3 July 2012

Department of Labour
TE TARI MAHI

Tracey Barnett
Fyi-request-259-667e881b@requests.fyi.org.nz

File No: 12/02932

Dear Ms Barnett

I refer to your request dated 25 May 2012, made under the Official Information Act 1982, requesting:

> *1. How much does it cost, per person, per six week period, to house and provide services for a quota refugee at Mangere Refugee Centre, Auckland?*
> *2. What is the annual total budget for the Mangere Refugee Centre, including all services?*
> *3. Seeing as asylum seekers do not receive the same service as quota refugees, how much does it cost to feed and house an asylum seeker at Mangere Refugee Centre, per person, based on your knowledge of its budget? [Note, you can choose timeframe; per week, per month, per year. Though my preference is per year so I may compare these costs internationally.]*
> *4. Looking ahead, if the Immigration Amendment Bill for Mass Arrivals is passed, how much is the government estimating it will cost to feed, accommodate and support an asylum seeker in a different 'mass arrival' facility for six months overall? [If a per person figure is available, that would be helpful]*
> *5. What is that facility's overall budget likely to be?*
> *6. Where is that facility likely to be?*
> *7. How many staff would be assigned and at what overall cost per year?*
> *8. How much has the exercise to accommodate mass arrivals cost the government in time and services?*
> *8. How many people have been involved in that exercise?*
> *9. At what minimum number of arrivals will that facility be activated to house the new arrivals?*

Information which is covered by your request is outlined below.

1. How much does it cost, per person, per six week period, to house and provide services for a quota refugee at Mangere Refugee Centre, Auckland?

It costs approximately $NZ2,104 per quota refugee to accommodate them at the Mangere Refugee Resettlement Centre for six weeks. This includes accommodation, meals, weekly allowance and staffing costs.

2. What is the annual total budget for the Mangere Refugee Centre, including all services?

The annual total budget for the Mangere Refugee Resettlement Centre is approximately $NZ1,950,000. This includes the costs for the accommodation, meals, and support for six quota refugee intakes (approximately 125 people in each intake) each year and those

asylum seekers who are detained and accommodated at the Mangere Refugee Resettlement Centre.

3. Seeing as asylum seekers do not receive the same service as quota refugees, how much does it cost to feed and house an asylum seeker at Mangere Refugee Centre, per person, based on your knowledge of its budget? [Note, you can choose timeframe; per week, per month, per year. Though my preference is per year so I may compare these costs internationally.]

The Mangere Refugee Resettlement Centre may accommodate asylum seekers whose claims for refugee or protected person status are yet to be determined. Over the last financial year (2011/12) the Mangere Refugee Resettlement Centre accommodated an average of 15-17 asylum seekers who have either been released on conditions or are detained at the centre under a warrant of commitment.

There are fixed and variable costs to accommodating asylum seekers at the Mangere Refugee Resettlement Centre. The fixed costs, approximately $NZ1,500 per week, are related to staffing at the Mangere Refugee Resettlement Centre. The variable costs, approximately $NZ194 per week per asylum seeker, may fluctuate depending on how many asylum seekers are accommodated at the Mangere Refugee Resettlement Centre and how long they remain at the Centre.

4. Looking ahead, if the Immigration Amendment Bill for Mass Arrivals is passed, how much is the government estimating it will cost to feed, accommodate and support an asylum seeker in a different 'mass arrival' facility for six months overall? [If a per person figure is available, that would be helpful]

The financial implications related to the accommodation, support and feeding of persons who are part of a mass arrival is contained in the Regulatory Impact Statement which has previously been released to fyi.org.nz, and is available at:

http://www.dol.govt.nz/publications/general/gen-ris.asp

5. What is that facility's overall budget likely to be?

See response to question 4.

6. Where is that facility likely to be?

A complex range of factors would be considered when deciding where a person who is part of a mass arrival would be accommodated. Those factors include the size of the arrival, the individual level of risk and needs of those persons being accommodated, the availability and suitability of facilities to be used for accommodation purposes, and the requirements of service providers and other agencies to support the facilities. Depending on a range of factors facilities that could be used to accommodate persons from a mass arrival are the Mangere Refugee Resettlement Centre, Waiouru Military Camp (or similar type of facility as an alternative to the Centre) or a correctional facility.

