

Regulatory Impact Statement: Limiting humanitarian appeal rights to the Immigration and Protection Tribunal for temporary visa holders

Decision sought	<i>Analysis for the Cabinet decisions on rebalancing appeal rights for temporary visa holders</i>
Agency responsible	<i>Ministry of Business, Innovation and Employment (MBIE)</i>
Proposing Ministers	<i>Minister of Immigration</i>
Date finalised	<i>21 May 2025</i>

To remove the ability of some temporary visa holders to appeal against their deportation liability on humanitarian grounds to the Immigration and Protection Tribunal (IPT), specifically:

- those who become liable for deportation because of criminal offending, and
- all visitor visa holders.

This proposal relates to temporary visa holders only. Temporary visas allow people to enter and stay in New Zealand for a limited time and for specific purposes. The primary categories are: Student visas (right to study), Work visas (right to work), and Visitor visas (the right to visit with no right to work or study).

Affected individuals will retain the ability to give good reason why deportation should not proceed within 14 days of being served a Deportation Liability Notice (DLN) to MBIE, during which time deportation cannot proceed, and may additionally pursue Judicial Review, lay a complaint to the Ombudsman or have their deportation liability cancelled by the Minister of Immigration or Delegated Decision Makers (DDM) in MBIE.¹

Summary: Problem definition and options

What is the policy problem?

Currently, MBIE is not able to swiftly deport temporary visa holders that become liable for deportation. Deportation orders cannot be made and executed until all appeal rights are exhausted and a final determination of immigration status is made. Following the issuing of a DLN, a temporary visa holder is granted 28 days to make appeal to the Immigration and

¹ Unless section 15 of the Immigration Act 2009 applies (excluded persons). This typically applies to serious criminal offenders.

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Protection Tribunal (IPT) regardless of whether they appeal or not. This process is far too drawn out for visitors who typically have a limited connection to New Zealand and those on temporary visas who commit criminal offences. Currently, it takes 226 days on average for a case to be processed by the IPT, and an appellant has a further 28 days to seek leave for point of law review by the High Court on the IPT's decision. Even if processing time improves however, there are set protections from deportation orders of: 28 days before and after appeal review. The generally drawn-out nature of this process is disproportionate and not reflective of the temporary nature of this visa category.

Despite temporary visa holders generally coming for a short stay or particular purpose, with less expectation to stay long term, they hold the same right to appeal their deportation liability to the IPT on humanitarian grounds as resident visa holders. There are other avenues for appeal that are less burdensome on the IPT that still enable those who have reasonable grounds to argue their right to stay, while enabling swifter deportation action for those who do not.

What is the policy objective?

The objective of this proposal is to send a clear message that temporary guests to New Zealand must follow New Zealand law and the conditions of their visa or face swift deportation action. The intended outcome is that MBIE can take timely deportation action when individuals become liable for deportation and to ensure natural justice is retained.

Success will be measured by the time taken to deport individuals (from serving of DLN).

What policy options have been considered, including any alternatives to regulation?

We considered four options:

- **Option One:** Status quo – most temporary visa holders (excluding limited visa holders²) can appeal deportation liability to the IPT on humanitarian grounds
- **Option Two:** remove the ability to appeal deportation liability to the IPT on humanitarian grounds for temporary visa holders whose deportation liability is for criminal offending
- **Option Three:** Option Two above plus remove the ability to appeal deportation liability to the IPT on humanitarian grounds for all visitor visa holders (ie those that do not have study or work rights) (**preferred**)
- **Option Four:** Option Two above plus remove the ability to appeal to the IPT on humanitarian grounds for individuals on visitor visas granted a stay of more than 12 months.

The preferred option is Option Three. This is expected to at least half the current average time until a deportation order can be issued from 283 days (for those who submit appeals to the IPT) and drop the minimum period until a deportation order can be issued from 29 days to 15 days, in cases where liability is not cancelled or overturned. Alongside supporting swifter deportation action, this change will likely support the IPT by reducing their case-load burden. MBIE will monitor the number of non-resident deportation appeals which go to the IPT (envisaged to decrease by approximately 110-120 cases per annum, or approximately 30-50 per cent of temporary visa deportation liability appeal cases, after the changes come into force), requests for Ministerial intervention, and/or Judicial Review.

What consultation has been undertaken?

² A Limited Visa is a specific type of temporary visa granted for a particular purpose when Immigration New Zealand (INZ) identifies a risk of the applicant overstaying their visa. It allows entry for a specific reason, but with restrictions, like the inability to apply for other visa types while in New Zealand.

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To achieve introduction of the Amendment Bill by October 2025, the Minister of Immigration agreed to a short period of targeted consultation with key stakeholders. MBIE has consulted as broadly as possible within time constraints, by undertaking a short and targeted period of stakeholder engagement with:

- government agencies,
- independent statutory bodies,
- representatives of impacted parties (ie immigration lawyers and community representatives).

Wider or public consultation was not feasible in the time available. Through the targeted consultation process, MBIE received a broad range of perspectives which have been factored into the analysis.

There will be two more opportunities for consultation:

- targeted consultation with the above stakeholders on an exposure draft of the Bill, in September 2025,
- through the six-month Select Committee stage, at which point members of the public are invited to provide written and oral submissions on the Bill.

Targeted consultation was undertaken with the Ministry of Justice (MoJ) during the early stages of the policy development in April 2025, which influenced the development of options.

From 1 to 6 May 2025, we informed and sought feedback on the proposal from the following stakeholders:

- Immigration New Zealand's (INZ) Focus Group (which includes members from Business NZ, the Employers and Manufacturers Association and the New Zealand Council of Trade Unions),
- The New Zealand Law Society (the Immigration and Refugee committee),
- The Office of the Ombudsman,
- The IPT.

