

Regulatory Systems (Immigration and Workforce) Amendment Bill

Government Bill

As reported from the Education and Workforce Committee

Commentary

Recommendation

The Education and Workforce Committee has examined the Regulatory Systems (Immigration and Workforce) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

The Regulatory Systems (Immigration and Workforce) Amendment Bill is an omnibus bill that would amend seven Acts administered by the Ministry of Business, Innovation and Employment (MBIE), and associated regulations:

- Electricity Act 1992
- Employment Relations Act 2000
- Gas Act 1992
- Health and Safety at Work Act 2015
- Immigration Advisers Licensing Act 2007
- Mines Rescue Act 2013
- Parental Leave and Employment Protection Act 1987.

The bill's policy objective is to improve regulatory systems in the portfolio areas of Energy, Workplace Relations and Safety, and Immigration. It aims to ensure that the systems are effective, efficient, and accord with best regulatory practice. The bill's proposed amendments were identified as part of MBIE's work on stewardship of the legislation it administers. The bill also responds to calls for "repairs and maintenance" of existing legislation, to ensure that the statute book remains fit for purpose and up to date.

For a detailed explanation of the bill's changes to the above Acts, we refer readers to the summary in MBIE's initial briefing to this committee.¹

The bill is associated with the Regulatory Systems (Economic Development) Amendment Bill, which is being considered by the Economic Development, Science and Innovation Committee. This means that the two bills could be debated together at the second and third reading stages.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

We are recommending eight amendments to the bill, as shown in the attached version. We consider our proposed amendments to be mostly minor or technical in nature. Explanations for our proposed amendments are set out in the departmental report. Our commentary below covers some of the proposed amendments that we consider should be drawn to readers' attention.

Complaints against immigration advisers

Section 44 of the Immigration Advisers Licensing Act 2007 sets out how complaints against immigration advisers can be made. Clause 32 of the bill would amend section 44 of the Act to update the requirements for written complaints. We recommend amending the clause to give more flexibility to complainants when they are unable to recall specific details of the issue that they wish to complain about.

Alterations to the register of licensed immigration advisers

We recommend adding clause 36A to the bill to insert new section 78A into the Immigration Advisers Licensing Act 2007. The new section would enable the Registrar to restrict public access to some information in the register of licensed immigration advisers in certain situations. We consider this an appropriate safeguard to protect people's privacy or safety.

Clause 37 would amend section 79 to allow the Registrar to remove information from the register that was considered to no longer be required. We considered whether the amendment should set out what types of information might be removed from the register, such as contact information for people no longer licensed, deceased persons, or personal details subject to suppression by court orders. However, we decided it was not necessary to set out examples of the types of information.

¹ The ministry's initial briefing and subsequent departmental report are available on the Parliament website on the Education and Workforce Committee's page, under Submissions and Advice.

Other matters noted

Copy of individual employment agreement or individual terms and conditions of employment

Section 64 of the Employment Relations Act 2000 sets out an employer's obligation to retain a copy of an individual employment agreement, individual terms and conditions of employment, or intended agreement. Clause 9 would amend the section by inserting new subsection (2A) to further clarify this obligation: the employee must not hold the only copy, and the employer's copy must be readily accessible. In our view, the ideal situation is for both the employer and employee to have a copy of the employment agreement.

We note that new section 64(2A) would not affect the rights of an employee to obtain a copy of their employment agreement under section 64(3).

We also note that we have recommended a change to clause 9 so that new section 64(2A) refers to individual terms and conditions of employment, as well as to individual employment agreements or intended agreements. This would mean that the three categories currently referred to in section 64(1) and (2) are included in new section 64(2A).

Appendix

Committee process

The Regulatory Systems (Immigration and Workforce) Amendment Bill was referred to the committee on 23 July 2024. The bill is associated with the Regulatory Systems (Economic Development) Amendment Bill, which is being considered separately by the Economic Development, Science and Innovation Committee.

We called for submissions on the bill with a closing date of 4 September 2024. We received and considered submissions from 16 interested groups and individuals. We heard oral evidence from 2 submitters at a hearing in Wellington and via videoconference. We invited the Minister for Economic Development to speak to us about the bill. She did so on 18 September 2024.

Advice on the bill was provided by the Ministry of Business, Innovation and Employment. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Katie Nimon (Chairperson)

Carl Bates

Camilla Belich

Mike Butterick

Grant McCallum

Dr Parmjeet Parmar

Hon Jan Tinetti

Hon Phil Twyford

Dr Lawrence Xu-Nan

Ricardo Menéndez March replaced Dr Lawrence Xu-Nan for this item of business.

Related resources

The documents received as advice and evidence are available on the Parliament website.