7. How many staff would be assigned and at what overall cost per year?

Decisions about staff assigned to any facilities used, in addition to the Mangere Refugee Resettlement Centre, to accommodate people who are part of a mass arrival would depend in part on the size of the arrival. As such, we are not able to provide numbers of staff who could be assigned to that facility or costings for those staff.

8. How much has the exercise to accommodate mass arrivals cost the government in time and services?

The phrase "exercise to accommodate mass arrivals" in Question 8 has been interpreted as referring to the whole-of-government planning that has been undertaken to prepare

for a mass arrival should this occur. Any costs incurred in the process of the planning related to reviewing accommodation options in the event of a mass arrival (including staff costs), are covered within the existing operational budgets of the agencies involved.

8. How many people have been involved in that exercise?

Seven government agencies were involved in the planning related to reviewing accommodation options in the event of a mass arrival.

9. At what minimum number of arrivals will that facility be activated to house the new arrivals?

The Mangere Refugee Resettlement Centre can accommodate up to 200 people at one time.

If you wish to discuss any aspect of your request or this response, or if you require any further assistance, please contact Andrew Lockhart, National Manager Refugee and Protection Unit, at the Department of Labour on 09 918 4422.

Yours sincerely

Stephen Dunstan
General Manager
Settlement, Protection and Attraction Division

REGULATORY IMPACT STATEMENT

Possible changes to legislation and regulations that would apply to any mass arrivals of illegal immigrants in New Zealand

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Department of Labour (the Department). It provides an analysis of options to make mass arrival ventures as unattractive as possible to potential organisers of such ventures, and to the people that such organisers sell their services to.

A "mass arrival" for this purpose means an arrival:

- by a substantial group of people (by sea or air)
- not on a craft that is providing a scheduled international service; and
- not as crew or passengers on a vessel that is travelling to New Zealand in the ordinary course of business.

The analysis reported on in this statement has been carried out by identifying possible changes that could be made to existing provisions in relevant areas and considering the practical, financial, legal, and human rights implications/impact these would have.

It is not possible to quantify exactly what the likelihood is of a mass arrival occurring in the future, or when this might occur. It is also not possible to be sure about the characteristics of the people involved in any such event.

For the purposes of the options analysis and related costing work, it has therefore been necessary to make some assumptions. In particular, it has been assumed that:

- 500 people would be involved in a mass arrival
- They would all be from the same country/community
- All of them would claim asylum on arrival
- 62 percent of these claims would be declined following assessment by designated refugee and protection officers
- All of the people whose claims were unsuccessful would lodge an appeal or seek a review of those decisions
- The full determination and appeal/review process for all 500 asylum seekers would be completed in about 18 months. By then, people would have been granted refugee (or protected person) status, or become eligible for deportation.

Costs and some practical implications would be different for groups of different size and composition.

If ministers decide that changes should be made to existing arrangements, changes to the Immigration Act 2009 (the Act) and regulations made under the

Act would be required. Changes to the Act would need to be considered by Parliament.

In practice, dealing with a mass arrival under any of the possible approaches that have been identified and considered would be costly and challenging to manage. Specific challenges have been identified as part of the analysis.

None of the possible measures identified in this statement would:

- impose additional costs on business
- impair private property rights, market competition, or the incentives on businesses to innovate and invest.

[information withheld under section 9(2)(h)]

As part of the analysis, options have been assessed against the rights affirmed in the New Zealand Bill of Rights Act 1990 (NZBORA), and relevant international instruments.

John Roseveare

Principal Advisor, Immigration Policy
Policy and Research Group
Department of Labour

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Date .....

Status Quo and Problem Definition

1 Maritime people smuggling ventures are known to have already targeted New Zealand unsuccessfully. There is potential demand for such a venture, and people with the capacity to arrange it and the motivation to do so. Recent experience in Canada confirms that a mass boat arrival in New Zealand of up to 500 people is now a real possibility. **[information withheld under sections 6(a) and 6(b)(i)]**.

2 500 people arriving and claiming asylum would be costly and challenging to manage. Currently only about 350 claims for refugee status are received annually, and about 85 percent of these claims are made by people who entered New Zealand lawfully. All but a few claimants remain in the community while their claims are determined.