Stakeholders were generally supportive of the proposal but raised concerns that the burden may simply shift from the IPT to the Courts through uptake of Judicial Review. The IPT also noted that criminal offenders only make up a minority of their cases – approximately 13 a year and are in complex situations that may be difficult to appropriately manage without an IPT avenue, such as those with dependent children, due to implications regarding the Convention on the Rights of the Child. Additionally, the Office of the Ombudsman shared concerns that the changes may lead to them receiving a substantial number of complaints, something not currently possible due to the IPT acting as the primary appeal body for deportation decisions. This is dependent on the Office of the Ombudsman's discretion to investigate such complaints. We have been unable to model how many additional complaints the Ombudsman may receive within our time restraints however assume it will be a relatively small percentile of the total amount of people made liable for deportation each year.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister’s preferred option in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

Analysis suggests the benefits of **Option Three** slightly outweigh the non-monetary costs, which are expected to be minimal, and mainly fall on the regulated group of temporary visa holders.

Option Three has low net non-monetary costs on regulated groups, such as MBIE, and others including the IPT and MoJ. However, where benefits are gained in reduced workload at the IPT there is a risk that the burden, both cost and otherwise, may shift to other areas like the Courts. We have been unable to model how many additional Judicial Reviews the Courts may receive, however we expect the figure to be a far smaller figure than we currently see in appeals to the IPT due to the narrow scope of Judicial Review. Only approximately 200 to 300 Judicial Reviews are heard each year nationwide.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

Option Three would provide low net benefits for regulated groups, such as the subset of temporary visa holders who become liable for deportation. This is because despite losing the ability to appeal to the IPT, they gain wider scope to lay a complaint with the Ombudsman. Medium net benefits are gained for the regulator, MBIE, as compliance action will be far swifter and more streamlined in most cases where appeals are not sought and should still be faster in cases where other avenues of appeal are sought. This proposal provides a small benefit to other parties such as the IPT, in the form of reduced appeal cases, however, this may be balanced by a small increase in Judicial Reviews for the High Court and complaints to the Ombudsman.

We have been informed that the IPT is highly costly to operate and as such reduction in their workload has potential to provide benefits to the Government through faster processing times, though we have not been able to gather specific costings. As with the costs above, this is however balanced by the potential for some of the burden and therefore costs to be shifted to the Courts or Ombudsman.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister’s preferred option are likely to outweigh the costs?

Analysis suggests the benefits slightly outweigh the costs, which are expected to be minimal.

The main points of risk are dependent on how affected persons will appeal using other avenues, such as Judicial Review or complaints to the Ombudsman, if the right to appeal to the IPT is removed. This is difficult to model as those with IPT appeal rights cannot pursue Judicial Review until after they have pursued an appeal to the IPT, and they cannot currently pursue a complaint to the Ombudsman. There is further difficulty in modelling this as

appeals to the IPT are based on humanitarian grounds while Judicial Review and complaints to the Ombudsman are based upon MBIE decisions, such as the decision to issue a DLN.

This change may increase requests for Ministerial intervention. This is likely to be influenced by the Ombudsman's discretion regarding scope, in that they typically direct potential complaints to use alternative avenues first, such as seeking Ministerial intervention, before addressing complaints themselves. As there is no statutory right of appeal to the Minister or stay on deportation action while an appeal to the Minister is being considered, we view the risk for significant increase is low, particularly with appropriate operational safeguards in how these requests are considered. MBIE monitors Ministerial interventions and will continue to do this, particularly with regard to how the proposal affects request numbers.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

Amendments to the Act will be required. The vehicle is the Immigration (Enhancing Risk Management) Amendment Bill (ERM) that is proposed to be introduced by October 2025. Co
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The Act sets out which visa holders have a right to appeal to the IPT, and on what basis. MBIE is the agency responsible for taking immigration compliance action, including the deportation of individuals who have become liable for deportation. The IPT is the body that determines appeals (against a range of decision types, including deportation decisions on humanitarian grounds) and therefore, will be impacted by any change to appeal rights.

We do not expect there to be resourcing implications for MBIE's Compliance function, as swifter compliance action can be undertaken within baseline resourcing. However, there is some chance that MBIE may need increased resourcing to defend some deportation decisions due to legal challenge following the removal of IPT appeal rights.

Risks and mitigations include:

- **Communications:** the proposal may face a negative reaction from human rights groups and other interest groups. This will be mitigated through careful communications to ensure clarity of the safeguards retained and why these groups are being affected.
- **Increase in requests for Ministerial intervention:** As there is no statutory right of appeal to the Minister or stay on deportation action while an appeal to the Minister is being considered, we view the risk for significant increase is low, particularly with appropriate operational safeguards in how these requests are considered. MBIE will monitor how the proposal affects number of requests received and responses to them.
- **Impact on the Courts:** there may an increase in Judicial Reviews if individuals are not able to appeal to the IPT, putting pressure on the Courts. This would place some pressure on MBIE's Legal function also, which will be required to defend MBIE's compliance decisions and actions. We will monitor the number of Judicial Reviews at the High Court to understand the impact.
- **Impact on the Ombudsman:** there may be an increase in complaints to the Ombudsman. The Ombudsman determines what complaints are within their scope, which has historically been limited in the immigration space due to the IPT operating as the primary oversight body for considering appeals. Without that right of IPT appeal they may consider more complaints are within their scope because the IPT is not available to certain complainants. Ultimately, the Ombudsman receives complaints about a range of matters and an increase in immigration complaints is not expected

to have a large impact. As part of implementation planning, we will remain engaged with the Ombudsman as the Bill progresses and determine a likely figure for increased appeals during this process, this is something we have not been able to model in the time available so far.

- **MBIE management of deportation cases immediately following enactment:** MBIE will ensure clear communication as to when changes will come into effect as there will be a period where some liable individuals will retain IPT appeal rights following enactment, while others following will not. As this proposal will not affect all temporary visa holders the current process will be retained in many cases so processes will not be entirely abnormal for compliance staff.
- **Those with genuine humanitarian grounds being deported:** We consider this risk is minimal as the affected temporary visa holders will retain the ability to give good reason why deportation should not proceed (to MBIE, who considers any humanitarian grounds), the right to pursue Judicial Review and complain to the Ombudsman against deportation/deportation liability decision-making.

