

Departmental Disclosure Statement

Immigration (Enhanced Risk Management) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

12 March 2026

Contents

Contents.....2

Part One: General Policy Statement.....3

Part Two: Background Material and Policy Information5

Part Three: Testing of Legislative Content.....9

Part Four: Significant Legislative Features 14

Part One: General Policy Statement

The Immigration (Enhanced Risk Management) Amendment Bill (the **Bill**) makes targeted amendments to the Immigration Act 2009 (the **principal Act**). The amendments enable the principal Act to better meet its purpose, which is “to manage immigration in a way that balances the national interest ... and the rights of individuals” by increasing the effectiveness of the immigration compliance and enforcement system, improving the integrity of the refugee and protection system, and improving the operation of the wider immigration system.

Increasing effectiveness of compliance and enforcement system

Deportation liability

The Bill strengthens deportation liability settings for residence class visa holders by extending the period during which a person may be liable for deportation following criminal offending from 10 to 20 years and by making deportation liability a more likely outcome for lower-level criminal offending. These amendments respond to cases where individuals have avoided deportation liability due to the existing time limits and aim to reset behavioural expectations for residence class visa holders.

The Bill also makes a number of minor amendments to other deportation liability settings to address gaps that have arisen in recent years, including clarifying-

- the range of false and misleading submissions that can make a person liable for deportation; and
- that historic crimes that were committed outside New Zealand can give rise to deportation liability; and
- how administrative errors can give rise to deportation liability.

Appeal rights and proceedings

The Bill removes the current ability for all visitor visa holders, and for temporary visa holders who have committed criminal offences, to appeal their deportation liability to the Immigration and Protection Tribunal on humanitarian grounds. This change reflects the different status of, and expectations on, temporary and residence class visa holders, and underscores New Zealand’s expectation that temporary visa holders comply with both New Zealand law and the conditions of their visa or face possible deportation.

Additionally, the Bill ensures that victims of serious offences committed by migrants will have the right to be heard during their offender’s deportation proceedings, whether or not the offence against them is the basis of the offender’s liability for deportation.

Migrant exploitation

In recognition of the harms and seriousness of migrant exploitation, the Bill makes 3 amendments to increase the range of tools available to address exploitative behaviours by employers. The Bill-

- extends the maximum prison sentence for migrant exploitation offending from 7 to 10 years; and

- creates new employer infringement offences relating to providing incorrect or incomplete information to the Ministry of Business, Innovation and Employment (MBIE) and to failing to provide wage and time records when requested under section 277 of the principal Act; and
- extends the time frame that MBIE has to issue infringement notices for certain employer infringement offences, in recognition of the fact that in many instances MBIE will not become aware of the offending, or complete its investigations, until after the period allowed for in the Summary Proceedings Act 1957.

Other compliance and enforcement amendments

The Bill also strengthens compliance and enforcement settings by enabling immigration officers to request information if there is good cause to suspect that someone may be liable for deportation or may be in breach of their visa conditions and by closing a gap so that inadmissible persons can be efficiently turned around at the border.

Improving integrity of refugee and protection system

The Bill strengthens the integrity of the refugee and protection system by –

- reinforcing that New Zealand does not tolerate abuse of the system, which in turn supports efficient processing; and
- strengthening non-citizens' rights to liberty of the person.

Relevant changes include:

- preventing individuals from applying for a further visa while in New Zealand after withdrawing an asylum claim. This change aims to prevent abuse of the system by individuals who lodge unmeritorious claims in order to remain in New Zealand while seeking to access an alternative immigration route; and
- in response to the 2022 Casey Review on the Restriction of Movement of Asylum Seekers (the Casey Review), amending residence and reporting requirement agreement decisions by immigration officers from being the exercise of their absolute discretion to being exercises of standard discretion. This addresses the third and final legislative recommendation of the Casey Review.

Improving operation of wider immigration system

The Bill modernises information sharing provisions, allows for secure and transparent sharing of immigration information with government and non-government agencies, and supports the use of digital credentials.