**Regulatory Systems (Immigration and Workforce)
Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Melissa Lee

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Regulatory Systems (Immigration and Workforce) Amendment Act **2024**.
- 2 Commencement** 5
 - (1) This Act comes into force on the day after Royal assent, with some exceptions.
 - (2) **Sections 19 and 60** come into force on **1 April 2025**.
 - (3) **Sections 43 to 49** come into force on **1 July 2025**.

- Part 1**
Amendments to Electricity Act 1992 10
- 3 Principal Act**
This Part amends the Electricity Act 1992.
- 4 Section 5 amended (Functions of WorkSafe)**
After section 5(1)(b), insert:

(ba) to develop electricity safety instruments:	15
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5 Section 152 amended (Delegation of functions and powers)

- (1) In the heading to section 152, after “**powers**”, insert “**to Registrar**”.
- (1) Replace the heading to section 152 with “**Power of Board to delegate to Registrar**”.
- (2) Repeal section 152(2)(a). 5

6 New section 152A inserted (Power of Registrar to delegate)

After section 152, insert:

152A Power of Registrar to delegate

- (1) The Registrar may delegate to any employee of the State services (within the meaning of the Public Service Act 2020), either generally or specifically, any of the Registrar’s functions, duties, and powers. 10
- (2) The Registrar must not delegate the power of delegation.
- (3) A delegation—
- (a) must be in writing; and
 - (b) may be made subject to any restrictions and conditions that the Registrar thinks fit; and 15
 - (c) may be revoked in writing at any time; and
 - (d) does not affect or prevent the performance or exercise of a function, duty, or power by the Registrar; and
 - (e) does not affect the responsibility of the Registrar for the actions of a person acting under the delegation. 20
- (4) A person to whom any functions, duties, or powers are delegated may, unless the delegation provides otherwise, perform and exercise them in the same manner, subject to the same restrictions, and with the same effect as if they had been conferred directly by this Act and not by delegation. 25
- (5) A person who purports to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

7 Section 169C and cross-heading replaced

Replace section 169C and the cross-heading above section 169C with: 30

Electricity safety instruments

169C Minister may approve electricity safety instruments

- (1) The Minister may—
- (a) approve an electricity safety instrument developed by WorkSafe for the purposes referred to in **subsection (2)**; and 35
 - (b) amend or revoke an approved electricity safety instrument.

- (2) The purposes of electricity safety instruments are to define terms, prescribe matters, or make other provision in relation to any activity or thing, including (without limitation) listing standards, control of substances, competency requirements, and certification requirements.
- (3) The Minister must not approve an electricity safety instrument unless the Minister is satisfied that all persons and organisations that the Minister thinks appropriate have been consulted, having regard to the subject matter of the proposed electricity safety instrument. 5
- (4) The Minister may approve an amendment to an electricity safety instrument (including approving incorporation of amendments to, or updates of, documents incorporated by reference) without complying with **subsection (3)** if the Minister is satisfied that the amendment is minor or technical. 10
- (5) To the extent that an electricity safety instrument is given effect to in accordance with **section 169D**, it is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 15
- (6) To the extent that an electricity safety instrument is not secondary legislation, **subsection (7)** applies.
- (7) The Minister must, as soon as practicable after an electricity safety instrument is made,—
 - (a) notify the electricity safety instrument in the *Gazette*; and 20
 - (b) ensure that a copy of the electricity safety instrument is published on an internet site—
 - (i) that is maintained by or on behalf of WorkSafe; and
 - (ii) from which members of the public can access and download it free of charge at all times (as far as practicable). 25
- (8) A failure to comply with **subsection (3)** does not affect the validity of an electricity safety instrument.

169D Legal effect of electricity safety instruments

- (1) An electricity safety instrument has legal effect only to the extent that any regulations made under this Act refer to it. 30
- (2) For the purposes of **subsection (1)**, regulations may refer to—
 - (a) a particular electricity safety instrument as amended or replaced from time to time; or
 - (b) any electricity safety instrument that may be made for the purposes of regulations (even if the instrument is not or has not been made at the time the regulations are made). 35

169E Minister may delegate approval of electricity safety instruments to WorkSafe

- (1) The Minister may, either generally or specifically, delegate to WorkSafe the Minister's power to approve, amend, or revoke an electricity safety instrument.
- (2) A delegation under this section must be in writing. 5
- (3) WorkSafe must not delegate the power to approve, amend, or revoke an electricity safety instrument delegated to it under **subsection (1)** except in accordance with the terms of the delegation.
- (4) The power of the Minister to delegate under this section—
 - (a) is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister's functions or powers; but 10
 - (b) does not limit any power of delegation conferred on the Minister by any other Act.
- (5) WorkSafe may, unless the delegation provides otherwise, exercise the power delegated to it under this section in the same manner, subject to the same restrictions, and with the same effect as if it had been conferred on WorkSafe directly. 15
- (6) If WorkSafe purports to act under a delegation under this section, WorkSafe is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation. 20
- (7) No delegation under this section affects or prevents the performance or exercise of any function or power by the Minister or affects the responsibility of the Minister for the actions of a person acting under the delegation.