3 An initial estimate of the direct cost of dealing with such an arrival under current policy is about $34 million.[1] A lot of management time and agency capacity would also be required to deal with the situation.

4 Mass arrival ventures need to be made as unattractive and uncertain as possible to people smugglers and the people they market their service to. New Zealand also needs to have an appropriate policy framework in place for dealing with any mass arrival that were to occur. That framework should be firm, meet reasonable minimum standards of fairness, have regard to New Zealand's international obligations and reputation, and be flexible enough to deal with a range of situations that could arise.

5 At the meeting on 16 August 2010 (DES Min (10) 2/2), the Cabinet Domestic and External Security Coordination Committee (DES) (amongst other things):

a agreed that New Zealand should establish a firmer approach to mass arrivals, through appropriate policy and legislative amendments

b directed officials to report to DES by 30 September 2010 with proposals on how to help deter and disrupt people smuggling.

6 At the meeting on 20 October 2010 (DES Min (10) 3/2) DES directed the Department (in consultation with other relevant agencies) to further consider options to deter and disrupt potential mass arrivals, and to provide for legal and policy arrangements for illegal immigrants who arrive in a mass arrival.

[1] This includes the costs of initial health assessments, obtaining warrants every 28 days for people detained, detention costs, ongoing support services, claim determination and appeals, legal aid, and deportation. However, not all possible costs have been added.

Objective

7 The objective of the overall package of measures now being considered is to support the Government's requirement that New Zealand establish a firm, effective, and appropriate framework for:

a deterring and disrupting any potential mass arrival; and

b dealing with a mass arrival if it occurs

Regulatory Impact Analysis

8 Immigration detention arrangements specific to a mass arrival have been considered as part of the development of the wider package of policy and legal measures.

9 At the same time, consideration has been given to the possibility of:

a introducing the ability to suspend the processing of asylum claims in appropriate circumstances at some time in the future

b revising the processes that apply when people lodge second or further refugee or protection claims following an initial, unsuccessful, claim

c reviewing the circumstances in which people with rights of appeal to the Immigration and Protection Tribunal can seek judicial review.

10 Unlike the potential new detention arrangements, the other areas of possible change would not be limited to people who came to New Zealand as part of a mass arrival.

AREA 1: Immigration Detention

11 Measures in this area would affect people who have:

a arrived in New Zealand **as part of a mass arrival**, and

b have been refused entry to New Zealand, and

c have claimed asylum; and

d have been allowed to remain in New Zealand while their right to remain is determined (or they are awaiting deportation).

Possible measure 1	**Status quo**
Description	People can be detained only if there is doubt about their identity, there is an identified threat or risk to security, or to facilitate deportation action. Decisions on whether to refuse entry, grant visas, or seek warrants, are based on individual circumstances. If someone is refused entry at the border, an immigration officer may: • release the person into the community on residence and reporting requirements, without the grant of a visa; or • make an application for an individual warrant of commitment (warrant) to the court. The District Court may issue warrants for the detention of people for up to 28 days at a time in prison, or in other approved 'open detention' facilities. The court may also: • release people into the community on conditions; or • decide not to issue a warrant. Affected people would have access to legal aid to pay for legal representation. They can apply for a writ of habeas corpus, or seek judicial review, to challenge the legality of their detention. The Department would keep detention arrangements under regular administrative review.
Impacts	• Immigration officers and the courts have discretion to respond to individual circumstances, and take account of available facilities for detention. • People who present with apparently low risk can be managed outside the detention and Corrections system. Others are held in detention if there are grounds for this. • Individual warrants required for all affected people. In total, an estimated 5,673 warrants (being multiple warrants over an extended period) would be required to give effect to immigration detention. Obtaining and renewing individual warrants would be resource intensive for both the Department and the courts.

