

Policy and Legislation



MODEL

TECHNICAL RESOURCES



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Disclaimer: While the information contained in this document was compiled at the request of the Pacific Immigration Development Community (PIDC), it does not necessarily reflect the views of the Organisation unless specifically stated in the text. The information provided is the result of research undertaken by technical immigration experts who have been provided the opportunity to engage with immigration agencies from across the PICT to learn their often-unique experiences.

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A PIDC Framework for Developing Immigration Legislation

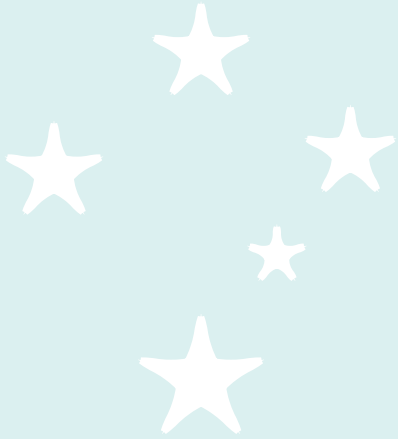
PART A:

Issues and approaches to developing
policy and legislation



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1.

INTRODUCTION



1.1 Overarching purpose of the framework

This PIDC framework has been created to assist members assess their existing legislation and where required develop effective, modern legislation for immigration purposes that is in line with national strategy.

The framework is intended to assist members to bridge the gap between an awareness that existing legislation is not fit for purpose and the drafting of an immigration bill. It is also intended that an agreed and regularly updated framework will over time contribute to immigration legislation being increasingly harmonised across the region.

1.2 Purpose of Part A

The framework has been divided into two parts. This part (Part A) details issues and approaches that should be taken into account. It is intended to guide and provide support to the process of developing new or revised immigration laws.

Part B provides a framework for the legislation itself. This is not a model immigration bill, but rather a practical document or tool that sets out relevant sections and key provisions to help assess existing legislation and provide a basis for the development of any new legislation.

1.3 Who is the framework for?

The framework is primarily for immigration directors, policy-makers and others involved in developing immigration legislation in the Pacific region. It has also been designed to act as a foundation document to be used when the PIDC secretariat assists members in this area, and for donors as a statement of agreed standards and content for immigration legislation in the Pacific region.

1.4 Why is the PIDC not developing model legislation?

The PIDC has opted to not develop a model immigration bill at this stage, in favour of developing this framework. This stems from a belief that the way in which legislation is developed in a country can be as important as the final bill and that one size does not fit all. Learning from members that have recently changed their legislation, the PIDC wants to encourage a focus on the way in which legislation is developed. A model bill risks certain parts of the process being overlooked, buy-in and understanding being minimised, and important clauses to individual members being left out. However, a model bill, based on this framework, can be developed if it is requested by members.

1.5 Format of this part

Drawing on the experience of PIDC members, discussions with partner agencies, and reviews of existing legislation this part looks first at the issues and challenges that are often faced when developing policy and legislation. It then goes on to look at how various approaches have been and can be used to address these issues and challenges. A set of principles are then identified that should underpin the development of policy and legislation, before finally some of the key elements of immigration legislation are set out. These elements lead into Part B which sets out key parts and provisions in an immigration bill.

2.

ISSUES AND CHALLENGES WHEN DEVELOPING POLICY AND LEGISLATION

Developing legislation is a complex task. The following are some of the common issues and challenges faced by officials in the region as they have sought to change their country's laws.

2.1 Political will

“We had to convince our political leaders of the importance of the bill; political will is very important” – Vanuatu Immigration

Commitment from politicians is a key factor in the ultimate success of a bill. Without this commitment it is very difficult to find the parliamentary time for the bill to be discussed and voted on, or for key clauses to be retained in a meaningful form. Unless the law-makers understand the importance of the bill it might take a long time before it becomes law.

2.2 Support from other agencies

“Work cooperatively with other agencies of government... to ensure that [proposed legislation] does not conflict with other laws” – Papua New Guinea Immigration

Immigration departments do not operate in isolation. Changes in legislation can affect the way Immigration Officers work with the police, customs, and quarantine, in enforcement and at the border. They can also affect the interests of other government departments, including labour departments, health departments, and departments responsible for tourism, investment and overseas promotion. There may be suspicion and concern within these agencies that changes may have a negative impact on them or their objectives.

2.3 Ensuring new legislation is comprehensive

When legislation is updated the intention is often to ensure that the new legislation is comprehensive, that areas are not overlooked, and that loopholes are firmly closed. The new legislation should also fulfil international obligations or best practice and solve identified challenges and needs. It is difficult to be confident that it will do all of this.

2.4 Capacity

Most immigration departments in the Pacific have limited resources. Those resources that are available are often focussed on day-to-day permit processing, enforcement and border management. Developing new legislation is a large undertaking that requires a significant amount of staff time and commitment. Extra capacity needs to be found to successfully introduce new legislation.

2.5 Controversial aspects

“The section on refugees in the bill was a ‘hot potato’. Refugees are ‘alien’ to Pacific thinking.” – Vanuatu Immigration

There may be sections of proposed policy or a bill that are contentious. This can affect political buy-in and support from other agencies, and therefore ultimately affect whether the bill becomes law. Where the section is important, such as with refugees, it can be hard to ensure the bill can still pass without this part being amended or removed.

3.

