

IMMIGRATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Immigration Act 1964.

Clause 1 relates to the Short Title.

Clause 2 makes a number of amendments to section 14 of the principal Act relating to temporary permits granted to persons visiting New Zealand.

Subclause (1) makes it clear that a temporary permit may be granted to a person who is visiting New Zealand for the purpose of employment.

Subclause (2) inserts 2 new subsections, subsections (2A) and (2B). *Subsection (2A)*, in effect, prohibits the holder of a temporary permit from seeking or obtaining employment or engaging in any activity for gain or reward without the Minister's consent, and *subsection (2B)* is a supportive penal provision.

Subclause (3) is of a consequential drafting nature.

Clause 3 amends section 16 of the principal Act which makes it an offence to obtain an entry permit by false representation. The amendment extends this prohibition to all permits issued under the principal Act, and to extensions and variations of any such permits.

Clause 4 inserts in the principal Act a new section 19A. It makes it an offence to employ or offer to employ any person who the employer has reason to know—

- (a) Is required to hold a permit under this Act but does not hold one; or
- (b) Holds a temporary permit but is not authorised by that permit to seek or obtain employment.

Clause 5 amends section 20 of the principal Act relating to the deportation of persons from New Zealand. *Subclauses (1) and (2)* are of a consequential drafting nature. *Subclause (3)* allows the Minister of Finance to require the deportee to contribute towards the expenses incurred in respect of the deportation.

Clause 6 relates to the deportation of persons who are in New Zealand in contravention of any of the provisions of the principal Act. Broadly, these may be categorised as prohibited immigrants (those who have entered New Zealand illegally) and overstayers (those who were entitled to be in New Zealand for a specified period which has now expired).

At present, both groups, on detection, are subject to mandatory deportation. It is now intended to give them the right of appeal to the Minister against deportation, and the proposed *section 20A* provides accordingly.

Subsection (1) provides that within 14 days of the date on which a conviction is entered for any offence under the relevant provisions of the principal Act, the offender may request the Minister to make an order that he be not deported.

Subsection (2) empowers the Minister to make such an order if he is satisfied that, because of exceptional humanitarian circumstances, it would be unduly harsh or unjust to deport the offender from New Zealand.

Subsection (3) requires the Minister to file a copy of his order in the Court. The Court must then require the release of the offender, or, as the case may require, discharge him from his obligations under his bail bond.

Subsection (4) requires the Minister to issue to the offender a new permit under the principal Act.

Hon. Mr Gill

IMMIGRATION AMENDMENT

ANALYSIS

Title	4. Offence to employ persons not holding work permits
1. Short Title and commencement	5. Deportation of prohibited immigrants
2. Work permits	6. Appeals to Minister against deportation
3. Offence to obtain permits, etc., by false representation	

A BILL INTITULED

An Act to amend the Immigration Act 1964

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Immigration Amendment Act 1977, and shall be read together with and deemed part of the Immigration Act 1964* (hereinafter referred to as the principal Act).

10 (2) This Act shall come into force on the 1st day of February 1978.

2. **Work permits**—(1) Section 14 of the principal Act is hereby amended by inserting in subsection (1), after the word "business," the word "employment,".

15 (2) The said section 14 is hereby further amended by inserting, after subsection (2), the following subsections:

*1964, No. 43

Amendments: 1965, No. 87; 1966, No. 65; 1968, No. 30; 1969, No. 83; 1976, No. 158

“(2A) Every such permit shall be issued subject to the condition (in addition to any condition imposed under subsection (2) of this section) that the holder, while in New Zealand pursuant to the permit, shall not seek or obtain employment, or engage in any activity for gain or reward, of any type without the consent of the Minister, which shall be endorsed on the permit. 5

“(2B) Every person commits an offence and is liable to a fine not exceeding \$200, and, if the offence is a continuing one, to a further fine not exceeding \$20 for each day during which the offence has continued,— 10

“(a) Who, being the holder of a temporary permit that is subject to any condition imposed under subsection (2) of this section, acts in contravention of that condition; or 15

“(b) Who, being the holder of any temporary permit, seeks or obtains employment or engages in any activity for gain or reward in contravention of subsection (2A) of this section.”

(3) The said section 14 is hereby further amended by omitting from subsection (3) the words “any such”, and substituting the word “a”. 20

3. Offence to obtain permits, etc., by false representation—
Section 16 of the principal Act (as substituted by section 3 of the Immigration Amendment Act 1968) is hereby amended by omitting from subsection (1) the words “a permit to enter New Zealand”, and substituting the words “any permit under this Act, or any extension or variation of any such permit,”. 25

4. Offence to employ persons not holding work permits—
The principal Act is hereby amended by inserting in Part II, after section 19, the following section: 30

“19A. Every person commits an offence and is liable to a fine not exceeding \$200, and, if the offence is a continuing one, to a further fine not exceeding \$20 for each day during which the offence has continued, who engages or offers to engage in any type of employment any other person who he has reason to know— 35

“(a) Is required to hold a permit under this Act but does not in fact hold one; or

“(b) Holds a temporary permit under section 14 of this Act, but is not authorised under subsection (2A) of that section to seek or obtain employment.” 40

5. Deportation of prohibited immigrants—(1) Section 20 of the principal Act is hereby amended by omitting from subsection (1) the words “or subsection (5) of section 22”.

5 (2) The said section 20 is hereby further amended by omitting from subsection (2) the word “Where”, and substituting the words “Subject to section 20A of this Act, where”.

(3) The said section 20 is hereby further amended by adding the following subsection:

10 “(8) Where any person has been ordered to leave New Zealand under this Act, the Minister of Finance may, if he thinks fit, require the person to pay the whole or any part of the expenses of or incidental to the voyage from New Zealand and the maintenance until departure of the person and of any dependants of the person who may also be so ordered to leave
15 New Zealand. The Minister of Finance may recover any such expenses as a debt due to the Crown by the person, or may apply any money or property of the person in payment of any such expenses.”

6. Appeals to Minister against deportation—The principal
20 Act is hereby amended by inserting, after section 20 (as amended by section 5 of this Act), the following section:

25 “20A. (1) Where any person is convicted of any offence referred to in section 20 (1) of this Act, he may, within 14 days after the date on which the conviction is entered, request the Minister in writing, setting out the full circumstances on which the request is based, to make an order that the offender be not deported from New Zealand.

30 “(2) On any such request, the Minister may make such an order, in the prescribed form, if he is satisfied that, because of exceptional circumstances of a humanitarian nature, it would be unduly harsh or unjust to deport the offender from New Zealand.

35 “(3) The Minister shall cause to be filed a copy of the order in the Registry of the Court in which the conviction was entered, and the Court shall—

“(a) Order the immediate release of the offender, if he is then detained in a penal institution, unless he is undergoing a sentence of detention in respect of the offence or of some other offence; or

“(b) Discharge the offender from all obligations under any bail bond entered into by him to secure his release from detention.

“(4) On making an order under this section, the Minister shall cause to be issued to the offender a permit under this Act.” 5