

House of Representatives

Amendment Paper

Immigration (Mass Arrivals) Amendment Bill

Proposed amendments

Hon Erica Stanford, in Committee, to move the following amendments:

New clauses 8A to 8C

After *clause 8* (page 3, after line 21), insert:

8A Section 317A amended (Application for mass arrival warrant)

After section 317A(2)(c)(ii), insert:

- (iii) how the proposed terms of the warrant ensure that the detention is for the least amount of time necessary to achieve the outcomes of the detention; and
- (iv) how the proposed terms of the warrant ensure that the detention is the least restrictive necessary to achieve the outcomes of the detention; and
- (v) how the proposed location of the detention meets—
 - (i) the government’s obligations under the New Zealand Bill of Rights Act 1990; and
 - (ii) New Zealand’s obligations under the 1951 Convention Relating to the Status of Refugees and any other relevant international obligations.

8B Section 317B amended (Decision on application for mass arrival warrant)

After section 317B(3), insert:

- (3A) Despite subsection (3), when issuing the warrant the Judge may vary, on his or her motion or upon application by a party, the place or places of detention named in the application for the warrant.

8C Section 317C amended (Variation of mass arrival warrant)

After section 317C(5), insert:

- (5A) When issuing the variation to the existing warrant, the Judge may also vary, on his or her motion or upon application by a party, the place or places of detention named in the warrant.

Clause 9

In *clause 9*, after *new section 317AB(2)* (page 3, after line 35), insert:

- (3) If 1 or more members of a mass arrival group are detained under **section 313(2)(b)(ii)** pending determination of the application for a mass arrival warrant, an immigration officer must report to the Judge at least once a week (unless varied by the Judge) as to whether the warrant continues to be necessary for a purpose set out in section 317A(1)(a).

New clauses 10 and 11

After *clause 9* (page 3, after line 35), insert:

10 Section 324A amended (Review of mass arrival warrant)

After section 324A(4), insert:

- (4A) On an application under subsection (2)(a), a District Court Judge may also vary, on his or her motion or upon application by a party, the place or places of detention named in the warrant.

11 Section 330 amended (Approval of premises for purpose of immigration detention)

In section 330, insert as subsection (2):

- (2) Despite subsection (1), the chief executive may not approve a police station or prison as a place that may be used to detain 1 or more members of a mass arrival group under **section 313(2)(b)(ii)** pending determination of an application for a mass arrival warrant.

Explanatory note

This Amendment Paper makes changes to the Immigration (Mass Arrivals) Amendment Bill.

New clauses 8A to 8C are inserted to amend **sections 317A to 317C** of the **Immigration Act 2009** (which set out the processes for obtaining and varying a mass arrival warrant). The amendments add additional safeguards for members of a mass arrival, by—

- requiring the initial application for a warrant to specify how the terms of the warrant ensure that detention is for the least amount of time necessary, and is the least restrictive necessary, to achieve the outcomes of the detention, and a

statement of how the proposed location meets international obligations and obligations under the New Zealand Bill of Rights Act 1990 (*new clause 8A*):

- enabling the Judge to vary the place or places of detention named in the application for the warrant (*new clauses 8B and 8C*).

Clause 9 of the Bill inserts *new section 317AB*, which limits the time in which a Judge must determine an application for a mass arrival warrant. *New clause 317AB* is amended to insert a new subsection that requires an immigration officer to report weekly to the Judge who is considering an application for a mass arrival warrant, as to whether the warrant continues to be necessary.

New clauses 10 and 11 are inserted to amend **sections 324A and 330** of the **Immigration Act 2009**. The amendments—

- enable the Judge who is considering an application to shorten the period to which a warrant of mass arrival applies to also vary the place or places of detention named in the warrant (*new clause 10*):
- provide that members of a mass arrival group may not be detained in a police station or prison during the initial period of detention before an application for a mass arrival warrant is determined by a Judge.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Amendment Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=ap&subtype=government&year=2024&no=28&>