Limitations and Constraints on Analysis

The Minister of Immigration’s expectation is that the Bill is introduced by end of October 2025 **Confidential advice to** requiring policy decisions in early June 2025. These timeframes mean that external consultation before Cabinet decisions has been limited to informing key stakeholders through one-on-one meetings and receiving their initial feedback on the proposals. We have not undertaken significant engagement (such as through discussion documents seeking detailed comments). Engagement with migrants or representatives of migrants has not been undertaken due to constrained timeframes.

Given the constrained timeframes, MBIE has developed this RIS based on limited and imperfect data. We note if appeal rights to the IPT are removed for some temporary visa holders, there may be an increase in Judicial Reviews. Approximately 100 to 120 appellants to the IPT each year would no longer be able to pursue this avenue and therefore may pursue Judicial Review or make a complaint to the Ombudsman regarding MBIE’s decision to issues a DLN. We have however been unable to adequately and accurately model this in the time available.

Targeted engagement on an Exposure Draft of the Bill will occur later in 2025 ahead of Cabinet Legislative Committee Decisions in October 2025.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager signature: _____

Stacey O’Dowd
 Immigration (Border and Funding)
 Policy
21 May 2025



Quality Assurance Statement

[Note this isn’t included in the four-page limit]

Reviewing Agency: MBIE

QA rating: Partially meets

Panel Comment: A Quality Assurance Panel from MBIE has reviewed the Regulatory Impact Statement (RIS) prepared by MBIE titled *Limiting humanitarian appeal rights to the Immigration and Protection Tribunal for temporary visa holders* on 22 May 2025.

The Panel considers that the information and impact analysis summarised in the RIS **partially meets** the Quality Assurance criteria.

The Panel has determined this rating because there has been no public consultation on the problem and policy options, and the proposals have undergone only limited targeted stakeholder consultation over a short timeframe, noting that the expected timeframe for introducing and enacting a Bill to implement the preferred option has constrained opportunities for more fulsome consultation. The RIS is otherwise of a high quality and meets all remaining Quality Assurance criteria.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The Immigration Act 2009 explicitly requires a balance of the national interest and rights of individuals

1. The purpose of the Immigration Act 2009 (the Act) is “to manage immigration in a way that balances the national interest, as determined by the Crown, and the rights of individuals”.³ The Act prescribes a range of means to achieve this purpose, including establishing an immigration system “that includes mechanisms to ensure that those who engage with the immigration system comply with its requirements.”⁴
2. Individuals who do not comply with New Zealand law or their visa conditions may face deportation from New Zealand. There are broad grounds for deportation liability for temporary visa holders, while grounds for deportation liability for resident visa holders are tightly prescribed, reflecting the lower tolerance for those who have only been granted temporary access to the country compared with those with expectations to permanently reside. New Zealand citizens cannot be deported, as per section 13 of the Act.⁵
3. To ensure natural justice and fairness, the Act provides robust procedural rights to individuals, such as access to information and the right to be heard fairly.

The Minister has agreed to regular targeted reviews of the Act

4. In 2024, Cabinet agreed to regular, targeted reviews of the Act to ensure it remains fit for purpose.
5. This proposal is included in the Enhanced Risk Management Amendment Bill (ERM) under the objective: improve the operation of the compliance and enforcement system.

Right of appeal against deportation liability is too universal for temporary visa holders

6. Citizens and non-citizens are treated differently in the immigration system, justified by the fact that state action involved, such as decisions relating to the grant of entry to New Zealand, inherently involve different treatment based on personal characteristics

³ Section 3(1) of the Act.

⁴ Section 3(2)(e)

⁵ Office of the Auditor General (2013), [Part 3: Citizenship and permanent residency — Office of the Auditor-General New Zealand](#)

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(section 392(3) of the Act). Similarly, section 153(3) of the Human Rights Act provides that nothing in that Act affects any enactment that distinguishes between citizens and non-citizens. The Human Rights Act discrimination complaints procedure therefore does not generally apply to immigration matters (see also section 392(2) of the Act).

7. Further, while resident visa holders have the right to live, work, and travel freely and indefinitely, temporary visa holders have limited rights, including specific work or study permissions and requirements placed upon them when they are granted a visa. The visa-waiver and visa-required system also places a clear distinction on who we openly allow into New Zealand with minimal checks and grant a visa and entry permission on arrival versus who must apply for a visa in advance of travel (and therefore face more screening).
8. We recognise any limitation on appeal rights needs to be justified. We note that temporary visa holders who are typically in New Zealand for a short stay and/or a specific purpose (and are therefore less likely than resident visa holders to have strong connections to New Zealand that would make it unduly harsh to be deported) have the same appeal rights as resident visa holders when it comes to deportation liability. Typically, decisions related to temporary visa holders are far more restrictive than resident visa holders, reflecting the temporary nature of the visa, something that is not currently adequately reflected regarding the deportation process for this visa category.

Section 157 of the Act sets out reasons for which temporary visa holders may be made liable for deportation

9. Part Six of the Act relates to deportations and the purpose is to support the integrity of New Zealand's immigration system and the security of New Zealand by providing for the deportation of certain persons from New Zealand.
10. Section 157 provides that the Minister or delegated decision maker (DDM) may make a temporary visa holder liable for deportation if they determine that there is "sufficient reason" to deport the person. It also prescribes their right of appeal or otherwise give good reason why deportation should not proceed.
11. 'Sufficient reason' includes, but is not limited to:
 - a. breach of conditions of the person's visa
 - b. criminal offending⁶
 - c. other matters relating to character
 - d. concealing relevant information in relation to the person's application for a visa
 - e. a situation where the person's circumstances no longer meet the rules or criteria under which the visa was granted.
12. Figure One below provides a breakdown of the proportion of temporary visa holder deportations undertaken in 2023 and 2024 that were due to criminal offending (compared to other reasons).

⁶ A criminal conviction is not required for a compliance officer to issue a deportation liability notice based on criminal offending.

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13. Individuals can be made liable for multiple reasons, such as criminal offending and other matters relating to character, so for cases where multiple factors were cited for the persons' liability including criminal offending, they have been classified as liable due to criminal offending. We were unable to gather data on those currently liable for deportation, only final deportation outcomes.