APPROACHES TO DEVELOPING POLICY AND LEGISLATION

These issues and challenges cannot be entirely avoided, but they can be managed to minimise misunderstanding, increase cooperation and ultimately achieve the desired changes to legislation. This section looks at how to manage potential obstacles through various approaches that have been used by members previously and are considered good practice.



3.1 Consider the whole process

Changing legislation is part of a much bigger process that neither begins nor ends with the creation of an Immigration Act. The process can take months and even years beginning with an idea of what you want to achieve through immigration controls and ending with the implementation of that idea in the real world. This process can be viewed as a cycle whereby current practice is constantly reviewed against what a government wants to achieve starting the process over again.

The following diagram illustrates this cycle highlighting some of the key steps that will be discussed in this section. However, it is important to note that one step will not necessarily lead to the next.

Diagram 2.1: A policy cycle



3.2 Be clear about what you want to achieve

It is important from the beginning to be clear about what it is you want to achieve. If this can be framed as overarching objectives or aims then these objectives can be used to help build consensus, convince Ministers and politicians of the importance of proposed changes, and give you a reference point for everything that follows. During discussions you will always be able to ask, “Will it contribute to what we want to achieve?” and thereby help ensure the work does not become side-tracked.

Your overarching objectives should be linked to national development plans or government strategies. If the connections are clear this will further demonstrate the importance of the changes you want to make. Immigration policy and legislation often contributes in three key areas:

1. Building the economy through immigration rules that allow for growth in tourism, are accommodating to business travellers, and ensure investors and those with needed expertise are able to effectively contribute to economic development.
2. Safeguarding the national interest through immigration rules that protect borders, prevent the entry of non-genuine persons, including known criminals and terrorists, and allow for the fair, but effective treatment of those that abuse the system.
3. Fulfilling international commitments or meeting international expectations through immigration rules that provide for the fair and equal treatment of persons and the upholding of human rights.

The intention behind changes to immigration legislation will often be to better achieve objectives in one of more of these areas.

3.3 Identify what is preventing these objectives being achieved now

In many cases current policy and legislation will not run counter to overarching objectives. It is more likely that they will in some way simply hinder progress towards these objectives. For example, no PIDC member's legislation prevents visitors arriving, but the periods of stay granted or visa requirements can discourage a person from choosing to visit and thereby reduce benefits from tourism.

Reviewing existing practice, policy and legislation and identifying what is hindering objectives or simply not working is important. It will help you understand what needs changing and will help to ensure that proposed changes will improve the situation. A review may identify certain missing provisions in legislation, or out of date instructions, or simply that front-line practice does not follow stated procedure.

Being clear on the issues that affect the achievement of objectives that in turn affect national goals will help build a strong argument that can be put to Ministers or other agencies for making any changes.

3.4 Set out what you plan to do

Armed with what you want to achieve and the issues that are preventing you achieve this, you are well placed to set out what it is you want to do to improve on the existing situation. This forms a policy paper which will act as the basis for consultation and will eventually form the basis for drafting a bill. It is normal for sections within this paper to be revised and redrafted many times as ideas are refined and changed as they receive greater consideration and input.

It can feel as though you are exposing yourself to undue criticism by putting out a policy paper, but even though people may disagree or have different ideas, this will ultimately contribute to making the policy and eventual legislation better.

3.5 Consider different options for how changes can happen

Once you have a policy paper setting out what you want to do it becomes possible to consider how changes can be made. The original intention may have been to develop primary legislation, but it may be that some changes can be made through regulations, immigration instructions or existing procedures. It is usually much easier to amend and change these things than it is to introduce a new Immigration Act.

3.6 Consult widely

“Consultation is the best medicine, both horizontal and vertical” – Vanuatu Immigration

“Consult widely to determine the key issues and the best approach” – Papua New Guinea Immigration

Consultation sometimes feels like a lot of effort with little return. However, a good consultation process is extremely important for building understanding and consensus, as well as ensuring all key issues and the widest possible range of solutions are considered. It will also help to ensure that any new legislation is forward-looking and will be consistent with changes other departments or agencies are planning.

Informal consultation often happens instinctively through discussions with colleagues and key contacts in other organisations. Thinking about a more formal process helps to ensure that the consultation is inclusive, that certain groups are not marginalised, and that the views expressed are properly recorded and fed into the development of policy.

