

Parliamentary paper: proposed policy additions to the Immigration (Enhanced Risk Management) Amendment Bill

18 March 2026

This Parliamentary paper is presented to the House of Representatives in accordance with Standing Orders 381 and 382.

Introduction

- 1 The Immigration (Enhanced Risk Management) Amendment Bill (the Bill) is scheduled to be introduced to the House on 26 March 2026.
- 2 The Bill makes targeted amendments to the Immigration Act 2009 (the Act) to increase the effectiveness of the immigration compliance and enforcement system, improve the integrity of the refugee and protection system and improve the operation of the wider immigration system.
- 3 The Government has agreed to an additional seven amendments to further strengthen the integrity of the asylum system. These amendments will not be included in the Bill as introduced. Given the nature of the proposals and their significance for the refugee and protection system, we are interested in public views on the policy proposals.
- 4 The purpose of this paper is to signal the Government's intent to request that the Select Committee call for public submissions on these amendments, alongside its consideration of the Bill.

Background to the issue

The right to seek asylum is recognised as a basic human right under the United Nations Declaration of Human Rights

- 5 New Zealand has obligations under various international instruments (the 1951 Convention Relating to the Status of Refugees (the Convention) and its 1967 Protocol, the Convention Against Torture and Articles 6 and 7 of the International Covenant on Civil and Political Rights) which are incorporated into the Act. These obligations prevent New Zealand from expelling or returning a refugee or asylum seeker to any place where their life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion. They also prevent expulsion if there are substantial grounds to believe that the individual would be in danger of torture. New Zealand must consider and determine all onshore refugee and protection claims in a manner that complies with our international obligations.
- 6 Asylum seekers are individuals who fear persecution in their home country, and seek protection in New Zealand through the asylum system. Their claims for protection are assessed by Immigration New Zealand (INZ) in the first instance. Claimants who do not meet the legal threshold for refugee status, but do have a genuine need of international protection, may be granted protected person status. Successful claimants are recognised as refugees or

protected people and can apply for residence, which entitles them to the same rights to education, healthcare and social services as citizens. Both refugees and protected people can apply for residence, with the exception of protected people who have been excluded from the Convention, in which case the Minister of Immigration must determine their immigration status.

- 7 Unsuccessful claimants can appeal the determination of their case to the Immigration and Protection Tribunal (IPT), followed by the higher courts. They can also apply for judicial review of either INZ or the IPT's decisions.

New Zealand continues to experience high numbers of asylum claims and backlogs

- 8 Since the border reopening in 2022, asylum claims have increased significantly, as shown in **Appendix One**.
- 9 As at 31 January 2026, there were 4,001 undecided claims, with 2,269 claims received in the 2024/25 year.
- 10 Approval rates remain low, at 23.3 per cent for 2024/25 and 25.5 per cent for 2025/26. The IPT received a 60 per cent increase in refugee and protection appeals in 2024-25.

Proposed additional amendments

- 11 This paper outlines seven proposals to better protect the integrity of the asylum system, affording protection to those who need it. These proposals will close some gaps in the legislation, reinforce that New Zealand does not tolerate abuse of the system, and over time support more efficient processing of asylum claims.

Proposal 1: Create a consequence for failure to engage in the biometric process

- 12 Section 149 of the Immigration Act enables a Refugee and Protection Officer (RPO) to make a determination on refugee and protection status without further information, where a claimant fails to attend an interview. Currently, there is no corresponding power where a claimant fails to engage in the biometric process. For example, where they fail to attend an appointment for biometric information gathering and the information cannot be collected.
- 13 The collection of biometric data is used to verify identity, detect fraud and uphold border security. Being unable to collect biometric data causes delays in determinations.
- 14 An amendment is proposed to enable RPO's to determine a claim without further information where the claimant has, without good reason, failed to engage with the biometric process.

Proposal 2: Amend the consequences of acting in "bad faith"

- 15 Where there is evidence that a claimant has acted in bad faith, section 134 (3) of the Act currently requires an RPO to refuse to consider the claim, even where there is an underlying genuine protection need. RPOs are reluctant to use this provision due to the risk of re foulment, i.e. returning a claimant to a country where they may face torture or other kinds of inhumane treatment.

