

# Short-Form Supplementary Departmental Disclosure Statement

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Immigration Amendment Bill (No 2)
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A short form supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Immigration Amendment Bill (No 2), dated 23 September 2013, which can be found at this link <http://disclosure.legislation.govt.nz/bill/government/2013/156/>

This supplementary disclosure statement was prepared by the 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.

19 March 2015

## Significant Legislative Features

### Offences, penalties and court jurisdictions

<b>1. Do the proposed amendments create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?</b>	<b>YES</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>YES</b>
<p>The supplementary order paper introduces a recklessness offence alongside the existing offence in new section 351, so that any employer who exploits unlawful workers or temporary visa holders commits an offence if:</p> <ul style="list-style-type: none"> <li>• they knew the worker was not entitled to do the work or on a temporary entry class visa (maximum penalty of seven years imprisonment and/or a \$100,000 fine) (Bill status quo), or</li> <li>• they were reckless as to whether the worker was entitled to do the work or on a temporary entry class visa (maximum penalty of five years imprisonment and/or a \$100,000 fine).</li> </ul> <p>The supplementary order paper aligns judicial review and appeal pathways to provide consistency between the two processes. Amendments will:</p> <ul style="list-style-type: none"> <li>• clarify that an 'application for leave' to the High Court must be brought no later than 28 days</li> <li>• require leave to be sought before a party can appeal to the Court of Appeal from a High Court substantive judicial review decision</li> <li>• clarify that if the Court of Appeal refuses an application for leave to bring appeal or judicial review proceedings in the High Court against a decision of the Tribunal the applicant cannot appeal to the Supreme Court, and</li> <li>• require the High Court to set the issue for judicial review.</li> </ul>	

<b>1.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
Officials from the Ministry of Business, Innovation and Employment consulted with officials from the Ministry of Justice during the development of the proposals in the Supplementary Order Paper.	

### Privacy issues

<b>2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>

<b>2.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>N/A</b>

### Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO

### Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

### Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO

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

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO

### Significant decision-making powers

8. Do the proposed amendments 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

### Powers to make delegated legislation

9. Do the proposed amendments 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

<b>10. Do the proposed amendments create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
Clause 27 has been replaced by clause 96A, which amends the principal Act to allow regulations to include a description of the location of PNR information in the information that must be provided to the chief executive as part of the APP requirements.	

#### **Any other unusual provisions or features**

<b>11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>