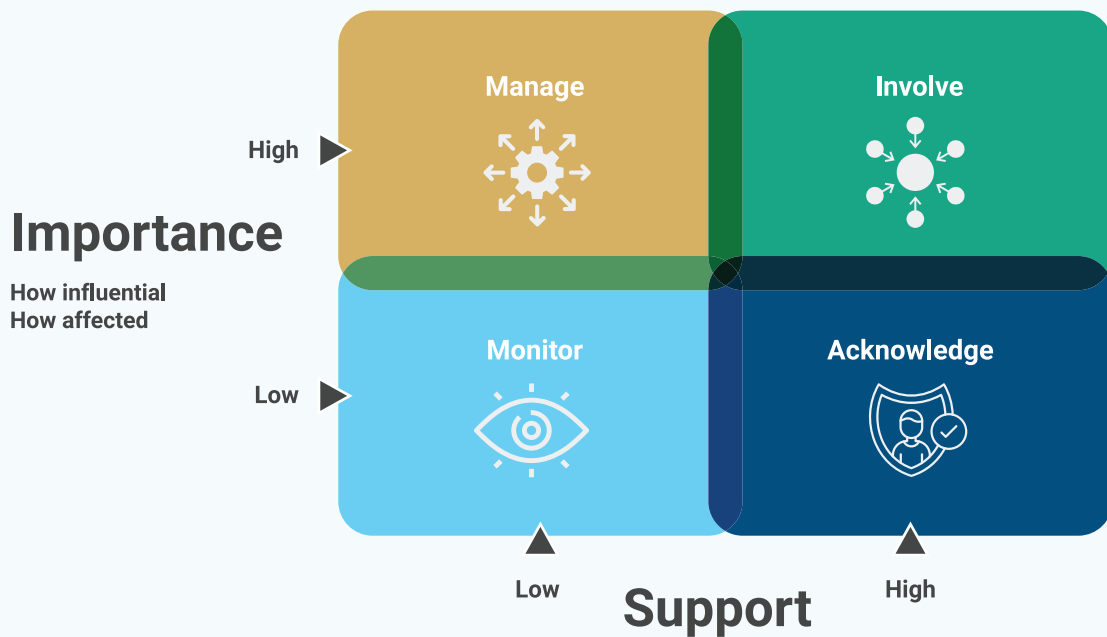
Consultation should be ongoing throughout the process although at different stages it may take different forms. Initially it may be confined to the immigration department as you develop an initial policy paper, before broadening out to other government departments and key stakeholders, and eventually to the wider public as the policy becomes clearer and more comprehensive. At each stage you may encounter ideas or suggestions that you did not know about or did not realise were an issue.

Identifying and prioritising stakeholders is an important first step of any consultation. Although this is not a comprehensive list, you will want to consider consulting with the following:

Government	Other domestic	Regional/International
Customs Defence Police Quarantine Labour department Health department Tourism National development/ promotion organisations	Airline companies Maritime industry Transport companies Port/airport management companies Business community Tourism industry Travel companies NGOs	PIDC UNHCR Providers of travel documents

Thinking about where each of these organisations would fit in the following diagram will help you decide how best to approach them and the type of consultation you will need to undertake. For example, a Minister’s importance to the success of legislation is high because of the influence they have, but their support may be low. Therefore you will need to actively manage the relationship to try and increase the level of support. Customs may be fully supportive of proposed changes, but they need to be involved in ongoing discussions to ensure their support is maintained.

Diagram 3.1: A consultation matrix



3.7 Plan ahead

Setting out a timeframe for the process of developing policy and legislation has a number of advantages. It will help you to identify when you may need extra capacity or additional assistance. It will also help to ensure deadlines are met and the work does not get held up by external factors. For example, knowing when a legal drafter will be available, when there will be parliamentary time to debate a bill, or when donors may be able to provide assistance will inform when other parts of the work need to be completed.

Planning ahead will also help ensure enough time is allocated to, for example, consultation or drafting, so that activities do not need to be completed in a rush.

3.8 Identify and make use of available resources

“It’s easy to forget that even before a donor gets involved, a lot of hard work needs to be done” – Cook Islands Immigration

Outside agencies, including the PIDC secretariat and other PIDC members, are usually best able to provide or arrange assistance in specific areas. These include, reviewing existing legislation, the process of drafting the core policy paper, the technical drafting of the bill, and providing advice on the management of the whole process. They can also act as key consultation partners who can provide comments on any draft papers, can help direct you to or arrange specialist assistance where needed, or can simply act as a sounding board.

Although this assistance can be of great help and is there to be used, it should not be seen as a way to short-cut or replace time and effort internally. There is a lot of work that can only be done by the relevant agencies in-country.

If the PIDC Secretariat or other outside agency is asked to assist whether in developing overarching objectives, a policy paper, or a well-planned consultation, the key input still needs to come from you and the immigration department. Although guidance can be provided, it is what you want to do and how you want to do it that outside agencies will be looking for.

Planning also plays a key role here. Any outside agency will need to factor in to its existing work plan any assistance they are going to provide. Therefore engaging with potential assisting agencies early will ensure that they actually have the time to assist when it is needed.



4.

PRINCIPLES UNDERPINNING IMMIGRATION LEGISLATION



There are various principles that generally underpin good immigration legislation. These have been variously identified by organisations including Asia-Pacific Economic Cooperation (APEC), the International Organization for Migration (IOM) and PIDC. Immigration legislation developed on the basis of these principles will usually have a better chance of achieving its objectives. They include the following:

Balance: At the core of any immigration policy or legislation is the issue of balancing security with economic development. Stringent checks should be balanced against the risk of deterring legitimate travellers and preventing investment. Where this balance is found will often depend on national goals.

Fairness: The burden placed on legitimate travel should be minimised. Consideration should be given to the capability of those travelling, and of carriers, employers and education providers to meet the demands placed on them by legislation. A clear process for reviewing and appealing decisions is essential to ensuring fairness.

Security: Checks and processes should be sufficient to provide a high level of security pre-border, at the border, and in-country. Penalties should be sufficient to deter violations of immigration law.

Implementation: There should be a realistic assessment of the capacity and capability of an immigration department in the context of a nation's geography and bureaucratic structure to ensure that the checks and balances established by legislation can be implemented.

Technology: Legislation should allow for the maximum use of technology to assist with security and facilitation, yet it should not place unrealistic requirements that exceed a country's technological capability or capacity.

Clarity and openness: Legislation should be clear so that it can be readily understood by officials and the public, and is not susceptible to multiple interpretations. Clarity should lead to openness about how legislation is to be applied and what requirements are placed on users. Clarity and openness will also help to ensure that legislation is able to be applied consistently by all immigration officials.