The Bill makes 2 further amendments to improve the operation of the wider immigration system, namely-

- allowing applicants for residence class visas to benefit from changes to visa settings that occur before approval of their application; and
- enabling deportation liability notices to be served electronically if a physical address cannot be located.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
This Bill gives effect to a King's Counsel (KC) review: Victoria Casey KC's 2022 "<i>Report to Deputy Chief Executive (Immigration) of the Ministry of Business, Innovation and Employment – Restriction of movement of asylum claimants</i>". It included a recommendation that decisions regarding Residence and Reporting Requirement Agreements (RRRAs) no longer be made in the absolute discretion of an immigration officer but be made through the exercise of standard discretion. That change will be implemented in this Bill. https://www.mbie.govt.nz/dmsdocument/20130-report-to-deputychief-executive-immigration-of-the-ministry-of-business-innovation-and-employmentrestriction-of-movement-of-asylum-claimants.	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	N/A

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Seven individual Regulatory Impact Statements (RISs) were prepared when the policy work was undertaken. They were reviewed by MBIE quality assurance panels and submitted when Cabinet Committee approval of the major policy changes relating to the Bill was sought (the first six in 2025, and the seventh in 2026): 1. RIS: Expanding criminal deportation liability; 2. RIS: Limiting humanitarian appeal rights to the Immigration and Protection Tribunal for temporary visa holders; 3. RIS: Enabling more effective compliance powers for immigration purposes; 4. RIS: Clarifying section 150 of the Immigration Act 2009 to prevent asylum claimants who withdraw their claims from applying for further visas; 5. RIS: Modernising and improving information sharing provisions; 6. RIS: Strengthening immigration penalties for non-compliant and exploitative employers; and 7. RIS: New immigration infringement offences. With regard to RISs 1-6, the panels determined that each RIS partially met the quality expectations for regulatory impact analysis. The panels noted that each RIS offered a clear explanation of the status quo and problem definition, but each could only partially meet quality expectations due to constrained consultation periods. The seventh RIS was determined to meet the quality expectations for regulatory impact statements. These RISs are accessible at https://www.mbie.govt.nz/dmsdocument/31761-regulatory-impact-statements-immigration-enhanced-risk-management-pdf. The Ministry for Regulation determined that the following proposals were exempt from the requirement for a RIS: • Deemed entry permission changes; • Enabling the use of digital credentials for immigration purposes; • Enabling resident visa applicants to benefit from policy changes; • Changes to information sharing provisions to support privacy; • More effective penalties for migrant exploitation offences; • Removal of absolute discretion from residence and reporting requirement agreement decisions; • Enabling victims to submit on deportation proceedings of their offender, whether the offence against them was the cause for the offender's liability for deportation or not; and • Clarifying the use of the power at section 58(6) of the Act to decline a residence application where the application included false, misleading or withheld information.	

2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	NO
No, the RISs identified above did not meet the threshold for receiving an independent opinion on the quality of the RIS from the Regulatory Impact Analysis Team based in the Ministry for Regulation.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Analysis on the size of the potential costs and benefits of the proposals is included in the RISs listed in part 2.3 of this statement above, which are accessible at https://www.mbie.govt.nz/dmsdocument/31761-regulatory-impact-statements-immigration-enhanced-risk-management-pdf .	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES

Full analysis of costs and benefits are set out in the RIS: *New immigration infringement offences*. This is accessible at: <https://www.mbie.govt.nz/dmsdocument/31761-regulatory-impact-statements-immigration-enhanced-risk-management-pdf>.

This discussion relates to:

- the two new immigration infringement offences (providing incorrect or incomplete information to an immigration officer, or failing to provide employment-related documents when requested);
- the extension of timeframes for issuing infringement notices for certain offences, to up to six years after a qualifying offence has been committed (qualifying offences being providing incorrect or incomplete information as above, and the existing offences relating to unlawfully employing migrants); and
- the stronger penalties for serious migrant exploitation (up to 10 years imprisonment, an increase from the current five or seven years).

The benefits of the new offences and penalties will be impacted by both the degree of compliance with the offence and the regulator effort put into securing compliance.

All of the proposals are intended to lead to changes in behaviour from employers, and they have been designed to together shift the cost / benefit calculations of employers. For example, those who might consider existing penalties and sanctions to be either easily avoidable, or a cost of doing business, and outweighed by the profits to be made by exploiting foreign nationals, or by misleading immigration officials about, for example, the availability of New Zealand workers, or the exact nature of the tasks to be carried out, in order to secure foreign staff.