Figure One: Reasons for deportation liability of temporary visa holders deported in 2023 and 2024⁷

	Reasons for deportation		
Departure date	Criminal	Other s157 breaches (excluding criminal)	Total
2023	93	132	225
2024	140	243	383

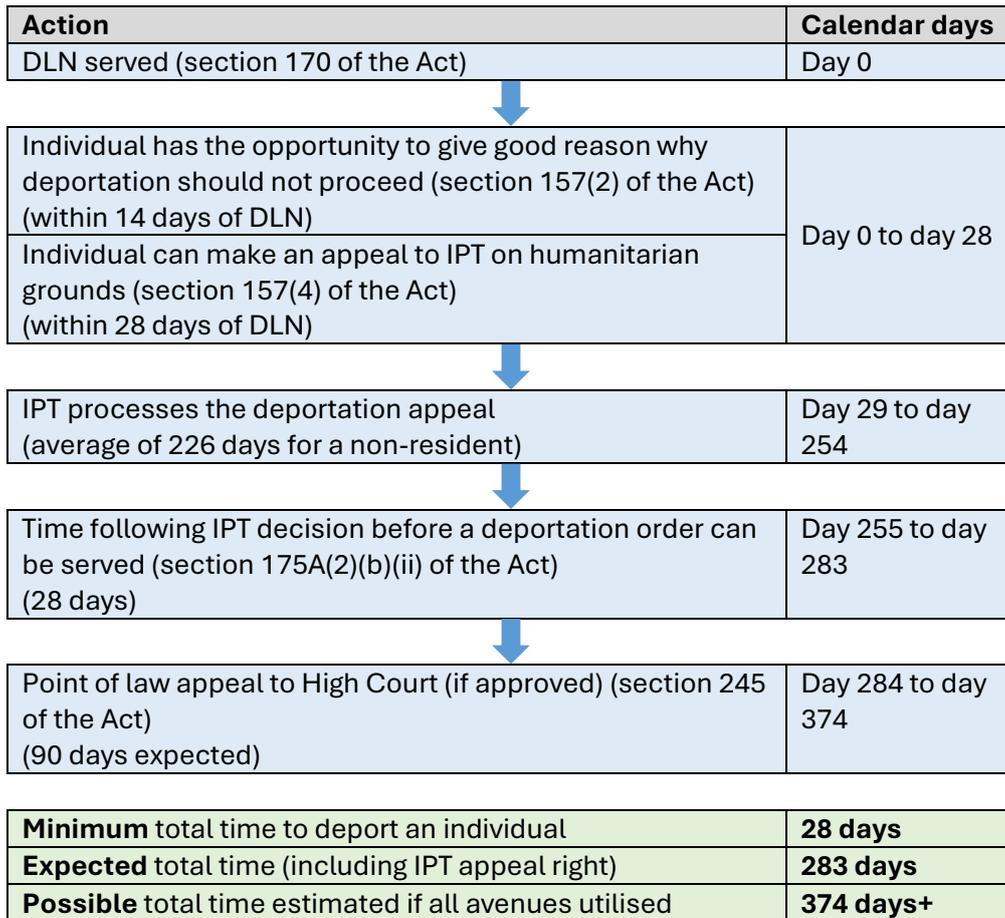
The current deportation and appeals process for temporary visa holders is very lengthy and segmented

14. The full appeal process for a temporary visa holder liable under section 157 is outlined in Figure Two below, along with approximate timing for each stage of the process.

⁷ Excludes individuals who became liable due to being “unlawful”. These individuals were excluded as unlawful individuals have a separate appeal process (s154) to those liable under s157.

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Figure Two: Appeals process for temporary visa holders liable under section 157



15. The proposal tightens this current process significantly. The Act would now only afford protection for 14 days for the affected person to provide good reason why the deportation should not proceed to MBIE, and then enough time until a decision is made whether to accept this argument or not. Once that decision is made MBIE may serve the affected person a deportation order immediately (minimum of 15 days from DLN to deportation order).
16. There are alternative avenues of appeal that afford means of protection where affected persons believe there is substantial argument either against the decision to make them liable or the outcome of the good reasons review.
17. Persons may, for example, seek Ministerial intervention, lay complaint with the Ombudsman or seek Judicial Review regarding the MBIE’s decision to make them liable for deportation or the outcome of the good reasons review. While there are no statutory requirements for deportation orders to be delayed until decisions venison these matters are made, operationally, MBIE has the discretion to delay deportation decisions or actions until decisions by the Minister are made or an Ombudsman investigation is complete. In cases where Judicial Review is sought, typically legal representation for the defendant will seek an injunction or interim order to delay action (in this case deportation) until the Judicial Review is resolved.

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18. While liable persons lose the ability to appeal to the IPT on humanitarian grounds, these avenues provide adequate protections external to the Act related to MBIE decision-making for those who would be affected by this change.
19. Additionally, the opportunity to give good reasons why deportation should not proceed would remain also. This process requires consideration by a different immigration officer than the immigration officer who served the DLN and affords discretion for the immigration officer to appropriately consider the arguments of the liable person, including any humanitarian grounds they may have.
20. The length of time of an Ombudsman review, Ministerial intervention, or Judicial Review vary significantly. They are however, expected to be used in very limited cases and serve largely as a backstop in rare cases where those with significantly strong argument are at risk of deportation but have substantial grounds that may qualify them to stay.