- 16 In addition, where these claims are appealed to the IPT, the IPT can only make a decision on the bad faith determination. As result, appeals are often allowed, and the Act then requires the IPT to return the claim back for a full determination by INZ. This prolongs the time the claimant remains in the asylum system, during which time they typically remain on a work visa with access to social benefits. These claimants can remain in the system for several years, taking up a disproportionate amount of time and resource.
- 17 An amendment is proposed to change the consequences of acting other than in good faith, so that RPOs can refuse to consider the refugee claim but must consider the protection claim.
- 18 Enabling an RPO to refuse to consider the refugee claim, but requiring consideration of the protected person claim, strikes the right balance between upholding New Zealand's international obligations, ensuring that the system disincentivises cynical actions to manufacture grounds for refugee status, and enabling claims to be dealt with efficiently.
- 19 This provision is more likely to be used more than the existing one because the risk of non-refoulement is managed. If appealed, the IPT could determine the claim in full rather than being required to refer the case back to INZ.

Proposal 3: Amend the IPT's ability to consider bad faith

- 20 The IPT does not have the ability to consider bad faith where it has not been considered by INZ. In particular, the IPT is not able to consider the actions of the claimant between the determination of their claim in first instance, and the subsequent appeal. This limits IPT members being able to exercise discretion in the weighting of factors in a claim and considering all the facts.
- 21 An amendment is proposed to provide the IPT with jurisdiction to consider acts of bad faith that occur at any point, whether before or after INZ makes its determination.

Proposal 4: Remove the ability to bring late appeals to the IPT

- 22 The Act currently requires appeals to be made within 10 working days of INZ's decision to decline an asylum claim. It also allows the IPT to accept late appeals, if it is satisfied that special circumstances warrant an extension. A very small number of appeals are made out of time, but resourcing is required to process each of these requests, which diverts from assessing genuine claims and managing the backlog in appeals.
- 23 An amendment is proposed to remove the ability of the IPT to accept out of time appeals. Alternative protections are available as claimants will retain the right to make a request to the Minister of Immigration to cancel or suspend liability for deportation, and to have a humanitarian interview at deportation where they can give good reasons why deportation should not proceed.

Proposal 5: For second and subsequent appeals, enable the IPT to find that the claimant's circumstances have not changed significantly, regardless of whether the RPO declined the claim on that basis

- 24 The Act currently only allows the IPT to decline an appeal on the basis that the claimant's circumstances have not changed where this was an explicit ground for INZ's decision. However, in some cases INZ may have declined the claim on another ground and have not specifically cited that there has not been a significant change in the claimant's circumstances.
- 25 An amendment is proposed to allow the IPT to decline an appeal against a decline of a second or subsequent claim on the grounds that the claimant's circumstances have not significantly changed.
- 26 Claimants will retain the right to make a request to the Minister of Immigration to cancel or suspend liability for deportation, and to have a humanitarian interview at deportation where they can give good reasons why deportation should not proceed.

Proposal 6: Enable people who commit serious non-political crimes between entry to New Zealand and status determination to be excluded from refugee status

- 27 Article 1F of the 1951 Convention Relating to the Status of Refugees (the Convention) excludes certain persons from being granted refugee status. This is to maintain the integrity of the Convention which was designed to recognise bona fide refugees, but also exclude those undeserving of benefiting from the rights and protections afforded by refugee status.
- 28 The plain text of Article 1F(b) reads:

“...the provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that...he has committed a serious non-political crime outside his country of refuge prior to his admission to that country as refugee.”
- 29 As part of accepting a claim for consideration, section 137(2) of the Act requires the RPO to determine whether the claimant has committed a serious non-political crime (e.g. rape or murder) before entering New Zealand. This section interprets the Article 1F(b) wording “admission to that country as a refugee” as the point in time when the person physically enters New Zealand, rather than the point which they are afforded refugee status. This means that a claimant can still be recognised as a refugee if they commit a serious crime *after* arriving in New Zealand, but not if they committed the same crime *before* entry. This creates inconsistent and unfair outcomes.
- 30 Although the instances of this occurring are small, the cases can be extreme. For example, one case involved the rape, murder and disposal of the victim in horrific circumstances in New Zealand while a refugee and protection claim was being processed. Another case involved an individual on a temporary visa who murdered his wife and attempted to murder another person. The individual was sentenced to life in prison and then filed a refugee and protection claim.
- 31 An amendment is proposed to redefine how New Zealand interprets Article 1F(b) of the Convention, to enable claimants who commit serious non-political