Part 2

25

Amendments to Employment Relations Act 2000

8 Principal Act

This Part amends the Employment Relations Act 2000.

9 Section 64 amended (Employer must retain copy of individual employment agreement or individual terms and conditions of employment)

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- (1) After section 64(2), insert:
- (2A) The employer's obligation to retain an individual employment agreement or individual terms and conditions of employment under subsection (1), or an intended agreement under subsection (2), includes obligations to ensure that—
 - (a) the employee does not hold the only copy of the agreement, individual terms and conditions of employment, or intended agreement; and 35

- (b) the employer’s copy of the agreement, individual terms and conditions of employment, or intended agreement is readily accessible.
- (2) Replace section 64(5)(b) with:
- (b) give the employer 7 working days to remedy the breach by producing a copy of the agreement that was retained in accordance with subsection (1) or (2), or providing a copy of the agreement to the employee in accordance with a request under subsection (3) (as applicable).
- 10 Section 65 amended (Form and content of individual employment agreement)**
- (1) Replace section 65(1) with:
- (1) The individual employment agreement of an employee may contain such terms and conditions as the employee and employer think fit, but the employer must ensure that the agreement—
- (a) is in writing; and
- (b) complies with the requirements in subsection (2).
- (2) In section 65(2), replace “However, the” with “The”.
- 11 Section 235A amended (Interpretation)**
- In section 235A, definition of **infringement offence**, replace paragraph (a) with:
- (a) a failure by an employer to comply with the requirements of section 64(1) or (2), **65(1)(a)**, or 130(1) of this Act or section 81(2) of the Holidays Act 2003:

Part 3 Amendments to Gas Act 1992

- 12 Principal Act**
- This Part amends the Gas Act 1992.
- 13 Section 6 amended (Functions of WorkSafe)**
- After section 6(1)(b), insert:
- (ba) to develop gas safety instruments:
- 14 Section 56AB and cross-heading replaced**
- Replace section 56AB and the cross-heading above section 56AB with:
- Gas safety instruments*
- 56AB Minister may approve gas safety instruments**
- (1) The Minister may—

- (a) approve a gas safety instrument developed by WorkSafe for the purposes referred to in **subsection (2)**; and
 - (b) amend or revoke an approved gas safety instrument.
- (2) The purposes of gas safety instruments are to define terms, prescribe matters, or make other provision in relation to any activity or thing, including (without limitation) listing standards, control of substances, competency requirements, and certification requirements. 5
- (3) The Minister must not approve a gas safety instrument unless the Minister is satisfied that all persons and organisations that the Minister thinks appropriate have been consulted, having regard to the subject matter of the proposed gas safety instrument. 10
- (4) The Minister may approve an amendment to a gas safety instrument (including approving incorporation of amendments to, or updates of, documents incorporated by reference) without complying with **subsection (3)** if the Minister is satisfied that the amendment is minor or technical. 15
- (5) To the extent that a gas safety instrument is given effect to in accordance with **section 56AC**, it is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (6) To the extent that a gas safety instrument is not secondary legislation, **subsection (7)** applies. 20
- (7) The Minister must, as soon as practicable after a gas safety instrument is made,—
 - (a) notify the gas safety instrument in the *Gazette*; and
 - (b) ensure that a copy of the gas safety instrument is published on an internet site— 25
 - (i) that is maintained by or on behalf of WorkSafe; and
 - (ii) from which members of the public can access and download it free of charge at all times (as far as practicable).
- (8) A failure to comply with **subsection (3)** does not affect the validity of a gas safety instrument. 30

56AC Legal effect of gas safety instruments

- (1) A gas safety instrument has legal effect only to the extent that any regulations made under this Act refer to it.
- (2) For the purposes of **subsection (1)**, regulations may refer to— 35
 - (a) a particular gas safety instrument as amended or replaced from time to time; or
 - (b) any gas safety instrument that may be made for the purposes of regulations (even if the instrument is not or has not been made at the time the regulations are made).

56AD Minister may delegate approval of gas safety instruments to WorkSafe

- (1) The Minister may, either generally or specifically, delegate to WorkSafe the Minister's power to approve, amend, or revoke a gas safety instrument.
- (2) A delegation under this section must be in writing.
- (3) WorkSafe must not delegate the power to approve, amend, or revoke a gas safety instrument delegated to it under **subsection (1)** except in accordance with the terms of the delegation. 5
- (4) The power of the Minister to delegate under this section—
 - (a) is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister's functions or powers; but 10
 - (b) does not limit any power of delegation conferred on the Minister by any other Act.
- (5) WorkSafe may, unless the delegation provides otherwise, exercise the power delegated to it under this section in the same manner, subject to the same restrictions, and with the same effect as if it had been conferred on WorkSafe directly. 15
- (6) If WorkSafe purports to act under a delegation under this section, WorkSafe is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation. 20
- (7) No delegation under this section affects or prevents the performance or exercise of any function or power by the Minister or affects the responsibility of the Minister for the actions of a person acting under the delegation.