Possible measure 1	Status quo
Risks	• No strong deterrent message to people smugglers and their potential clients, because people who arrive as part of a mass arrival do not have to be detained. • No recognition of the unusual nature of – and particular challenges associated with – a mass arrival. • Major time and resource pressure on systems and capacity for determining identity, assessing risk, and making decisions on rights to remain. • Limited time to make robust risk assessments based on good quality information. Potential (unquantifiable) risks to public safety, security, and order from people released into the community.
Legislative implications	N/A
Financial implications	Based on a mass arrival of 500 people: • the cost of applying for, and renewing multiple, individual 28 day warrants over an extended period has been estimated to be $1.8 million. This also includes legal costs but does not include the cost of legal aid for the detainees • the total estimated cost for the 'status quo' approach would be $17.0 million. This includes detention costs and maintaining people in the community, either until their asylum claim was determined or they were deported.

Possible measure 2	Ongoing mandatory detention (and provision for group warrants)
Description	Affected people would be mandatorily detained under group warrants in secure or open detention for as long as it took for their right to remain in New Zealand to be ascertained, or for them to be deported. People would be detained initially for 6 months (unless a shorter period was directed by the courts). After that, detention would continue if the status of people remained unresolved. There would be court reviews every 28 days Provisions for exceptional circumstance to be taken into account would be provided. Administrative review by the Department would apply.
Impacts	• People would continue to be detained until their right to remain was determined, or they were deported. • More detention facilities would be needed for longer. There would be ongoing resource implications for the corrections system, the Mangere Refugee Resettlement Centre (MRRC) and the additional facilities that would need to be commissioned and operated. • In practice, officials/agencies would need to able to assure the courts that the cases of each affected person were being actively and effectively pursued

Possible measure 2	Ongoing mandatory detention (and provision for group warrants)
	• There would be pressure on Department and court resources, because group warrants could have to be renewed every 28 days • There would be regular court review and oversight of detention.
Risks	**[information withheld under sections 6(a), 6(b)(i) and 9(2)(h)]**
Legislative implications	Legislative change to the 2009 Act would be required.
Financial implications	Based on an arrival of 500 people, the cost of applying for, and renewing 28 day group warrants for an extended period of time is estimated at about $0.13 million, (59 warrants would be required). This also includes legal costs. The total detention cost is estimated to be $20 million.

Possible measure 3	Mandatory detention for an initial period of up to six months, and provision for group warrants
Description	Affected people could be subject to mandatory detention under group warrants in secure or open detention for as long as it took for their right to remain in New Zealand to be ascertained, or for them to be deported. People would be detained initially for six months - unless a shorter period was directed by the courts on the basis that (i) this was clearly appropriate in all the circumstances, (ii) it was in the public interest, and (iii) it was consistent with the need to maximise compliance with the Act. After that, detention could continue under the existing provisions of the Act if the status of people remained unresolved and continued detention was appropriate. If so, there would be court reviews every 28 days. Alternatively, people could be released on conditions. Provisions for exceptional circumstance to be taken into account would be provided. Administrative review by the Department would apply.
Impacts	• An initial period of mandatory detention would ensure that the Department would have a known period of time to make necessary enquiries and assessments while affected people were in managed detention. • The courts would have some discretion to make a decision on what an appropriate initial detention period would be. • Being able to issue warrants for an initial period of more than 28 days, and being able to issue group warrants, would reduce the impact on the Department and the courts of administering the detention system during this initial phase. • People who presented with exceptional circumstances could still be appropriately managed outside the detention system. • There would be resource implications for the prison system, the MRRC and the additional facilities that would need to be commissioned to accommodate up to 500 people during the initial period of detention. • Would send a stronger deterrent message to potential people smugglers and clients of people smugglers.

Possible measure 3	Mandatory detention for an initial period of up to six months, and provision for group warrants
	• More detention facilities would be needed for longer. People detained outside prison would be held in 'open' detention facilities which would not be as secure as prisons. If more than about 200 people arrived, the MRRC would not be adequate and additional facilities would have to be commissioned. • In total, an estimated 29 warrants (being multiple warrants over an extended period) would be required for the detention of certain people who arrived as part of a mass arrival if an initial warrant applied for six months.
Risks	**[information withheld under section 9(2)(h)]**
Legislative implications	Would require an amendment to the 2009 Act.
Financial implications	Based on an arrival of 500 people, the cost of applying for, and renewing an initial warrant, with further warrants of up to 28 days has been estimated to be $85,000. This also includes legal costs but does not include the cost of legal aid for the detainees. The cost of this proposal for 18 months would be $17.0 million. The cost includes detention costs, security guards, and health and welfare costs once people are released on conditions.