The new infringement offences in particular will give immigration officers a straightforward and proportionate response if employers are careless or reckless when making applications, such that they do not provide full and accurate information into a system that has been designed to run as a high-trust model; or if employers do not provide documents (such as wage or time records) when they have been asked to. The offences and penalties align with existing employer infringement offences under section 359A, and with existing offences and penalties administered by the Labour Inspectorate.

However, there is a risk that some employers will still calculate that the risk of discovery, the infringement penalties chargeable if discovered, and the risk of prosecution are all low enough to make non-compliance with the applicable standards worthwhile. Some employers may not be aware that settings have changed. To address both of these risks, an ongoing communications strategy which details the changes and publicises outcomes will be part of the operationalisation of the changes.

While the level of regulator effort put into encouraging compliance will impact the degree to which relevant unlawful behaviour by employers reduces, the compliance costs are expected to be relatively low for regulators (MBIE Immigration Compliance staff) in terms of effort for outcome. In particular, the new infringement offences build on the existing suite, and MBIE has well established procedures to document offending, issue notices and follow up on them. There may be more complaints, especially of a historic nature, but MBIE Immigration Compliance already operates a triaging system.

The stronger criminal penalties will not change the amount of work required to prosecute egregious offending.

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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All policy options were assessed against the status quo to determine whether they better balance, protect and respect human rights. This included, where relevant, consideration of New Zealand's international human rights obligations conferred by several legal instruments. Where proposals have the potential to limit the right to liberty and freedom of movement (namely the amendments relating to asylum claimants, deportation liability and related appeal proceedings), consideration was given to ensure that the design of the proposal and consequent drafting of the provision in the Bill was consistent with core documents such as the Universal Declaration of Human Rights. Where proposals impact people seeking international protection (namely the amendments relating to former asylum claimants' ability to apply for a further visa while in New Zealand, and to the settings around RRRAs), careful consideration was given to the 1951 Convention Relating to the status of Refugees and Protected Persons (the 1951 Convention) and the 1967 Optional Protocol. The amendment to remove the ability of claimants who have withdrawn their claim to apply for further visas does not impact New Zealand's obligations under the 1951 Convention. Claimants who do not withdraw their claims will still have their claims determined in accordance with domestic and international obligations.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The potential for the amendments to impact Treaty of Waitangi implications has been considered during policy development. No Treaty of Waitangi implications have been identified.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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The Ministry of Justice (MoJ) is undertaking an assessment of whether the Bill is consistent with the Bill of Rights Act 1990 (BORA) and is providing advice to the Attorney-General. Advice provided to the Attorney-General by the MoJ is generally expected to be made available on the MoJ website upon introduction of a Bill, at www.justice.govt.nz/justice-sectorpolicy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports.
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES
The Bill does not remove any offences or penalties. It increases the existing penalties for a conviction for the exploitation of non-citizens who are unlawfully in New Zealand, or who hold temporary entry class visas. At present, the maximum prison sentence is either five or seven years (dependent upon whether the employer knew their employee was not legally able to work for them). The Bill replaces both of these maximums with a maximum 10-year sentence. It introduces two new employer infringement offences. • The first relates to providing incorrect or incomplete information (for example in employer accreditation applications; job checks; supporting work visa applications; or responses during verification, monitoring, and compliance activities). This recognises that the immigration system is a high trust system which is dependent upon the provision of accurate and full information. • The second relates to failing to provide employment related documents (such as wage or time records) when requested by an immigration officer. This is not currently an infringement offence under the Act. It amends the infringement regime by allowing the Department to issue an infringement notice up to six years after specified infringement offences were committed (generally an agency has up to six months from the date of infringement to send a notice). This recognises that offending (such as providing incorrect or incomplete information or underpaying migrant workers) often does not come to light until some time after commission. It may be uncovered when a former employee makes substantiated allegations, or during a standard post-decision check. The Bill also removes the right of all visitor visa holders, and temporary visa holders who have committed criminal offences, to appeal their deportation liability on humanitarian grounds to the IPT. This change aims to better reflect the difference of expectations and status between residents and temporary visa holders. Those affected by this change continue to be able to seek Ministerial intervention. Where there is concern about risk or fear of harm if they return to their country of nationality, a claim for asylum can be lodged.	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