Consistency with relevant international instruments and best practice: Immigration legislation should seek to be consistent with international instruments and best practice even where a country is not a signatory to a convention.



5.

KEY AREAS FOR IMMIGRATION LEGISLATION

This section provides a summary of the key parts of immigration legislation. These key parts should be considered when policy or legislation is being developed. Part B provides a detailed breakdown of these parts as well as listing the acts and policy documents from which they are derived. They include the following:

	Key parts	Reason for part
1.	Core provisions	To make clear the fundamentals that underpin the immigration system, including who is entitled to be in or enter the country and who is excluded
2.	Permissions required to travel to or be in your country	To define the various visa requirements, entry or residence permissions
3.	Arrivals and departures – passenger responsibilities	To clearly set out the obligations and responsibilities of people arriving in your country
4.	Arrivals and departures – carrier responsibilities	To clearly set out the obligations and responsibilities of the airplane, ferry and other transport operators or owners who bring people to your country
5.	Decisions and refusal of permissions	To establish the process of refusal and the rights of people who are refused any immigration permission set out above
6.	Turnaround, removal and deportation	To set out the circumstances and processes by which a person can be removed from your country
7.	People smuggling and human trafficking	To deter and address the serious and often organised crimes of people smuggling and human trafficking, and to ensure the appropriate treatment of victims of trafficking
8.	Refugee and protection status determination	To set out the process by which a migrant can claim refugee or other protection status, how that claim will be considered, appropriate treatment and rights to appeal
9.	Appeal and review measures	To ensure that there is a process by which decisions can be reconsidered within a context of fairness and accountability
10.	Designation of powers	To establish who has the power to designate and appoint immigration officers and the role of ministers
11.	Powers	To provide powers to immigration officers to perform their functions and carry out their duties
12.	Arrest, detention and monitoring	To give immigration officers the power to arrest certain persons for specified purposes as well as the periods of detention
13.	Responsibilities of employers and education providers	To ensure employers and education providers share some responsibility for the integrity of the immigration system
14.	Information collection, sharing and data protection	To allow for the sharing of information for certain purposes with specified agencies
15.	Offences	To set out what are the offences and penalties against the act

6.

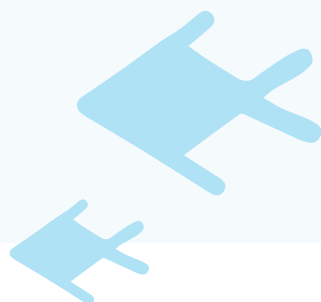
CONCLUDING COMMENTS TO PART A

This part of the PIDC framework for immigration legislation (Part A) has sought to set out issues and approaches to help with the development of immigration policy and legislation based on members' experiences and best practice. It is not a comprehensive list of factors. National circumstance will require additional considerations and factors may vary depending on what you want to achieve. Part B of this framework sets out the parts listed above in detail.

A PIDC Framework for Developing Immigration Legislation

Part B:

Key parts and provisions



Overarching purpose of the framework

This framework has been designed to assist members in assessing their existing legislation and where appropriate in developing effective, modern legislation for immigration purposes that is in line with national strategy. It is intended to assist members to bridge the gap between a concern that existing legislation is not fit for purpose and the drafting of an immigration bill.

Purpose of Part B

Part A set out issues and approaches to developing immigration policy and legislation. This part (Part B) provides a framework for the legislation itself. It sets out the key areas that immigration legislation should cover, the key provisions in those areas and what they do, and provides a commentary on additional considerations. This part is also designed to be a practical document or tool for the comparison of existing legislation and therefore leaves space for a user to add notes where appropriate.

What this document is not

This document is not a model immigration bill and it is not intended to be so. Although the key provisions are at times phrased in a legalistic way, this is due to existing immigration legislation being used as the basis and the need to reflect precise requirements.

The revisions to this Framework were undertaken in December 2016 by Immigration policy and legislation experts and senior immigration officers and aims to support Members by providing a resource that identifies regionally endorsed best practices.

Source documents

This framework has been developed using the New Zealand Immigration Act 2009 as the primary source document. This was cross-referenced with the Fiji Immigration Act 2003 and the Tonga Immigration Act as revised. The 2002 PIDC draft regional framework for review of immigration legislation, issues and findings from the review of Vanuatu's immigration legislation by Australia's Department of Immigration and Citizenship, the policy proposal for revised legislation by Cook Islands Immigration supported by Immigration New Zealand, and an Asia-Pacific Economic Cooperation (APEC) 2004 report on standards for immigration laws were also used to develop this framework.

The New Zealand Act was selected on the basis of it being a comprehensive reworking of immigration legislation developed into a single bill and recently enacted. Pacific Island legislation was selected on the basis of its enactment date and as a counterpoint to the New Zealand Act.

