the more detailed provisions of the Immigration Act. Expanding the right for victims to make submissions relating to separate crimes would have significant practical and procedural implications, and there is no clear policy rationale for this change. It could increase the complexity and length of deportation proceedings, potentially introducing evidence and arguments that are only tangentially related to the core issues (including historic offending, unrelated to deportation liability). There is a risk that such submissions could prejudice the fairness of the process, particularly if they are not directly relevant to the grounds for deportation or the assessment of humanitarian factors. It is also unclear how this proposal would be implemented in practice. For example: • would INZ be expected to proactively identify and notify all victims of all unrelated crimes of their ability to submit on deportation liability proceedings? If so, how would INZ go about this? • if an individual alleges that they are a victim of an unrelated crime, and asks to submit on a deportation liability proceeding on that basis, how would INZ ensure the individual is in fact who they claim to be (noting this could be particularly difficult where the offending is historic, or occurred overseas)? While these matters might be relatively straightforward under the current statutory regime (where only the victim(s) of the crime giving rise to deportation liability is able to make a submission), they raise practical concerns when scope of victims who can submit is broadened. For these reasons, we do not support this proposal.
	Do you believe this proposal is accurately reflected in the Bill?	**Comments**
	Choose an item.	

Bill clauses	Stakeholder comments / suggestions for improvement
Clause 20, s 173 amended (Right of victims to make submissions on suspension or cancellation of liability for deportation)	

We are happy to discuss this feedback, or answer any questions, if that would assist. Please feel free to get in touch via the Law Society's Senior Law Reform & Advocacy Advisor, Nilu Ariyaratne (Nilu.Ariyaratne@lawsociety.org.nz).

Simon Graham
NZLS Immigration & Refugee Law Committee Convenor