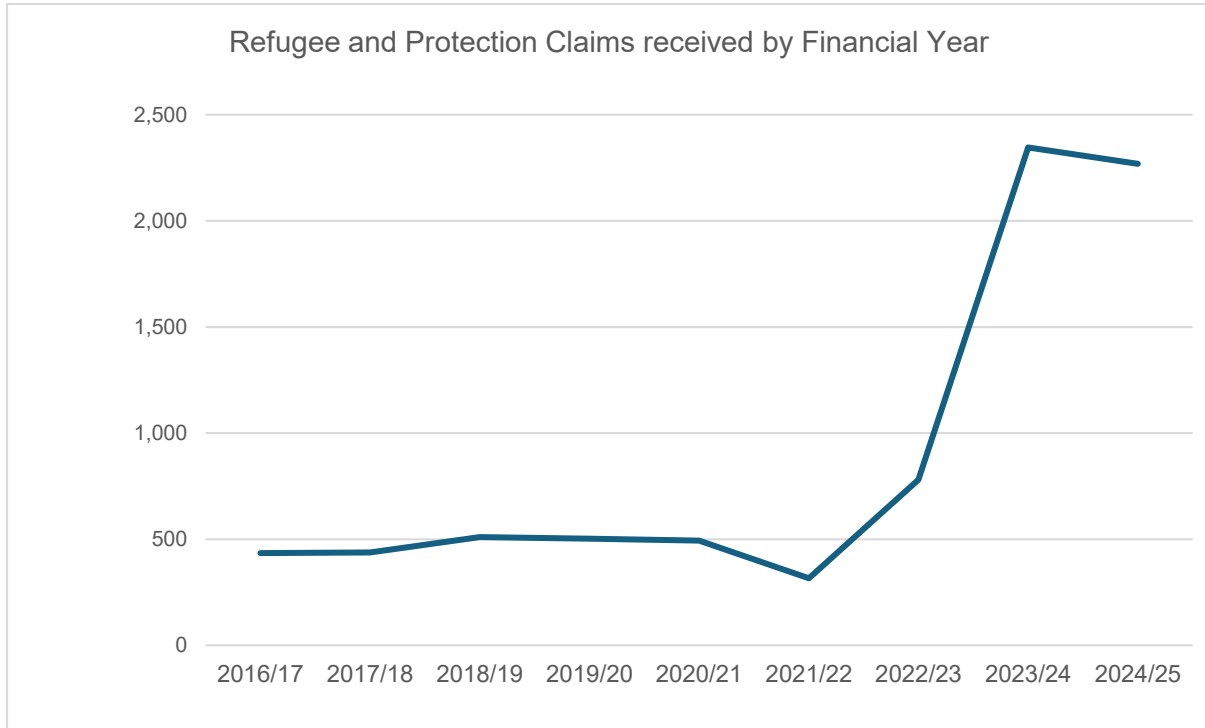
offences in New Zealand up until the point they receive refugee status to be excluded from refugee status (and the benefits it confers).

- 32 Where there is a genuine protection need, claimants that have committed serious offences may still be eligible for protection status, managing the risk of refoulment. In those cases, the Minister of Immigration would determine immigration status and entitlements. Such a person may be removed from New Zealand more easily if the circumstances in their home country change at a later stage.

Proposal 7: Create an authorisation to accept claimant-initiated withdrawal

- 33 Currently, an omission in the Act means that RPOs are not currently authorised to accept a withdrawal of a claim for refugee and protection status in writing initiated by the claimant, despite this being standard operational practice.
- 34 An amendment is proposed to enable an RPO to accept a claimant-initiated withdrawal of a claim for refugee and protection status to address this omission.

Appendix One: Refugee and protection claims received from 2016/17 – 2024/25



Year	Number of Claims
2016 \ 2017	434
2017 \ 2018	438
2018 \ 2019	510
2019 \ 2020	502
2020 \ 2021	494
2021 \ 2022	316
2022 \ 2023	780
2023 \ 2024	2346
2024 \ 2025	2269