The framework is divided into parts. Each part represents an area of immigration legislation. In a draft bill you may want to order the parts differently, or split some parts across different sections

A brief statement of the purpose for the part is given to explain what it seeks to achieve

Part 9 Appeal and review measures			
Purpose To ensure that there is a process by which decisions can be reconsidered within a context of fairness and accountability			
Key provisions	Reason for provision	Comments	Additional notes
1. No appeal can be made against a decision by the Minister or an immigration officer in any matter relating to a visa for travel to your country, or an entry permission	To minimise the administrative burden that could be posed by appeals against straightforward decisions	Checks and balances are in place in the form of listed criteria for visas and entry permission, and with the requirement to provide reasons for refusal in writing upon request.	
2. An appeal can be made to the Minister against a decision by an immigration officer in a matter relating to a permission to be in your country	To provide the opportunity for an administrative review of a case	In drafting it will be important to specify the period in which an appeal can be lodged after a decision.	An extra column is provided for the user to add in their own comments, note applicability to their jurisdiction, or additional points they would want included.
3. An appeal can be made to a tribunal or other appropriate independent authority against a decision not to recognise a claimant as a refugee or to cancel a refugee status	To protect refugees from return to persecution	The right to appeal in asylum cases is important given the potential consequences of returning a genuine refugee to a place where they fear persecution. If possible the appeal should be to an independent body.	
4. An appeal can be made against a decision that a person is liable for deportation			

The key provisions are the points for which clauses may be required in a draft bill

A reason is given for why a provision is included; in other words what that provision seeks to achieve

A commentary is provided to give additional explanation or to identify where a provision may link to provisions elsewhere

Part 1		Core provisions	
Purpose		To make clear the fundamentals that underpin the immigration system, including who is entitled to be in or enter the country and who is excluded	
Key provisions		Reason for provision	Comments
		Additional notes	
1.	Extension of the Act	To make clear the geographic area to which the Act would apply	Immigration or other delegated officers should be empowered to act in the waters around your country. Other factors to consider include offences committed on board a vessel or aircraft registered in your country and offences committed outside your territory, but with view to a serious crime in your country.
2.	Citizens of your country may enter and be in your country at any time	To confirm a principle of international law often already enshrined in national Constitutions	This may be provided for elsewhere, but inclusion in an immigration bill sets it in context and confirms its importance; and provides the basis for considering who then needs permission to enter into your country.
3.	Non-citizens must have permission to travel to, enter and be in your country unless exempted	To provide the basis for the rest of the bill as it is the conditions that apply to this category of people that the bill will mostly focus on	Should be part of fundamental national law. Essential part of domestic Immigration law
4.	The Minister may declare certain persons are excluded from gaining permission to travel to, enter or be in your country. (Delegation of this power should be provided to allow for continuity should the specific high ranking official not be available.)	To provide the basis for powers to refuse visas or permissions to enter or reside	There are generally two types of persons that are usually to be excluded. (a) excluded because of former convictions or deportations (b) excluded because of potential or risk of an individual to commit acts such as crime or as a threat to national security and national interests Key issues As with most legislation there is a need to focus on striking balance between specific and general provisions. The current Framework is silent on special discretions and consequences

of persons being excluded.

- Do we want to have a discretion on exclusions? (Should this be the case then the WG agreed that such a discretion needed to be tightly controlled and worded so as to clearly advise that such a discretion did not place any obligations on the State and any decision made in one case did not set a precedent) View of WG is that Immigration agencies should be under no obligation to even consider request and this therefore does not create a de facto appeal process.
- For implementation of exclusion rules, the WG agreed Immigration agencies must ensure they are applied carefully and properly taking into account all facts of the matter in totality. (An example was made where it was identified an individual wrongfully labelled a dissident in their country for political purposes was incorrectly banned for entering a third country) China banned from entering NZ)
- The WG agreed to discuss whether it was possible to include a provision to ban threats currently being raised by law enforcement agencies in the Pacific such as Outlaw Motorcycle Gangs (OMGs).
- The WG also agreed to discuss further how to better implement the UNSCR ban lists at the national level. Banned list can be covered by a broad provision to exclude persons "posing a threat to security, public order or risk". Rather than specifying ban lists at the legislative level, they can be enacted through regulations or instructions) to make it more flexible to change such lists.

Alternate view:

Recommendation received that rather than giving a Minister the power through the act to exclude certain persons, that the Bill clearly sets out the types of persons that should be excluded. However, giving direct power to Ministers exclude from time to time may impact the overall integrity of the legislation, particularly if Ministers exclude so on ad-hoc basis.

Defining types of excluded persons should be agreed in the legislative process. From then on, member states may consider if there should be an additional provision for a Minister or delegated person to have the power to exempt an excluded person (i.e. override their exclusion).

5.	Persons unlawfully in your country have no right to apply for permissions to stay, and are obliged to leave	To ensure people who are no longer legal or who never were legal cannot regularise their status	This is generally viewed as an important provision that maintains the principles of border control by preventing those who have acted illegally gaining the reward of becoming legal. It links to policy options relating to the regularisation of illegally residing migrants to bring them into the formal economy Member states may also consider making clear in legislation that the immigration department must communicate a person's obligation to leave the country when their visa expires. This communication could be done through different means, but the goal is to avoid situations of expired visa holder "pleading ignorance".	
6.	The Minister may issue regulations or instructions to specify types of visa or permits, conditions, procedures, fees, forms and similar matters	To give a Minister the power to create immigration instructions or regulations to define the processes and procedures for applying for visas or permits	The particular elements on which the Minister can issue instructions should be listed. Although, this provision may vary depending on the way legislation is given effect in your jurisdiction.	Conditions developed by Minister should be linked to compliance with other laws such as Customs and bio-security.