Part 4

Amendments to Health and Safety at Work Act 2015 25

15 Principal Act

This Part amends the Health and Safety at Work Act 2015.

16 Section 24 amended (Meaning of notifiable incident)

- (1) Repeal section 24(1)(m).
- (2) After section 24(2), insert: 30
- (3) In this Act, unless the context otherwise requires, a **notifiable incident** also means any unplanned or uncontrolled incident in relation to a workplace that—
 - (a) could expose a worker or any other person to serious risk to their health or safety; and
 - (b) is declared by regulations to be a notifiable incident for the purposes of this Act. 35

17 Section 123 amended (Regulator may accept enforceable undertakings)

After section 123(1), insert:

- (1A) However, the regulator may refuse to accept an enforceable undertaking if it does not provide for the reimbursement of any reasonable costs and expenses of the regulator incurred in relation to— 5
 - (a) the undertaking; and
 - (b) the contravention or alleged contravention.
- (1B) To avoid doubt, the costs and expenses of the regulator include any costs or expenses incurred in relation to an employee, agent, or contractor of the regulator. 10
- (1C) **Subsection (1A)** does not limit the discretion of the regulator to refuse to accept an enforceable undertaking.

18 Section 142 amended (Person may notify regulator of interest in knowing of enforcement action taken by regulator)

- (1) In section 142(2)(a), replace “establish” with “make reasonable efforts to establish”. 15
- (2) In section 142(2)(a)(ii), replace “any regulatory agency” with “any relevant regulatory agency”.
- (3) After section 142(2), insert:
- (3) In subsection (2), **relevant regulatory agency** means— 20
 - (a) a regulator under this Act:
 - (b) the CAA:
 - (c) the New Zealand Police:
 - (d) the New Zealand Transport Agency:
 - (e) Maritime New Zealand: 25
 - (f) the EPA:
 - (g) Fire and Emergency New Zealand:
 - (h) the Ministry of Health:
 - (i) ACC:
 - (j) the Ministry of Business, Innovation, and Employment, including any statutory officer who carries out work for that agency: 30
 - (k) a local authority of the region or district in which the particular incident, situation, or set of circumstances occurred or arose:
 - (l) a medical officer of health for the health district in which the particular incident, situation, or set of circumstances occurred or arose: 35
 - (m) an agency prescribed as a relevant regulatory agency for the incident, situation, or set of circumstances that has occurred or arisen.

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19 Section 201 amended (Funding levy)	
(1) In section 201(1), after “on the earnings”, insert “or purchased weekly compensation”.	
(2) Replace section 201(2)(b) with:	
(b) every earner who has earnings as a self-employed person—	5
(i) on the amount of earnings as a self-employed person derived or deemed to have been derived by the earner; or	
(ii) if the earner has purchased weekly compensation under section 208 of the Accident Compensation Act 2001, on the level of weekly compensation purchased:	10
(3) Replace section 201(2)(c) with:	
(c) every earner who has earnings as a shareholder-employee—	
(i) on the amount of earnings as a shareholder-employee derived or deemed to be derived by the earner; or	
(ii) if the earner has purchased weekly compensation under section 190 of the Accident Compensation Act 2001, on the level of weekly compensation purchased.	15
(4) In section 201(7), definitions of earner , earnings , earnings as a self-employed person , replace “and earnings as a self-employed person ” with “ earnings as a self-employed person , and earnings as a shareholder-employee ”.	20
20 Section 220 amended (Regulator may grant exemption from compliance with regulations)	
Replace section 220(4)(b) with:	
(b) expires on the earlier of the following to occur unless it is sooner replaced or revoked:	25
(i) an expiry date specified in the notice:	
(ii) the close of the day that is 5 years after the date on which it took effect.	
21 Section 228 amended (Legal effect of safe work instruments)	30
In section 228(1), replace “the relevant health and safety legislation” with “this Act”.	
22 Schedule 1 amended	
In Schedule 1,—	
(a) insert the Part set out in the Schedule of this Act as the last Part; and	35
(b) make all necessary consequential amendments.	