IPT performance statistics make it difficult to be certain on the scale of appeals upheld

21. The IPT is an independent tribunal administered by the Ministry of Justice (MoJ). It hears and considers appeals concerning decisions about:
 - resident visas,
 - recognition of a person as a refugee or protected person (including whether to cancel or stop recognising a person as a refugee or protected person), and
 - liability for deportation (for both resident and temporary visa holders).
22. Grounds for determining deportation appeals are set out in section 207 of the Act and are based whether a person has exceptional circumstances of a humanitarian nature that make deportation:
 - a. unjust or unduly harsh, and
 - b. not in all the circumstances contrary to the public interest to allow the appellant to remain in New Zealand.
23. Per the IPT's 2023/24 annual report, the IPT finalised decisions on 205 temporary visa holder deportation appeals during the 2023/24 financial year. The report states 57 per cent of appeals were allowed/upheld, and 43 per cent were dismissed during this period, however the IPT has indicated these figures are misleading and their approval rate is closer to 25 per cent.
19. The IPT has the power to order Immigration New Zealand (INZ) to issue a temporary or resident visa to an IPT appellant. In cases where appeals are allowed/upheld the IPT typically orders what they consider an appropriate visa be granted, and in cases where an appeal is dismissed, they may still order a visa under section 216 to be issued to enable the appellant to settle their affairs in New Zealand before deportation proceeds. The IPT has indicated that this power to enable appellants to settle their affairs in New Zealand before deportation action proceeds has led to misleading approval statistics in their report.

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20. Approximately 93 visas were ordered for appellants during the 2023/24 period for stand-alone⁸ temporary visa holder deportation liability appellants, though we do not know what portion of these were for successful appellants compared to unsuccessful appellants who were granted visas to settle their affairs.

The status quo may lead to greater non-compliance of visa holders

24. The number of temporary visa holders that become liable for deportation is small. Out of two million temporary visas granted per annum,⁹ 890 temporary visa holders were deported in 2024.¹⁰ It remains however important that timely compliance action, including deportation, can be conducted for those who breach New Zealand law or the conditions of their visa, particularly if the number of individuals liable for deportation grows.
25. By comparison, the IPT made 205 temporary or other non-resident appeal decisions in the 2023/24 financial year, indicating approximately a quarter of temporary visa holders make appeal, though it is difficult to compare data points given the time period differences.
26. The current settings mean temporary visa holders may ultimately stay longer in New Zealand by appealing their deportation liability on humanitarian grounds, granted by sections 154, 155, 156 and 157 of the Act, which may incentivise non-compliance of visa holders. For example, if a temporary visa holder knows they cannot be deported for close to a year while pursuing appeal action against deportation, they may be less likely to follow the conditions of their visa. Further, the longer the appeal process takes the more likely an appellant is to build stronger connections to New Zealand and as such strengthen their humanitarian grounds to stay, despite that at the time of service of their DLN the humanitarian grounds to stay may have been minimal.

What is the policy problem or opportunity?

Policy Problem

27. Under the Act, temporary visa holders are entitled to the same right of appeal for deportation liability to the IPT (ie on humanitarian grounds) as resident visa holders. This has led to situations where MBIE is unable to conduct swift compliance action in relation to temporary visa holders as all appeal rights need to have been exhausted before a deportation order is served. The full process before a deportation can proceed can take up to an estimated 372 days with the IPT appeal process taking 226 days on average alone.
28. If the status quo continues, MBIE will be unable to take swift compliance action against individuals who become liable for deportation which may incentivise non-compliance. Further the IPT may continue to see high levels of deportation liability appeals by

⁸ Excludes cases where appellants were also associated with a refugee and protection or other appeal with the IPT

⁹ MBIE internal reporting data.

¹⁰ This includes deportation, self-deportation, and voluntary departure, of person's liable for deportation.

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temporary visa holders, which take many months to consider and determine exacerbating the issue.¹¹

29. Limiting appeal rights for temporary visa holders would send a strong signal that visa breaches are not tolerated, and reinforce the nature of temporary visas, which are for a temporary stay and/or particular purpose. Further, visitor visa holders (or a subsection of them) arguably should not hold the same right to appeal as temporary visa holders with greater pathways to residency (eg student or work visas), as these visa holders generally have less connection to New Zealand or intention to stay long term.
30. This should see most deportations actioned far quicker, while those who have wish to argue against their deportation can still pursue avenues to appeal against the decision to make them liable in a faster manner than is currently occurring.

Opportunity

31. With IPT appeal rights removed for some temporary visa holders, MBIE will be able to serve deportation orders (enabling deportation to be actioned) in a minimum of 15 days following service of a DLN (currently it takes a minimum of 29 days) and reduce the case load burden for the IPT. This nearly halves the length of time until deportation action can proceed for those who do not seek avenues of appeal (such as Judicial Review), and will result in a shorter, more concise process for those who do seek these avenues.
32. There is further potential to support the proposed Parent Boost visa (a proposed visitor visa that grants a number of years entry). This visa intends to enable parents of an adult New Zealand citizen or resident who are not in New Zealand to stay in New Zealand for up to five years, in line with the 2023 Coalition Agreement between the National and ACT Parties. This proposal can support risks associated with this visa by sending a strong signal about consequences of persons not abiding by the conditions of their visa or overstaying beyond its expiry.

What objectives are sought in relation to the policy problem?

33. The primary objective is to send a clear message that temporary guests to New Zealand must follow New Zealand law and the conditions of their visa or face swift deportation action.
34. There are two secondary objectives:
 - a. Support an efficient compliance and enforcement system (by enabling swift deportation action for those that become liable for deportation), and
 - b. Uphold the principles of natural justice (by ensuring that individuals have an opportunity to give good reason why deportation should not proceed, and to have their liability cancelled in the case of genuine argument against it).
35. There are tensions and trade-offs between objectives a and b above, as the proposal that an efficient compliance and enforcement system be enabled by the removal of an appeal right, has natural justice implications.

¹¹ The IPT had 299 temporary visa cases on hand as of 2023/24, the highest number of these cases on hand since 2013/14.

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One of the fundamental principles of natural justice is that affected parties should be given the opportunity to be heard

36. People liable for deportation would have three avenues to be heard:
 - a. 14 days to give good reason to MBIE why deportation should not proceed,¹²
 - b. the ability to lay a complaint with the Ombudsman regarding the MBIE decision to make someone liable for deportation or the outcome of the good reasons review, and
 - c. the ability to seek Judicial Review regarding the MBIE decision to make someone liable for deportation or the outcome of the good reasons review.
37. The good reasons review includes scope for many considerations including humanitarian grounds and changes in circumstance, though is fairly wide in scope.
38. Judicial Review and complaints to the Ombudsman may be made against both DLNs and decisions made regarding the outcome of the good reasons review.