Part 2			
Permissions required to travel to or be in your country			
Purpose	To define the various visa requirements, entry or residence permissions		
Key provisions	Reason for provision	Comments	Additional notes
1. A non-citizen must apply for a visa for permission to travel to your country unless this requirement is waived or their status under another immigration category exempts them from the requirement	This relates to Part 1, provision 3 above and provides the basis for requiring people to apply for visas	There could be provisions for different classes of visa that match the permits below (see provision 5), so that e.g. a person wanting to work in your country applies for permission to travel to your country for the purpose of work. The term 'visa', can cause confusion as it is sometimes used to refer not only for the basic permission to travel to your country, but also for the permission to enter granted on arrival, and sometimes also for the permission for work and residence permits (work/residence visas). In this framework, the term 'visa' is used only in reference to the permission to travel. For other types of permission to travel to and stay in the country for a particular lawful purpose, the term 'permit' is used.	Additional issues Countries may choose to include additional requirements that non-citizen travellers must also have a passport valid for a specific time period (6 months) and also that anyone entering the country must have sufficient funds and an outward ticket.

2.	<p>A non-citizen who will transit through your country with another country as the final destination must apply for a transit visa unless this requirement is waived or their status under another immigration category exempts them from the requirement</p>	<p>To ensure that even those who are passing through your country, but for whom it is not the final destination are obliged to apply for visas before travelling</p>	<p>This is not a common provision enacted by many PIDC Members. The provision has been identified as useful to identifying potential persons that may seek to make unwarranted claims for refugee status. The law can be waived unless for specific issues and allows countries to maintain better control of borders. Alternatively, member states may list countries that require or are exempt from applying for a transit visa.</p>	
3.	<p>The Minister can waive the requirement to obtain a visa permitting travel to your country</p>	<p>To exempt particular nationalities or other categories of person from needing an advance visa</p>	<p>The list of countries whose nationals do not need to apply for a visa in advance of travel can be provided through secondary legislation. A visa is then sometimes issued on arrival or waived entirely.</p>	<p>Most PIDC Members do not require a visa to travel and instead issue a visa upon arrival.</p>
4.	<p>A permit may be issued on application entitling a person to enter and be in your country:</p> <ol style="list-style-type: none"> a. To reside permanently b. To reside indefinitely on certain conditions 	<p>To create classes of permit that entitle non-citizens to an immigration status similar to that of citizens</p>	<p>These classes of permit would ordinarily include the right to travel to your country and be granted entry at any time, to stay indefinitely, and to work or study. Creating the second class of resident permit (b) would allow for additional flexibility in attaching conditions which could include no automatic right to enter</p>	
5.	<p>A visa/permit may be issued on application entitling a person to enter and be in your country on a temporary basis:</p> <ol style="list-style-type: none"> a. as a visitor/tourist b. as a business visitor c. to reside (may need to use terminology such as "to stay permanently" for clarity of definition as "to reside" may be unclear) d. to work 	<p>To create the classes of permit for which non-citizens can apply either at the border or in-country in order to be in your country for a defined period</p>	<p>The types of permit and the way they are defined vary. The visitor class can be subdivided into non-business visitors, such as tourists, who are granted entry for several months, and business visitors who are granted entry for a much shorter period. Unlike the classes above these permits would be granted for a limited period and have more conditions attached, including duration, activities that may be undertaken, that no national was able to undertake the work, a requirement to comply with directions given by an immigration officer etc. The WG identified that: (a) there may also be additional types of permits particular to national circumstance such as retirement permits or investor permits and permits for actors or musicians; (b) PIDC Members needed to review possible permit sub-categories and discuss how they can be mirrored at the domestic level; (c) PICTs needed to identify how this provision could support local industries and labour markets; and (d) there were a lot of</p>	<p>Countries need to determine what kind of sub-categories that we want to look at. RSE based on a labour assessment undertaken of national labour markets. Employers had to meet certain standards of care. - People who will make local communities better off - People who have close</p>

	<p>e. to study</p> <p>f. to conduct research</p>		<p>discussions regarding a non-labour market test category for permits.</p> <p>This provision is essential for discussions regarding labour mobility and ensuring more participation and immigration contributions to economic growth. As a way to ensure more effective Immigration participation in how to manage these provisions Immigration agencies should seek to engage closely with their Labour and Commerce Departments to make the necessary amendments to these provisions to ensure that the countries skilled labour needs are met.</p> <p>Additional View: Instead of specifying exact visas at Act level, it may be desirable to list only high-level permits as is done in the NZ Act. E.g. Residence, Permanent resident, Temporary Entrant, Limited Visa and Transit visa Temporary visa types are set in Immigration Instructions, and therefore more flexible to remove or create new types of temporary visas.</p>	<p>family in-country</p> <ul style="list-style-type: none"> - Other people where we have obligation or special relationship. <p>Members will require to engage with labour and commerce stakeholders to determine how best to manage and monitor this area especially around the area of work and study permits.</p>
<p>6.</p>	<p>A limited permit may be issued for a specific purpose</p>	<p>To create a class of permit that can be issued when there is a specific reason why a person should be in your country outside the other classes of permit</p>	<p>For example, this class of permit would apply where a person needs to stay in your country to give evidence in criminal proceedings, or for specific health reasons, or to provide legal status to cover an interim period while a separate application is made. It may also cover asylum applicants or international disaster response personnel.</p> <p>A key aspect of having this specific limited purpose permit is to provide flexibility to Government. However, to minimise risk of abuse of this provision, PIDC agencies need to ensure that it is not a discretionary alternate process but must be used for a bona fide and appropriate purpose.</p>	<p>Member states may want to clearly distinguish between a Limited Permit and Interim Permit. In the New Zealand context the Limited Visa is issued only in situations where an applicant cannot meet the instructions (e.g. they cannot prove they have strong incentives to return to their home country), but they have a good reason to be in New Zealand for a specified period – termed an ‘express purpose’. An express purpose normally has a clear end date.</p> <p>An interim visa is used to give person lawful status when their last visa has expired but they submitted an application for a further visa prior to the expiry date and a decision on that application is not yet made.</p>