23 Schedule 3 amended

- (1) In Schedule 3, clause 1, replace the definition of **tourist mining operation** with:
tourist mining operation means an operation—
 - (a) that is at a place where the extraction of coal or minerals has been carried out but is not currently being carried out and is not likely or intended to be carried out in the future; and 5
 - (b) where there are 1 or more principal hazards in relation to a mining operation, within the meaning prescribed by regulations; and
 - (c) that has 1 or more of the following purposes: 10
 - (i) mine education:
 - (ii) mine research:
 - (iii) mine tourism
- (2) In Schedule 3, clause 2(b)(iii), replace “associated with a mine:” with “where the processing occurs at a place adjacent to, or in the vicinity of, the site at which the coal or minerals are extracted:” 15
- (3) In Schedule 3, clause 3(1)(a)(ii), after “at the place where the material is extracted”, insert “or at a place adjacent to, or in the vicinity of, that place”.
- (4) In Schedule 3, clause 3(1)(b), replace “; and” with “; but”.
- (5) In Schedule 3, replace clause 3(1)(c) with: 20
 - (c) does not include either of the following, or the place where they are carried out:
 - (i) an activity carried out above ground on a farm for the purpose of extracting or processing any material, other than coal or any mineral, from the earth for the use of that farm; or 25
 - (ii) an activity carried out above ground for the purpose of extracting, processing, or moving any material, other than coal or any mineral, from the earth for use on a roading or other civil, commercial, or residential construction project that is at the place of the extraction. 30
- (6) In Schedule 3, clause 3(2), replace “Subclause (1) applies” with “To avoid doubt in relation to an activity described in subclause (1)(a) and (b), subclause (1) applies”.
- (7) In Schedule 3, clause 4(a), replace “fill” with “material”.
- (8) In Schedule 3, clause 28(a), replace “mine workers:” with “mine workers, quarry workers, and alluvial mine workers:” 35
- (9) In Schedule 3, replace clause 29(4)(a) to (d) with:
 - (a) mining operations, quarrying operations, and alluvial mining operations:

- (b) health and safety inspection in the mining industry, quarrying industry, and alluvial mining industry:
 - (c) mining education, quarrying education, and alluvial mining education:
 - (d) mining industry training, quarrying industry training, and alluvial mining industry training. 5
- (10) In Schedule 3, replace clause 31(1) with:
- (1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, make regulations imposing a levy on mine operators, quarry operators, and alluvial mine operators to fund the direct and indirect costs incurred by the Board in performing the Board's functions to the extent that they relate to mining operations, quarrying operations, and alluvial mining operations. 10
- (11) In Schedule 3, replace clause 31(2)(b) with:
- (b) specify the mine operators, quarry operators, alluvial mine operators, or classes of mine operators, quarry operators, or alluvial mine operators, responsible for paying the levy: 15
- (12) In Schedule 3, replace clause 31(2)(c) with:
- (c) specify, if the levy is to be paid at different rates, what the different rates apply to, which may include:
- (i) mine operators, quarry operators, alluvial mine operators or classes of those operators: 20
 - (ii) mining operations, quarrying operations, alluvial mining operations or classes of those operations:
 - (iii) the thing being extracted:
 - (iv) other things. 25

Part 5

Amendments to Immigration Advisers Licensing Act 2007

24 Principal Act

This Part amends the Immigration Advisers Licensing Act 2007.

24A **Section 5 amended (Interpretation)** 30

In section 5, insert in its appropriate alphabetical order:

incorporated law firm has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

25 **Section 9 replaced (No acceptance of immigration applications or requests from unlicensed immigration advisers)** 35

Replace section 9 with:

- 9 Immigration applications or requests from unlicensed immigration advisers**
- (1) Immigration applications or requests provided or prepared on behalf of a person (the **applicant**) by another person (the **agent**) must not be accepted unless the agent—
- (a) is a licensed immigration adviser; or
- (b) is exempt from the requirement to be licensed under section 11.
- (2) If an application or a request that must not be accepted is accepted automatically, in error, or for any other reason, the application must be refused.
- (3) The chief executive must, so far as practicable, ensure that immigration forms and information brochures prepared or provided by the Department contain advice about the effect of **subsections (1) and (2)**.
- (4) If **subsection (1) or (2)** applies in a particular case, the chief executive must notify the applicant, in writing,—
- (a) that the application or request is not accepted or is refused, and
- (b) how the application or request may be resubmitted in an acceptable manner.
- 26 Section 11 amended (Persons exempt from licensing)**
- In section 11(e), after “lawyers”, insert “and employees of lawyers and of incorporated law firms”.
- 27 Section 15 amended (Persons prohibited from licensing)**
- Replace section 15(2) with:
- (2) A Minister of Immigration or an Associate Minister of Immigration in the New Zealand Government may not be licensed while holding that office and for the 12-month period after leaving that office.
- (3) An immigration officer or a refugee and protection officer (as defined in the Immigration Act 2009) may not be licensed while employed in that role.
- 28 Section 16 amended (Persons subject to restriction on being licensed)**
- After section 16(a), insert:
- (aa) a person who has been convicted of an offence under this Act; or
- 29 Section 17 amended (Other matters relevant to fitness for licensing)**
- After section 17(c), insert:
- (d) any other matters that the Registrar considers relevant.
- 30 Section 27 amended (Cancellation of licence)**
- After section 27(1)(d), insert:

(da) having regard to the matters specified in section 16 and 17, the licensee is no longer fit to be licensed as an immigration adviser; or

30A Section 29 amended (Suspension of licence)

In section 29(1)(a), replace “section 51(1)(c)” with “section 51(1)(c) or (ca)”.