AREA 2: Provision to suspend the processing of asylum claims

12 Measures in this area could affect people who have lodged claims for refugee and/or protection status (whether they arrived in New Zealand as part of a mass arrival or otherwise).

Possible measure 1	Status quo
Description	Under current arrangements, all asylum claims are processed regardless of: • the claimant's nationality • how the claimant arrived here; and • whether the claim was made at the border or onshore. Claims found to be made in bad faith, that are manifestly unfounded, or that obviously seek to abuse the protection system, are processed quickly. Officials rely on the most up-to-date country information when determining a claim. This includes advisories from the UNHCR on the situation in the country concerned.
Risks	Refugee determinations may be made on the basis of individual or country circumstances that subsequently change in the future. This could potentially lead to people being granted ongoing protection where this was not necessary, or people being denied protection where that would have been appropriate.
Legislative implications	N/A

Possible measure 1	**Status quo**
Financial implications	N/A

Possible measure 2	**Enable the suspension of the processing of claims by classes of people**
Description	Classes of people could have their asylum claim accepted but not processed (that is, 'suspended'), for a period of time. Suspension could be applied to individuals who had claimed asylum: • when they arrived as part of a mass arrival of illegal immigrants • at the border, and/or • when already in the country.
Impacts	Suspending the processing of claims could sometimes provide flexibility in the management of asylum claims where, for example, reliable country information was not available to adequately determine their claim.[2] Suspension in such circumstances could support quality decision-making by: • ensuring New Zealand did not make an inappropriate decision on the basis of poor information to decline refugee status to, and deport, a person who was actually owed protection • ensuring New Zealand only offers refugee protection to people genuinely owed protection, and • enabling the Department to defer processing where a country situation was fluid but reasonably expected to improve fairly quickly; this could mean the grant of refugee status would be pre-emptive. • Suspension would not remove the obligation under international law to process claims at some point, or the cost of doing so. In practice, suspended claims would not be allocated for processing and instead would be put into an on-hold 'backlog'. Once the suspension was lifted, the backlog could impact on normal processing times of claims, meaning that the processing of non-suspended cases would be disrupted, or suspended cases would take longer to clear.
Risks	• **[information withheld under section 9(2)(h)]** • Information about the identities, criminal records and backgrounds of affected people may not be known as quickly, since such information often comes to light during the processing of a claim. **[information withheld under section 9(2)(h)]**
Legislative implications	Amendments to the Immigration Act 2009 and to the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010 would be required.
Financial implications	Suspension would incur costs because people would remain in New Zealand for an extended period of time before their claim was determined, even if they had no valid need for protection. As an example, the cost of a daily allowance is shown below. There would also be costs for health, education and housing.

[2] **[information withheld under section 6(a)]**

Possible measure 2	Enable the suspension of the processing of claims by classes of people

	Daily allowance per day	Six months
Single person	$46.30	$8,449.75
Unaccompanied minor in Child Youth and Family care	$46.58	$8,500.85
Family of two parents and four dependent children	$180.35	$32,913.88

Detention costs could be incurred if people who had suspended claims were detained under appropriate policies (for example, security concerns, since their identity and background were unknown). The costs would depend on the length and place of detention, and the number of people affected.

Costs would be incurred in relation to any judicial review proceedings, injunctions or declaratory statements that were filed to challenge the new regime or its specific application. It is likely that these would be complex and costly proceedings, because the area would (initially) be untested.

AREA 3: Subsequent refugee and protection claims

13 Measures in this area would affect all people whose initial claims for refugee and/or protection status were unsuccessful. The measures would apply to people whether or not they arrived in New Zealand as part of a mass arrival.