7.	Certain categories of person can enter, reside and work without obtaining a permit	To create an exemption for those who have diplomatic or consular immunities and privileges, and other categories your government believes are appropriate	<p>The WG agreed that during national implementation Members should consider military personnel, diplomats, air crews and maybe researchers as well. Diplomatic staff also referred to Diplomatic domestic staff (chauffeurs and gardeners) as well.</p> <p>The WG agreed that there needed to be a way to take into consideration instructions regarding character of applicants (and sponsors) and also risk to NZ's international reputation (allows Immigration to look a little beyond convictions and such. Can also look at the character of the sponsor for a proposed immigrant) For example someone who had not been convicted but was associated with some offensive or unlawful activities.</p>	The consideration of health and character or sponsorship reliability/credibility in an application assessment can be provided for in Immigration Instructions instead of at Act level. The provision in Part One that allows Ministers to issue regulations or instructions is high level enough to allow countries to create visa requirements for each visa / permit type.
N1	Need to discuss introduction of a rule on expiry and cancellation of permits	To make clear when a visa/ permit is considered expired and how visas can be cancelled.	Refer sections 63-67 of NZ Immigration Act.	
N2	Need to discuss possible rule for overseas persons only being able to hold one visa/ permit at a time.	To provide clarity as to type of visa/ permit that individual persons hold.		
N3	There shall be a class of visas/ permits and immigration can place conditions precedent or antecedent to the granting of a visa/ permit.	To provide the State with flexibility as to specific conditions that must be satisfied (precedent or antecedent) at the time the visa/ permit is granted.	<p>Example provided during discussions included a bond for an applicant to guarantee they do not abscond and become an over stayer.</p> <p>MIBIE was to provide some further text on this area.</p>	
N4	Persons applying for a visa or permit have an obligation to inform an immigration officer of all relevant facts including changing circumstances.	To ensure that immigration officers have all relevant and correct details at the time the decision is made regarding specific visas and	This requires the person to provide relevant facts and failure to do so can result in the commission of an offence for providing false information and also the invalidation or cancellation of a previously granted visa or permit.	

		permits. It provides an obligation for the applicant that Immigration officers can use to invalidate or cancel a visa or permit if this provision is not met.	
D1	Two issues raised for further discussion include: (a) Do we want to make rules regarding whether visas/permits are transferable; (b) Does work permit for a specific employment activity and supported/ sponsored by a local business belong to employer or employee?		These issues were raised by the Working Group for further discussion and further views are sought as to whether model provisions need to be developed here or whether these issues just need to be raised for consideration at a national level. At this stage, this provision is not a best practice but merely raised for discussion at the national level.

Part 3			
Arrivals and departures – passenger responsibilities			
To clearly set out the obligations and responsibilities of persons arriving in your country			
Purpose	Reason for provision	Comments	Additional notes
Key provisions	To create the basis for operating border controls	The process for applying to enter is likely to involve the presentation of the person at an immigration desk at a designated port of entry with appropriate documentation as specified in regulations e.g. a completed arrival card, a passport or other travel document, and for non-citizens a return ticket and evidence of a visa where required. Although all persons would apply for entry, citizens and usually permanent residents would have the right to have their application automatically accepted. May need to discuss whether permanent residents should have an automatic right. E.g. if they have committed a crime while holding a permanent resident visa, can they be denied entry, or if they are in the country already, can their visa be revoked?	This provision must allow for the collection of specific information for screening and record purposes. This part highlights the importance of arrival cards as this information, if falsified, can allow Immigration agencies to remove persons that have misled immigration officers regarding potential to
1.	A person arriving in your country is obliged to present him/herself at a designated place of entry to a designated officer without delay and apply for a visa, if previously waived, and/or permission to enter in the prescribed manner		

				<p>commit activities contrary to national interests.</p> <p>The Working Group discussed PIDC potentially developing a standardised arrival card for Members to adapt as required.</p> <p>While New Zealand has a provision for pre-clearance at point of departure, this is not currently a valid option for most PIDC Members.</p>
2.	<p>A person applying for entry permission must provide a physical address, email address and mobile phone number in your country and also information regarding an emergency contact to which any communication may be sent or at which any notice served.</p>	<p>This provision provides an immigration officer with the capability to quickly locate or contact arriving persons in case of emergencies or for purposes of national interest,</p>	<p>Additional information added may be considered best practice and can either be contained under this provision or as part of domestic regulations.</p> <p>Members will need to decide whether this level of detail is required at Act level, or provide the detail in regulations instead. In Part 3, number 1 above, the terms “prescribed manner” is broad enough to allow the development of details and forms at second and third tier legislation instead.</p>	
3.	<p>A person applying for entry permission must allow biometric information to be collected from him/her that can be used for immigration border processing. Person can be refused permit if biometric data is not provided.</p>		<p>Automated biometric data systems are potentially possible for most PIDC Members within the near future as technology improves and becomes more commercially accessible.</p>	<p>Noting Additional Notes comment in Part 3 (1) regarding provision for pre-clearance, but it is likely that in the future member States will have the ability to complete pre-clearance. A question of future proofing?</p> <p>Rather than waiting for person to arrive and apply for entry permission onshore to provide these details, would it be better to</p>