31 Section 35 amended (Functions of Authority)

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After section 35(1)(g), insert:

(ga) to ~~bring refer~~ complaints ~~before to~~ the Tribunal:

32 Section 44 amended (Complaints against immigration advisers)

(1) Replace section 44(3)(b) with:

(b) ~~must include:~~

- (i) ~~the name and contact details of the complainant; and~~
- (ii) ~~an accurate account of the matter or a statement of facts, explaining the circumstances giving rise to the complaint, including relevant dates, places, and times; and~~

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(2) Repeal section 44(3)(e).

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Replace section 44(3) with:

(3) A complaint must—

- (a) be made in writing; and
- (b) include the name and contact details of the complainant; and
- (c) state the subject matter of the complaint; and
- (d) include any appropriate documentation held by, or available to, the complainant; and
- (e) state whether or not the complainant has made attempts to resolve the complaint using the immigration adviser’s (or former licensed immigration adviser’s) own complaints procedure, and the outcome (if any) of that process.

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33 Section 51 amended (Disciplinary sanctions)

(1) After section 51(1)(e), insert:

(ea) ~~a downgrade to the type of licence (for example, downgrading a full licence to a limited licence or a provisional licence);~~

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(1) Replace section 51(1)(c) with:

- (c) suspension of licence for the unexpired period of the licence;
- (ca) suspension of licence until the Registrar is satisfied that the person meets specified conditions;

(cb) a downgrade to the type of licence (for example, downgrading a full licence to a limited licence or a provisional licence):

(2) Replace section 51(1)(e) with:

- (e) an order preventing the person from reapplying for a licence—
- (i) for a specified period that the Tribunal considers appropriate; or 5
 - (ii) until the Registrar is satisfied that the person meets specified conditions; or
 - (iii) until the person applies to the Tribunal to lift or vary the order and satisfies the Tribunal that the order is no longer necessary to achieve the purposes of the Act; Tribunal is satisfied that the order may be lifted or varied in accordance with **section 51A**: 10

33A New section 51A inserted (Lifting or varying order)

After section 51, insert:

51A Lifting or varying order

- (1) A person subject to an order under **section 51(1)(e)(iii)** may apply to the Tribunal for the order to be lifted or varied. 15
- (2) The Tribunal may—
 - (a) lift the order if satisfied that the order is no longer necessary to achieve the purposes of the Act;
 - (b) vary the order if satisfied that there are grounds to do so. 20
- (3) The Tribunal must notify its decision to the person subject to the order.

34 Section 53 amended (Suspension of licence pending outcome of complaint)

Replace section 53(1) with:

- (1) The Tribunal may suspend a licence if—
 - (a) a complaint has been made about the licensed immigration adviser; and 25
 - (b) the complaint—
 - (i) has been referred to the Tribunal by the Registrar under section 45(3) or 46(2); or
 - (ii) is being prepared for submission to the Tribunal; and
 - (c) the Tribunal considers that it is necessary or desirable to suspend the licence having regard to the interests of the public. 30

35 Section 76 replaced (Independence of persons carrying out functions under Act)

Replace section 76 with:

76	Independence of persons carrying out functions under Act	
	The following persons may not be employed or engaged to consider or decide applications for licences, or for renewals of licences, or to carry out inspections under this Act:	
	(a) an immigration officer or a refugee and protection officer (as defined in the Immigration Act 2009):	5
	(b) any other person who exercises a power of decision in relation to an immigration matter:	
	(c) any person, other than a former immigration officer or refugee and protection officer, who has exercised a power of decision in relation to an immigration matter in the previous 2 years.	10
36	Section 78 amended (Contents of register)	
	After section 78(2), insert:	
	(3) The register may also contain any other information that the Registrar considers relevant, taking into account the purposes of the register as set out in section 77(2).	15
36A	New section 78A inserted (Registrar may restrict public access to register)	
	After section 78, insert:	
78A	Registrar may restrict public access to register	
(1)	Despite section 78, the Registrar may, on a request from a person referred to in paragraph (a) or (b) or on the Registrar's own motion, prevent or restrict public access to any information that relates to—	20
	(a) <u>a licensed immigration adviser or a person who is no longer a licensed immigration adviser if the Registrar considers that public access to that information would be likely to prejudice the privacy or safety of any person; or</u>	25
	(b) <u>a licensed immigration adviser or a person who is no longer a licensed immigration adviser if that person is—</u>	
	(i) <u>a protected person in relation to a protection order under the Family Violence Act 2018; or</u>	30
	(ii) <u>a person for whose benefit a suppression provision or order applies under any legislation.</u>	
(2)	For the purposes of subsection (1) , the Registrar may prevent or restrict access subject to any terms and conditions that the Registrar thinks fit.	
(3)	However, in the case of subsection (1)(b) , the Registrar must ensure that those terms and conditions are consistent with the protection order or suppression provision or order.	35
(4)	This section does not limit the Official Information Act 1982.	