MBIE officials consulted with officials from MoJ during the development of the policy proposals and on the exposure draft of the Bill. This included the Offence and Penalty Vetting team, Courts Policy, Human Rights, and Design and Implementation. • As a result of consultation with MoJ, MBIE amended its approach to designing the employer infringement offence for providing false and misleading information. MoJ raised concerns that “false or misleading” implied <i>mens rea</i> (and was therefore inappropriate for a strict liability offence), and suggested alternative wording. The infringement offence has been amended to instead capture “incorrect and / or incomplete information”. MBIE understands MoJ is comfortable with the amended drafting. • MBIE also worked closely with MoJ on the drafting of the amendment to allow more time to issue certain employer infringement notices: ○ MoJ provided advice on the interactions with, and potential consequential amendments required to, the Summary Proceedings Act 1957 and the Criminal Procedure Act 2011. We understand that MoJ is comfortable with the amendment to the policy to only have one time limit (rather than two) prescribed in legislation. ○ MoJ advised on the expected costs and implementation time required to implement this proposal (it will require changes to MoJ’s Electronic Filing of Infringements system) • Regarding the proposal to remove the right of some temporary visa holders to appeal their liability for deportation to the IPT, MoJ noted the potential to interact with the Convention on the Rights of the Child regarding cases involving those 16 years and under and further noted risk that the Act not be consistently interpreted leading to inadequate pathways to challenge deportation. MBIE acknowledges these concerns however notes that discretionary decision-making remains in place, along with certain contingency powers. For example, there is residual discretion in section 172 of the principal Act to cancel or suspend deportation liability at any time. Further, section 61 can be used to effectively extinguish liability for those unlawfully in New Zealand through the grant of a visa, and international or human rights obligations are a consideration as part of that process. Lastly, section 177 includes at subsection (2) that a deportation order cannot proceed if the immigration officer is made aware of information relevant to New Zealand’s international obligations, such as possible breaches to the Convention on the Rights of the Child (though this is only applicable to those who are liable for deportation due to being unlawfully in New Zealand).	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
The Bill makes several amendments to provisions related to the sharing of immigration information which, collectively, will broaden the sharing framework in the Act and better facilitate the sharing of information between MBIE and non-governmental organisations (without the need to substantially rely on alternative methods for disclosure contained in the Privacy Act 2020). In particular, new sections 294AAC-AAJ facilitate the disclosure of information by (and to) the Department to other government agencies and / or non-governmental organisations. This will better support agencies (including MBIE) to exercise their responsibilities, and to prevent information-related harms. Additionally, clause 40 inserts section 383AA (Publication of statement on collection, storage, and use of information), which will enhance public trust and confidence in how MBIE handles information in its possession and ensure non-New Zealand citizens are not discouraged from providing complete and accurate information to public services.	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
The Office of the Privacy Commissioner raised four primary comments / concerns: - that existing Privacy Act 2020 mechanisms to facilitate the sharing of information for specific purposes, and therefore their preference is for Approved Information Sharing Agreements (AISAs) over the broader information sharing framework established by ERM. - that any information sharing agreements made under ERM would more appropriately be at a Minister-to-Minister rather than CE-to-CE level. - whether ERM should enable the sharing of information with non-governmental organisations, given immigration information can be highly sensitive, and the Digital Identity Services Trust Framework could be used in the alternative. - what may happen if the Privacy Commissioner was concerned with a report made to them under the reporting clause (s294AAG(i)). MBIE maintains that a broad legislative framework is necessary for efficiency and to avoid a further proliferation of piecemeal agreements. Regarding the level of information sharing agreement, MBIE maintains that CE-to-CE agreements will be the most efficient and flexible means of ensuring immigration settings are efficient, responsive, and better facilitate the sharing of information between MBIE and other government agencies. Requiring agreement from Ministers to enter into agreements could also be problematic as it is an additional step that is already covered by constitutional convention and adds an unusual input to a CE's decision to enter (or not) an agreement. Additionally, there is no equivalent obligation for Ministerial notification / agreement before the CE enters into an information sharing agreement with an overseas agency. To address concerns about non-government information sharing, MBIE has included a number of privacy safeguards in the Bill, including (but not limited to) a requirement that information sharing agreements cannot be made until the chief executive of the Department has consulted the Privacy Commissioner (section 294AAF(2)). Regarding reporting, MBIE notes that it is implicit in section 17(a) of the Privacy Act 2020 that the Privacy Commissioner has the power to issue a compliance notice (for example, to require an agency to start or stop doing something).	