Possible measure 1	Status quo
Description	There are limitations under the Act on the consideration of second or later claims Under Section 140(1), a second or later claim for refugee status **must** not be considered by a Refugee and Protection Officer unless the officer is satisfied that: • there has been a significant change in circumstances material to the claim since the previous claim was determined; and • the change in one or more of these circumstances was not brought about by the claimant (i) acting otherwise than in good faith, or (ii) for a purpose of creating grounds for recognition as a refugee A decision by a Refugee and Protection Officer under this provision can be appealed to the Immigration and Protection Tribunal. Under Section 140(3), a Refugee and Protection Officer **may** refuse to consider a second or later claim for refugee status, and for protection under the Convention against Torture (CAT) or the International Covenant on Civil and Political Rights (ICCPR), if they are satisfied that the claim is (i) manifestly unfounded or clearly abusive, or (ii) repeats a previous claim. A decision by a Refugee and Protection Officer under this provision is **not** appealable to the Immigration and Protection Tribunal.

Possible measure 1	Status quo
	Also under the Act (Section 233 (2)) the Immigration and Protection Tribunal must provide an oral hearing to an appellant seeking refugee status or other protection, unless the appellant had already been (i) interviewed by a refugee or protection officer, or (ii) given an opportunity to be interviewed but failed to take that opportunity.
Impacts	**[information withheld under section 9(2)(h)]**
Risks	• There are still some opportunities for claims without merit to be pursued as a means of extending the time that people can stay in New Zealand.
Legislative implications	No changes required.
Financial implications	Nil.

Possible measure 2	Removing obligations for oral hearings at the Immigration and Protection Tribunal for subsequent claims
Description	The requirement for the Tribunal to provide an oral hearing could be removed in the case of appeals on second or further claims, where consideration of the subsequent claim did not include an interview by a refugee and protection officer. Oral hearings could still be provided, if the Tribunal deemed this to be necessary or appropriate.
Impacts	• Could streamline the appeals processes in respect of some subsequent claims where extended consideration is not required. • Still retains discretion in appropriate cases to allow for an oral hearing • Standard practice is still for refugee and protection officers to interview subsequent claimants or make that opportunity available. (During 2009 and 2010 interviews were carried out in all but five out of 48 cases where second or further claims were made).
Risks	• There would be no specific criteria governing whether the Tribunal should allow for an oral hearing. • **[information withheld under section 9(2)(h)]**
Legislative implications	Amendments to the Immigration Act 2009 would be required.
Financial implications	Nil.

Possible measure 3	**Refusing to consider subsequent protection claims (as well as refugee status claims) in cases where there has not been a material change of circumstances**

Possible measure 3	**Refusing to consider subsequent protection claims (as well as refugee status claims) in cases where there has not been a material change of circumstances**
Description	The limitation that already applies under Section 140(1) to refugee claims could be extended to claims for protection under the CAT and the ICCPR.
Impacts	• Would treat all claims for protection in a consistent way, whatever international convention the claim was being made under. • Would reduce incentives for people to lodge second or further protection claims without merit in order to prolong their stay in New Zealand, and expedite the processing of such claims if they were made. • Decisions made by refugee and protection officers under this provision could still be appealed to the Tribunal. • It is not possible to assess exactly how many claims might be affected in practice by this change.
Risks	• Legislative provision for people to make claims for protection under the CAT and the ICCPR was only introduced under the 2009 Act (and come into force on 29 November 2010)
Legislative implications	Amendments to the Immigration Act 2009 would be required.
Financial implications	Nil.

Possible measure 4	**Removing obligations to consider a third subsequent refugee or protection claim**
Description	The obligation to give any consideration at all to third or further refugee or protection claims could be removed (even if only to conclude that the claim must or should not be considered further)
Impacts	• There would be no obligation to give any consideration at all to a third or further claim lodged by a person whose previous two claims had been declined. This would establish a formal limitation on such successive claims, and remove the incentive/opportunity for people to lodge third or further claims in future as a way of extending their time in New Zealand. • A refugee and protection officer could still apply discretion, to consider a third or further claim if this was appropriate in all the circumstances of a particular individual case. • Relatively few third or later claims are currently made and it is very rare indeed for any such claim to succeed. From 2005 to November 2010, 31 people lodged a third claim and 4 people lodged a fourth claim. All but one of the third claims was unsuccessful, and none of the fourth claims succeeded.
Risks	No significant risks have been identified.

Possible measure 4	Removing obligations to consider a third subsequent refugee or protection claim
Legislative implications	Amendments to the Immigration Act 2009 would be required.
Financial implications	Nil.