What consultation has been undertaken?

39. To achieve introduction of the Amendment Bill by October 2025, the Minister of Immigration agreed to a short period of targeted consultation with key stakeholders. MBIE has consulted as broadly as possible within time constraints, by undertaking a short and targeted period of stakeholder engagement with:
 - government agencies,
 - independent statutory bodies,
 - representatives of impacted parties (i.e. immigration lawyers and community representatives).
40. Wider or public consultation was not feasible in the time available. Through the targeted consultation process, MBIE received a broad range of perspectives which have been factored into the analysis.
41. There will be two more opportunities for consultation:
 - targeted consultation with the above stakeholders on an exposure draft of the Bill, in September 2025,
 - through the six-month Select Committee stage, at which point members of the public are invited to provide written and oral submissions on the Bill.
42. Targeted consultation was undertaken with key stakeholders in April and May of 2025, which have informed the development of the proposal and our analysis.
43. MoJ advised that:
 - a. The proposal to maintain the 14-day period for giving good reason why deportation should not occur, as well as maintaining access to Judicial Review, mitigates limits

¹² If the person is made liable under sections 156 or 157.

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on natural justice. Interactions with the international human rights instruments to which New Zealand is a party could be affected however (such as the Convention on the Rights of the Child, and the International Covenant on Economic, Social and Cultural Rights). Any limitation/removal of appeal rights would have to be justified and may face push back from some interest groups (such as those that represent migrants).

- b. They additionally shared concerns that removal of IPT appeal rights may shift the burden from the IPT to the Courts as Judicial Review will become the primary avenue for liable persons to challenge their deportation. However, this is difficult to model as the Act restricts Judicial Review until after appeals are made to the IPT for those with IPT appeal rights. MoJ also questioned whether Judicial Review is an appropriate primary means of appeal, and whether the costs of pursuing Judicial Review will be prohibitive to some.
- c. MoJ also noted that as they support the administration of the IPT, any reduction in the number of appeals to the IPT would reduce the workload and would enable the IPT to reduce the backlog of work on hand, potentially reducing the time taken to finalise an appeal.

44. From 1-6 May we consulted the following groups on the ERM proposals:

- INZ's Focus Group (which includes members from Business NZ, the Employers and Manufacturers Association and the New Zealand Council of Trade Unions),
- the New Zealand Law Society (NZLS, specifically the Immigration and Refugee Committee,
- the Office of the Ombudsman, and
- the IPT.

45. These stakeholders were broadly supportive of the policy intent and provided useful feedback about the possible impacts of the change.

46. The IPT shared that:

- a. They support the objective of enabling swift compliance action but considers there are other ways to achieve this (eg. preventing people from getting a stay to appeal to the High Court or Court of Appeals). The removal of IPT appeal rights may shift the burden to the High Courts as Judicial Review would become one of the only ways to challenge deportation liability. MBIE may also be challenged on its Good Reasons Reviews. They also shared that the number of non-resident deportation cases where liability is due to criminal offending is low – only 13 cases a year, and mostly Accredited Employer Work Visa (AEWV) holders who have children in school (so may have humanitarian grounds). In many of these cases a further temporary visa is granted to enable children to finish the school year.
- b. The IPT are currently facing a significant backlog of cases and any proposal that reduces the number of appeal cases is welcome.

47. The NZLS shared concerns about cases where children may be impacted. They also questioned whether alternative avenues of appeal are appropriate to consider

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deportation cases, given the IPT specifically consider humanitarian grounds for these cases (which will not be the specific focus through other avenues such as Judicial Review).

48. INZ's Focus Group questioned whether the proposals outlined would have human rights implications.
49. The Office of the Ombudsman expressed concern that the proposal would result in a significant influx of complaints to them and further sought clarification about what the specific expected appeals/complaints process for affected individuals would look like should this proposal be enacted.
50. Based on recent statistics, we estimate approximately 200-300 temporary visa holders may be able to lay complaint to the Ombudsman, however given only 100-120 make appeal to the IPT we expect the additional complaints to the Ombudsman will likely be minimal. The scope of the Ombudsman in this space is ultimately at their discretion and we will continue to engage with them to determine how they may be affected by this proposal.
51. The Legislation Design and Advisory Committee (LDAC) were also consulted. They shared that by default, an appeal should be available (a pathway to challenge a statutory decision that affects a person) unless there are factors that would make an appeal inappropriate. MBIE argues that the ability to provide good reason why a deportation should not proceed, pursue Judicial Review, seek Ministerial intervention and to lay complaint with the Ombudsman offer pathway to challenge a statutory decision. LDAC noted further that whether these factors are sufficient to remove this right of appeal is ultimately at the discretion of Cabinet and Parliament.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

52. MBIE proposes the following criteria be used to assess the options against the status quo:
 - a. **Aligns with the objectives** set out in Section 1
 - b. **Supports an efficient compliance system**
 - c. **Upholds the principles of natural justice** by ensuring the limitation of appeal rights is considered fair and proportionate, and appropriate avenues to contest deportation liability are maintained
 - d. **Ease of implementation:** the option can be implemented with limited additional resource, cost, change and time to MBIE.

What scope were options considered within?

53. In March 2025, the Minister requested that the Immigration (Enhanced Risk Management) Amendment Bill (the ERM Bill) be introduced by October 2025.
54. Following advice, the Minister of Immigration indicated options should focus on temporary visa holders that became liable for deportation due to criminal offending,

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and not be limited on a time-based approach (ie temporary visa holders who have been in New Zealand less than 12 months).

55. Additionally, analysis regarding a proposed Parent Boost visa (a five-year multiple entry visa) identified significant risks of potential overstaying or other breach of visa conditions. Options considered how this proposal could support this visa by addressing the risks associated with it.
56. The scope of options has also been shaped by early consultation with MoJ and the Legal and Compliance teams within MBIE. MoJ indicated that limiting immigration appeal rights should not have New Zealand Bill of Rights Act 1990 (BORA) implications (as the right of appeal is not guaranteed under BORA), but it would still need to be justified for the group/s affected. Compliance teams within MBIE indicated that the changes could be implemented relatively easily within baseline and current resourcing.