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
There were two phases of targeted external stakeholder consultation undertaken on the Bill. Initial consultation, held in May 2025, informing stakeholders of the policy proposals, and consultation on an exposure draft of the Bill in October and November 2025. Views were sought on each proposal broadly, and each clause specifically during consultation on the exposure draft of the Bill. The following external stakeholders were consulted during initial consultation: • The Chief Victims Advisor • Immigration New Zealand's (INZ) Immigration Focus Group • The IPT • The Legislation Design Advisory Committee • The New Zealand Law Society • The Office of the Privacy Commissioner • The Office of the Ombudsman • Members of the immigration refugee bar. In addition to the above, the Law Association of New Zealand were consulted on the exposure draft version of the Bill. Some organisations advised they did not have sufficient time to provide feedback on all proposals, so focused their feedback on key sections of relevance to their organisations. Three proposals – extending deportation liability for criminal offending by residence class visa holders, limiting humanitarian appeal rights for some temporary visa holders, and preventing asylum claimants who withdraw their claims from applying for further visas – attracted the most feedback from members of the immigration bar. This feedback related to the fundamental policy proposals, rather than how the Bill as drafted would give effect to them. Government agencies were also consulted on the proposed amendments to the Act during the development of the policy papers. The consulted agencies were: the Ministries of / for Education, Ethnic Communities, Foreign Affairs and Trade, Justice, Pacific Peoples, Primary Industries (Biosecurity), Regulation, and Social Development; the Departments of Corrections, Inland Revenue, Internal Affairs and Prime Minister and Cabinet; the New Zealand Customs Service; Te Whatu Ora / Health New Zealand, the New Zealand Police; and the Treasury.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
The Bill contains two retrospective elements: 1. the change to extend deportation liability for residence class visa holders to include historic offences (i.e. offending that happened offshore, before a person held a New Zealand visa) at clause 18(1) has been drafted to apply regardless of whether the offence was committed before or after the commencement date, and regardless of when a person's residence class visa was granted (although the conviction must be entered on or after commencement). 2. the other key changes to resident deportation liability – making deportation liability a more likely consequence at both the higher and lower ends of offending, across a longer period of residence in New Zealand (clause 18(2), (3) and (4), and (5)); and clarifying that the provision of any false and misleading information in immigration matters resulting in conviction may make a resident liable for deportation (clause 17) - have been drafted to apply regardless of when a person's residence class visa was granted (but the behaviour giving rise to deportation liability would need to occur post-commencement). The proposal to make someone liable for deportation on the basis of historical offending is inherently retrospective. We therefore consider that retrospective application is both justified, and necessary to achieve the policy intent. This is expected to be rarely applicable as the offence must be committed before the migrant gains a resident visa, but are convicted, plead or are found guilty of the offence after they have gained residence. This is therefore likely only to occur in circumstances of serious offences that are uncovered far later than they are committed, such as cold case murders or war crimes. With regard to the second retrospective element, we consider that the date of issuance of a person's residence class visa is immaterial – the relevant consideration is when the behaviour giving rise to liability occurs. Immigration status is an ongoing privilege subject to the law as it stands, and individuals are expected to comply with updated standards of behaviour. This is consistent with other regulatory frameworks; for example, changes to road safety laws apply to all drivers regardless of when their licence was issued. Also, the commission of acts that are criminalised after residence was granted would still result in deportation liability. The alternative, of limiting the application of this change only to residence class visas granted after commencement, would create arbitrary gaps, and would undermine the policy intent of maintaining the integrity of the immigration system and protecting public safety.	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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