AREA 4: Judicial review of matters where there is a right of appeal to the Immigration and Protection Tribunal

14 Measures in this area would apply to:

- (only) people who arrive as part of a mass arrival and lodge a claim for refugee status or other protection; or
- people affected by all matters than can come before the Immigration and Protection Tribunal (including cases where residence applications are declined; where claims for refugee status or other protection have been declined by a refugee and protection officer; where existing refugee or protection status has been cancelled; or where liability for deportation is being challenged on the facts or on humanitarian grounds).

Possible measure 1	Status quo
Description	A number of limitations were introduced in the Act on when judicial review proceedings can be commenced on matters that have been – or could be referred to the Tribunal: • there are now limits on when and how appeals and points of law can be taken to the High Court and the Court of Appeal. Appeals must be brought within 28 days. They can only be taken by leave of the High Court or Court of Appeal, because the question of law involved is of general or public importance or for some other reason should be considered • there are now limits on how and when judicial review proceedings can be taken. Actions cannot be taken while there is still a right of appeal to the Tribunal. They must be taken within 28 days. If a person wishes to take an appeal and seek judicial review, both actions must be made together and the High Court must try to hear them together • review proceedings cannot be taken to challenge matters that can be appealed to the Tribunal; and • all appeal and review proceedings are required to be heard and determined as priority fixtures.
Impacts	• There is still an opportunity for judicial review proceedings to be commenced in some circumstances, but there are limits on this. These limits are designed to ensure that the legality of relevant processes and decisions can be challenged and tested where that is appropriate, but that this is done in a timely and efficient way.
Risks	**[information withheld under section 9(2)(h)]**

Possible measure 1	Status quo
Legislative implications	No changes required.
Financial implications	Nil.

Possible measure 2	Limiting the circumstances in which judicial review proceedings can be commenced
Description	Judicial review proceedings could not generally be taken on matters being dealt with by the Immigration and Protection Tribunal until the Tribunal has made a final decision on all relevant matters, and judicial review proceedings could only be filed with the leave of the High Court or the Court of Appeal.
Impacts	• Proceedings challenging interim or procedural decisions of the Tribunal could not be used to delay the tribunal reaching decisions on the matters of substance before them • A provision like this applies already under the Employment Relations Act 2000 to matters before the Employment Relations Authority. There are some narrow exceptions in cases of lack of basic jurisdiction or bad faith. These safeguards would also apply to the Tribunal provision. • Requiring leave before judicial review proceedings were commenced would mean the same requirements applied to judicial review proceedings and to appeals on points of law. In both cases, higher court judges would need to be satisfied that there were matters involved that should be heard.
Risks	**[information withheld under section 9(2)(h)]**
Legislative implications	Amendments to the Immigration Act 2009 would be required.
Financial implications	There may be some cost savings to the Crown if proceedings that would otherwise be lodged are not lodged.

Consultation

15 A range of potentially affected agencies have been involved and consulted during the development and assessment of these options: Ministry of Foreign Affairs and Trade, Ministry of Justice, The Treasury, the Department of Corrections, New Zealand Police, New Zealand Customs Service, Ministry of Social Development, and the New Zealand Defence Force.

16 Potentially interested parties other than government agencies have not been consulted due to the sensitive nature of the issues involved.

Conclusion

17 The regulatory impact analysis summarised in this statement has contributed to, and informed, the advice provided to ministers on possible measures to deter and, if necessary, manage a mass arrival of illegal immigrants in New Zealand.

Implementation

18 Depending on the measures the Government decided to adopt, changes would be required to the Immigration Act 2009, the Immigration (Certificate and Warrant Forms) Regulations 2010 and to the Immigration (Visa, Entry Permission and Related Matters) Regulations 2010.

19 It is proposed that a communications strategy would be developed to maximise the deterrent value of any such new measures.

20 The new measures would determine the way in which any actual mass arrival was managed, and the people involved were treated – if and when an arrival actually occurs.

Monitoring, evaluation and review

21 Legislative changes will be reviewed by the Department in light of the outcomes of any mass arrival, were it to occur, and earlier as directed. Monitoring, evaluation and review of the legislative changes that are progressed is also likely to be required as part of New Zealand's reporting on its compliance with its immigration-related and other United Nations obligations.