What options are being considered?

57. In line with feedback provided by the Minister, the following options for limiting IPT appeal rights for temporary visa holders were considered:

- **Option One:** Status quo – all temporary visa holders can appeal to the IPT on humanitarian grounds.
- **Option Two:** Remove the ability to appeal to the IPT on humanitarian grounds for temporary visa holders whose deportation liability arises from criminal offending.
- **Option Three:** Option two, plus remove all visitor visa holders' ability to appeal to the IPT on humanitarian grounds (this would capture all temporary visitors to New Zealand who do not hold study or work rights, most of whom stay for less than three months).
- **Option Four:** Option two, plus remove the ability for those on visitor visas granted a stay of more than 12 months to appeal to the IPT on humanitarian grounds (this would capture only visitors that are granted longer-term visas, such as the Parent or Grandparent visa).

58. All options presented retain temporary visa holders'¹³ right to give good reason why deportation should not proceed within 14 days of being served a DLN. Additionally, those liable for deportation may pursue Judicial Review, and the Minister or DDM would retain the absolute discretion to cancel deportation liability at any time. This supports the maintenance of natural justice while making clear distinctions in deportation protections between citizens, residents, and temporary entrants.

59. **Table One** below assesses each option against the criteria in paragraph 51. The following points system is used.

++	much better than the status quo
+	better than the status quo
0	about the same as the status quo

¹³ Excluding limited visa holders and excluded persons.

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-	worse than the status quo
--	much worse than the status quo

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Table One: Options analysis

Criteria/ Options	Option 1: Status quo	Option 2: Remove IPT appeal rights for temporary visa holders whose deportation liability is based on criminal offending.	Option 3: Option 2, plus remove IPT appeal rights for all visitor visa holders who become liable for deportation (those on temporary visas who do not have study or work rights).	Option 4: Option 2, plus remove IPT appeal rights of holders of visitor visas (those on temporary visas who do not have study or work rights) granted a stay of 12 months or more.
Aligns with objectives	0	+ Captures criminal offenders but not those that otherwise breach the conditions of their visa.	++ Captures criminal offenders and all visitors to New Zealand without impacting those who typically have stronger connections to New Zealand or clearer paths to resident visas.	+ Captures criminal offenders and assists with the objectives of the proposed Parent Boost visa.
Supports an efficient compliance system	0	+ Captures significant proportion of deportees (over one third in 2023/24), expediting deportation processes for criminal offenders.	++ Captures criminal offenders and all visitor visa holders (47 per cent of all deportations in 2023 and 39 per cent in 2024 were on visitor visas and/or due to criminal offending).	+ Captures criminal offenders and some long-term visas such as the proposed Parent Boost visa, among other visas. Statistics are limited as to how many will be affected by this change but there are approximately 12 specific visas currently in scope, with very few deportations associated with these visas (less than 10 across 2023 and 2024).
Upholds the principles of natural justice	0	- May raise concerns as to whether this option supports adequate access to natural justice due to the very short (14 days) window to argue a case. While an	- Specific targeting of visitor visa-holders over other temporary visa-holders would require adequate justification. We	-- Similar concerns as Option 3, however the scope of affected visa holders, while unknown, is likely to be minimal by

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Criteria/ Options	Option 1: Status quo	Option 2: Remove IPT appeal rights for temporary visa holders whose deportation liability is based on criminal offending.	Option 3: Option 2, plus remove IPT appeal rights for all visitor visa holders who become liable for deportation (those on temporary visas who do not have study or work rights).	Option 4: Option 2, plus remove IPT appeal rights of holders of visitor visas (those on temporary visas who do not have study or work rights) granted a stay of 12 months or more.
		individual can pursue Judicial Review, this will be cost prohibitive for some. An individual will, however, be able to lay a complaint to the Ombudsman, which is currently free.	believe this can be met as those with work or study rights typically hold stronger connections to New Zealand. This option may still be met with criticism given how many entrants to New Zealand each year are granted visitor visas (approximately 1,700,000 in 2024).	comparison. Providing adequate justification may be more challenging, however, as this option specifically targets long-stay visitor visas who likely hold stronger connections to New Zealand than many other visitor holders (such as general visitor visa holders).
Ease of implementation	0	-	-	-
		Relatively straightforward to implement as criminal offending is already considered throughout the Act as a reason for deportation liability. There may be some operational issues to work through however, such as how DLNs are written and served and how criminal offending may be considered (any and all offending or whether it should be narrower in scope). There may additionally be some short-term challenges as the Ombudsman, High Court, and MBIE, clearly establish their relevant scopes of responsibility. This same concern applies across all three options.	The expansion to include all visitor visas should not have significant operational impacts long-term. There may, however, be some difficulties in the short-term as the changes will be prospective, meaning that DLNs served before enactment will retain all current appeal rights while those served DLNs after enactment will not be able to appeal to the IPT. Compliance officers will have to manage these cases simultaneously.	Should be relatively straightforward due to the narrower scope, though is likely to pose the same operational challenges as Option 3. There may be additional challenges in communicating to stakeholders and the public who is affected, why they are affected, and why these specific visas were singled out.
Option total	0	0	+2	-1

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

60. MBIE has assessed that Option 3: Remove IPT appeal rights for temporary visa holders whose liability is based on criminal offending, is most likely to meet the policy objectives. This option is also less complex to implement and communicate than Option 4 as it focusses on one of the three already clearly defined visa categories (visitors), as opposed to applying only to specific visa products/durations.
61. Option 2 is the most straight-forward option to justify (upholding integrity of the immigration system) but is narrow in scope and does not capture the spectrum of ways someone may become liable for deportation other than criminal offending. This would make the option minimally impactful compared to Option 3 or 4.
62. Option 4 was proposed to support the objectives of the proposed Parent Boost visa and the risks associated with it. Analysis has suggested, however, that placing limitations on a subsection of visitor visas, particularly when they are those with typically stronger connections to New Zealand than general visitor visa holders for example, is unlikely to be justifiable. Communicating this option to stakeholders would be challenging also. There is also a risk that specific visa holders whose appeal rights are restricted may additionally pursue legal challenge as to why they have less appeal rights than other visitor visa holders.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