37 Section 79 amended (Alterations to register)

In section 79, insert as subsection (2):

- (2) Despite section 78, the Registrar may remove information from the register that the Registrar considers is no longer required to be retained for the purposes of the register as set out in section 77(2).

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38 Section 81 amended (Right of appeal)

After section 81(1)(c), insert:

- (ca) a decision of the Tribunal under section 50:

39 Section 83 amended (Duties of Registrar if interim order made)

- (1) Replace the heading to section 83 with “**Effect of interim order**” 10

- (2) After section 83(1), insert:

- (1A) If an interim order applies to a person who is appealing against a decision of the Registrar to refuse to license the person as an immigration adviser, the interim order must be treated as a licence of the type for which the person applied that was granted on the date of the interim order and that is subject to any conditions imposed by the court in the interim order. 15

- (3) After section 83(2), insert:

- (3) A person to whom an interim order applies—
(a) is liable to pay any fees or levies in respect of their licence under regulations made under this Act; and
(b) must, ~~at the applicable time, on or before the date on which the licence expires,~~ apply for a renewal of their licence in accordance with section 24. 20

- (4) If a person to whom **subsection (3)(b)** applies fails to apply to renew their licence on or before the date on which it would otherwise expire, the interim order is deemed to be rescinded and the Registrar must record the expiry of the licence in the register in accordance with section 33. 25

Part 6

Amendments to Mines Rescue Act 2013

40 Principal Act 30

This Part amends the Mines Rescue Act 2013.

41 Section 4 amended (Interpretation)

In section 4, repeal the definition of **authorised person**.

42 Section 13 amended (Power of inspection in relation to levy)

After section 13(3), insert:

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- (4) In this section, **authorised person** means a person who is authorised by the chief executive of WorkSafe to exercise the powers conferred by this section.

Part 7

Amendments to Parental Leave and Employment Protection Act 1987

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43 Principal Act

This Part amends the Parental Leave and Employment Protection Act 1987.

44 Section 2BA amended (Thresholds for entitlements)

After section 2BA(4), insert:

- (5) Section 72A applies to the parental leave payment threshold test if it is necessary to ascertain whether the employee meets the requirements of the duration of employment specified in subsection (4)(a). 10
- (6) Section 71CB applies to the parental leave payment threshold test if it is necessary to ascertain whether the self-employed person meets the requirements of the duration of self-employment specified in subsection (4)(b). 15

45 Section 9 amended (Duration of primary carer leave)

After section 9(3), insert:

- (4) Any week in relation to which a preterm baby payment is made to a person is in addition to, and must not be counted when determining, the duration of primary carer leave under this section. 20

46 Section 26 amended (Duration of extended leave)

After section 26(5), insert:

- (5A) Any week in relation to which a preterm baby payment is made to a person is in addition to, and must not be counted when determining, the duration of extended leave under this section. 25

47 Section 71D amended (Entitlement to parental leave payments)

After section 71D(2A), insert:

- (2B) Despite subsection (1), a person who is the primary carer under section 7(1)(c) is entitled to a parental leave payment under this Part if the person stops working as an eligible employee or an eligible self-employed person within a reasonable period after becoming the primary carer. 30

48 Section 71J amended (Duration of parental leave payment)

After section 71J(2), insert:

- (3) Any week in relation to which a preterm baby payment is made to a person is in addition to, and must not be counted when determining, the duration of parental leave payment under this section.

49 Section 71K amended (Start of parental leave payment)

Replace section 71K(2) to (4) with:

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- (2) However,—
- (a) if a person becomes entitled to a preterm baby payment under section 71DA(1) before their parental leave payment period has begun, the period in relation to which the parental leave payment is payable to the person in respect of the child begins on the earlier of—
- (i) the date on which the person commences parental leave:
- (ii) the original expected date of delivery had the child not been born prematurely:
- (b) if a person is a primary carer under section 7(1)(b)(iii), the parental leave payment period begins on the date that the person designates, which must be, or be within a reasonable period after, the date on which the person becomes the primary carer in respect of the child:
- (c) if a person is the primary carer under section 7(1)(c), the parental leave payment period begins on the day after the date on which the person stops working as an eligible employee or an eligible self-employed person, which must be, or be within a reasonable period after, the date on which the person becomes the primary carer in respect of the child.
- (3) Despite subsections (1) and (2), an employee who takes a period of paid leave at the start of his or her parental leave period may elect to start his or her parental leave payment period on the day after the date on which that period of paid leave ends.

