

House of Representatives  
**Supplementary Order Paper**

**Tuesday, 14 May 2013**

**Immigration Amendment Bill**

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*Proposed amendments*

Jan Logie, in Committee, to move the following amendments:

*New clause 3A*

After the *Part 1* heading (after line 2 on page 3), insert:

**3A New section 3A inserted (Act to be interpreted in manner consistent with Refugee Convention)**

After section 3, insert:

**“3A Act to be interpreted in manner consistent with Refugee Convention**

This Act must be interpreted, and all persons exercising or performing functions, duties, or powers conferred or imposed by or under it must act, in a manner consistent with New Zealand’s international obligations under the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.”

*Clause 12*

In *clause 12*, new *section 317A*, after *subsection (4)* (after line 38 on page 7), insert:

“(4A) In making a determination under **section 317B**, the Judge—

“(a) must presume that a mass arrival warrant is not necessary, unless the grounds under **subsection (1)** are clearly made out; and

“(b) may only grant a mass arrival warrant if the Judge is satisfied,—

“(i) having considered alternative arrangements to detention, that such alternative arrangements are impracticable in the circumstances; and

“(ii) that the mass arrival warrant is necessary to carry out legitimate health, security, or identity checks.

In *clause 12, new section 317B*, after *subsection (4)* (after line 31 on page 9), insert:

“(5) This section is subject to **section 317A(4A)**.

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### Explanatory note

New Zealand remains committed to both its domestic and international human rights obligations regarding the rights of asylum seekers and refugees. This Supplementary Order Paper amends the Immigration Amendment Bill by inserting an explicit reference to the 1951 Refugee Convention and its 1967 Protocol to ensure that all provisions contained in the Immigration Act 2009 will be interpreted in accordance with these obligations.

Article 31 of the 1951 Refugee Convention states that contracting States shall not apply to the movements of refugees restrictions other than those that are strictly necessary. Detention should only be used in exceptional circumstances such as for health, security, and identity checks. If individuals are detained without legitimate reason, then this may constitute a breach of international obligations not only under Article 31 of the Refugee Convention, but also under Articles 2 and 26 of the 1966 International Covenant on Civil and Political Rights. This Supplementary Order Paper amends proposed *clause 12, new sections 317A and 317B* to ensure such breaches cannot lawfully occur.

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