63. Yes.

What are the marginal costs and benefits of the preferred option

64. We have identified the following affected groups and the nature of their interests:

- a. Regulated group:
 - i. Temporary visa holders who become liable for deportation. This includes holders of visitor visas, and visas that enable work or study in New Zealand. Approximately two million per annum, the majority of which (86 per cent) are visitor visa holders. The majority of these are law abiding and only a small proportion become liable for deportation under section 157 (less than 0.1 per cent).
- b. Regulators:
 - i. MBIE's Resolutions team, which supports decision-making on deportation liability and requests for Ministerial intervention,
 - ii. MBIE's Immigration Compliance and Investigations (ICI) team, which undertakes investigation and compliance activities for instances of non-compliance with the Act,
 - iii. DDMS, such as the Associate-Minister of Immigration who currently holds delegation for Ministerial intervention,
 - iv. Judges who complete Judicial Review.

- c. Other:
- i. The IPT, which has to consider and determine deportation appeals,
 - ii. The MoJ, who provides administrative support to the IPT,
 - iii. The Courts, which may receive more Judicial Reviews if IPT appeal rights are removed.

65. **Table Two** below outlines the marginal costs and benefits of the preferred option.

Table Two: cost benefit analysis

Affected groups	Description	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Temporary visa holders	Medium Judicial Review being the primary means of appeal is cost-prohibitive ¹⁴ and may be inaccessible for many individuals liable for deportation. With option to lay a complaint with the Ombudsman and Judicial Review available, however, there may be greater avenues of challenge for liability decisions, rather than the current appeal options based on deportation.	Medium It is hard to predict how liable persons will operate within the new environment as they cannot currently pursue Judicial Review (until after IPT decision) or complain to the Ombudsman if they have IPT appeal rights.
Regulators	MBIE DDMs	Low This proposal should have no additional requirement for compliance as the process is still the same for them, just shorter. Judicial Review may mean decisions will need to be more carefully considered and may put pressure on MBIE's legal staff to defend cases, however. There may be some implications for DDMs if there is an influx of requests for Ministerial intervention, however this can be managed with operational safeguards.	Medium
Others (eg, wider government, consumers, etc.)	MoJ IPT Courts	Low There is risk that without the right for some temporary visa holders to appeal to IPT they instead seek	Medium

¹⁴ The cost to appeal to the IPT is currently \$910, excluding further costs such as cost of legal aid. Costs of Judicial Review vary Court by Court and based on legal representation and length of the case. Judicial Review is typically far more expensive than IPT appeal however, easily costing a plaintiff over \$10,000.

Affected groups	Description	Impact	Evidence Certainty
	Ombudsman	Judicial Review or lay complaint with the Ombudsman, which would shift pressure to the Ombudsman and the Courts. This is however balanced and surpassed by reduced pressure on the IPT in our view.	
Total monetised costs		Low	Medium
Non-monetised costs		Low - Medium	Medium
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Temporary visa holders	Low Less right to appeal is a worse outcome for those that wish to stay and may have humanitarian grounds to argue their case.	High
Regulators	MBIE (compliance)	Medium The regulator will be enabled to more efficiently take deportation action.	Medium
Others (eg, wider govt, consumers, etc.)	MoJ IPT	Medium Removing appeal rights for a subsection of temporary visa holders liable for deportation reduces the number of potential appellants to the IPT. The IPT may benefit by having fewer appeals, which could support lower caseloads and enable more efficient processing. There is concern that some case load may end up at the Courts due to Judicial Review, however.	High
Total monetised benefits		Low – Medium	Medium - High
Non-monetised benefits		Medium	Medium - High

66. The analysis above shows that non-monetised benefits slightly outweigh non-monetised costs.

Section 4: Delivering an option

How will the proposal be implemented?

67. Amendments to the Act will be required. The vehicle is the ERM Bill that is proposed to be introduced by October 2025. Confidential advice to Government
68. MBIE is responsible for administering the Act and is responsible for taking immigration compliance action, including deportation. The IPT is the body that determines appeals (against a range of decision types) and therefore, will be impacted by any change to appeal rights.
69. We do not expect the proposal to have resourcing implications for MBIE, as swifter compliance action can be undertaken within baseline resourcing. As the changes are likely to be prospective, this will mean that temporary visa holders that are already liable for deportation when the changes come into effect will still have IPT appeal rights but those that become liable after the changes come into effect will not. The compliance team in MBIE has said this will add complexity but they can manage this situation with clear guidelines for compliance staff. Ongoing consideration will be made as to whether greater pursuit of Judicial Review or Ministerial intervention will impact MBIE resourcing.
70. We plan to communicate the changes to a targeted group of stakeholders via an exposure draft of the Amendment Bill in September 2025 and will develop a plan to communicate the changes to the public ahead of them coming into force. The Select Committee process will also provide an opportunity for members of the public and interest groups to have their say.
71. Implementation risks and mitigations include:

Risk	Mitigations
Increased frequency of requests for Ministerial intervention, complaints to the Ombudsman and/or Judicial Review	<ul style="list-style-type: none"> • Communication with the Resolutions (INZ) team, who manages Ministerial intervention, to develop operational options to mitigate potential for an influx of requests for Ministerial intervention. • Complaints to the Ombudsman may surge once the change takes effect, but we expect will decrease over time as they build a body of decisions for precedent and better understand their scope regarding deportation decisions. The scope of the Ombudsman is at their discretion, so it is important they are well across the proposal and any operational implications can be identified and managed where possible. • Judicial Review is cost prohibitive so may be unlikely to see substantial increases however this is difficult to forecast due to Judicial Review not being available until after IPT appeal decision in the current Act.
Managing deportation cases during the transition period	<ul style="list-style-type: none"> • Ensuring clear communication as to when the changes will come into effect. As this proposal will not affect all temporary visa holders the current process will be retained in many cases