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Part 8

Regulations amended and revoked

Subpart 1—Regulations amended

- 50 Amendment to Health and Safety at Work (Adventure Activities) Regulations 2016**
- Section 51** amends the Health and Safety at Work (Adventure Activities) Regulations 2016.
- 51 Regulation 19A amended (Declaration of notifiable incidents)**
- In regulation 19A, replace “section 24(1)(m)” with “**section 24(3)**”.

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Regulatory Systems (Immigration and Workforce)		
Amendment Bill		
52	Amendment to Health and Safety at Work (Asbestos) Regulations 2016 Section 53 amends the Health and Safety at Work (Asbestos) Regulations 2016.	
53	Regulation 6 amended (Declaration of notifiable incident) In regulation 6, replace “section 24(1)(m)” with “ section 24(3) ”.	5
54	Amendment to Health and Safety at Work (Major Hazard Facilities) Regulations 2016 Section 55 amends the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.	
55	Regulation 33 amended (Declaration of notifiable incidents) In regulation 33, replace “section 24(1)(m)” with “ section 24(3) ”.	10
56	Amendment to Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016 Section 57 amends the Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016.	15
57	Regulation 225 amended (Declaration of notifiable injury or illness and notifiable incidents) In regulation 225(2), replace “section 24(1)(m)” with “ section 24(3) ”.	
58	Amendment to Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2016 Section 59 amends the Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2016.	20
59	Regulation 70 (Declaration of notifiable incidents) In regulation 70, replace “section 24(1)(m)” with “ section 24(3) ”.	
60	Amendment to Health and Safety at Work (Rates of Funding Levy) Regulations 2016	25
(1)	This section Section 60A amends the Health and Safety at Work (Rates of Funding Levy) Regulations 2016.	
(2)	Replace regulation 4 with:	
4	Rate of funding levy payable by certain earners	30
(1)	For the purposes of section 201(2)(b) of the Health and Safety at Work Act 2015, the rate of the levy payable by every earner who has earnings as a self-employed person (on the amount of earnings as a self-employed person derived or deemed to have been derived by the earner or, if the earner has purchased	

- weekly compensation under section 208 of the Accident Compensation Act 2001, on the level of weekly compensation purchased) is 8 cents per \$100.
- (2) For the purposes of **section 201(2)(c)** of the Health and Safety at Work Act 2015, the rate of levy payable by every earner who has earnings as a shareholder-employee who has purchased weekly compensation under section 190 of the Accident Compensation Act 2001 (on the level of weekly compensation purchased) is 8 cents per \$100.

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60A Regulation 4 replaced (Rate of funding levy payable by certain earners)

Replace regulation 4 with:

- 4 Rate of funding levy payable by certain earners**
- (1) For the purposes of **section 201(2)(b)** of the Health and Safety at Work Act 2015, the rate of the levy payable by every earner who has earnings as a self-employed person (on the amount of earnings as a self-employed person derived or deemed to have been derived by the earner or, if the earner has purchased weekly compensation under section 208 of the Accident Compensation Act 2001, on the level of weekly compensation purchased) is 8 cents per \$100.
- (2) For the purposes of **section 201(2)(c)** of the Health and Safety at Work Act 2015, the rate of levy payable by every earner who has earnings as a shareholder-employee who has purchased weekly compensation under section 190 of the Accident Compensation Act 2001 (on the level of weekly compensation purchased) is 8 cents per \$100.

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Subpart 2—Regulations revoked

61 Regulations revoked

The Employment Relations (Infringement Offences) Regulations 2019 (LI 2019/63) are revoked.

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Schedule
New Part 2 inserted into Schedule 1 of Health and Safety at Work
Act 2015

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Part 2		5
Provision relating to Regulatory Systems (Immigration and Workforce) Amendment Act 2024		
27	Transitional provision relating to definition of notifiable incident	
	Despite the repeal of section 24(1)(m) by section 16(1) of the Regulatory Systems (Immigration and Workforce) Amendment Act 2024 , the following regulations continue in force (and may be amended and revoked) as if they had been made for the purposes of section 24(3) of this Act:	10
	(a) Health and Safety at Work (Adventure Activities) Regulations 2016:	
	(b) Health and Safety at Work (Asbestos) Regulations 2016:	
	(c) Health and Safety at Work (Major Hazard Facilities) Regulations 2016:	15
	(d) Health and Safety at Work (Mining Operations and Quarrying Operations) Regulation 2016:	
	(e) Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2016.	

Legislative history

23 May 2024
23 July 2024

Introduction (Bill 49–1)
First reading and referral to Education and Workforce
Committee