				make it a requirement when a person is preparing to board a craft to enter to the country? This would give countries power to turn people away before they can board.
				Refer section 100 of NZ Immigration Act
4.	A person ordinarily leaving your country is obliged to present him/herself to a designated officer and provide information as prescribed	To allow for implementation of appropriate exit controls	This is mainly for record keeping and statistical processes. Migration figures and also allocation of GST in some instances (for Australian States).	
D1	Personal details can be recorded and monitored at departure and communicated to the arrival country for inwards processing	To provide for recording and sharing of information of departing persons with other PIDC Members to expedite arrival processes and to support law enforcement activities.	The WG noted that: (a) immigration agencies when managing border controls needed to link travellers to identity, biometrics, passport, ticket and bags; (b) biometric databases needed to be considered to allow for automated biometric scanning as we head into the future; and (c) there were current discussions between the PIDC Secretariat and PIFS regarding a proposed Forum Business Travel Card as discussed by Forum Leaders at their meeting in 2016.	For further consideration: Information collection tends to apply to persons who are non-citizens. Do you need provisions for the collection and storage of information (e.g. a photograph) of your citizens or any other persons exempt from obtaining entry permission? Members will need to consider the Privacy laws in one's country, and if those laws would limit any collection and storage of citizen information.

Part 4

Arrivals and departures – carrier responsibilities

Purpose

To clearly set out the obligations and responsibilities of the airplane, ferry and other transport operators or owners who bring people to your country (Three streams wheels down, wheels up and vessels)

Key provisions	Reason for provision	Comments	Additional notes
<p>1. The carrier, and/or the person in charge, of a craft en route to or arriving in your country must:</p> <ol style="list-style-type: none"> ensure all persons boarding the craft have the prescribed documents ensure the craft is cleared at a designated place upon entry prevent disembarkation other than into a designated place of entry if a stowaway is found, report this to an immigration officer as soon as practicable where an approved system is in place, provide prescribed information in a specified form through that system for every person intending to board the craft before it departs, or every person on board a craft prior to or upon arrival 	<p>To set out the obligations for carriers prior to departure and upon arrival</p>	<p>This provision will need to cover the differing circumstances for aircraft, commercial vessels and private yachts.</p> <p>For sub-provision (a) the prescribed documents are likely to include a passport valid for 6 months, a visa if applicable, and an onward ticket.</p> <p>Sub-provision (e): (a) is intended to allow for advance passenger information or processing where it is in operation and to help 'future-proof' the legislation where this processing is planned. It could also apply to simply requiring the manifest to be faxed through before the craft departs for your country if that is the system you have in place; (b) currently has difficulties with its implementation. While it recognises the need to develop a legal framework, a technical infrastructure is also required to effectively use this data; and (c) also needs a provision to remove possible challenges to APP.</p>	<p>The WG agreed that specific provisions and procedures need to be developed to address special threats such as those: (a) posed by cruise liners; (b) mass arrival of individuals involved with organised crime (For example OMG incidents in Cook Islands); and (c) private jets.</p> <p>Through the discussion regarding this provision, the WG noted that immigration agencies can get important information regarding travellers at 4 instances: booking (PNR) check in, departure, and arrival.</p> <ul style="list-style-type: none"> - At time of booking, PNR information recorded. (Passenger Name Record) - At check-in, NZ use APP to respond to possible airline enquiry as to whether a person can board (APP). - At time of take-off API is developed. - At time of arrival information is recorded. <p>The WG discussed whether we needed a regional approach on sharing these information streams. It was agreed that the WG on Information sharing would advance this discussion.</p>
<p>2. The carrier, and person in charge, of a craft departing your country must:</p> <ol style="list-style-type: none"> allow any person being deported or 	<p>To set out the obligations on carriers on</p>	<p>Sub-provision (d) is largely intended for yachts or other vessels where you may want to know that they are departing your country</p>	

	being turned around to board the craft take reasonable steps to detain a person delivered by a designated officer on board the craft before departure report the details of any crew member or person who should be, but is not, on board the craft before departure obtain immigration clearance in accordance with any direction given by an immigration or designated officer		subject to the safety of the craft and the capacity available; and (b) there may be a need to insert a no-liability clause for 2b	
3.	The carrier, and person in charge, of a craft must provide passage and the costs in all respects, including cost of passage, detention and maintenance, of any person who arrived on the craft, was not appropriately documented and was refused entry; or any crew member who remained unlawfully after the departure of their craft	To make clear that the carrier will be responsible for certain costs	This provision can be in addition to any penalty that may apply to a carrier not fulfilling their responsibilities	
N1	The WG identified that there was a need to consider an additional provision for departing travellers who may have to return to the country due to in-transit emergencies.		This will not be an issue for most PIDC Members who issue visas on arrival.	

Part 5				
Decisions and refusal of permissions				
To establish the process of refusal and the rights of people who are refused any immigration permission set out above				
Purpose		Reason for provision		
Key provisions		Comments		
Additional notes				
1.	An immigration officer may grant a visa, or refuse a visa on specified grounds, and may vary or impose conditions on the visa granted, or may cancel a visa	To create the power to refuse a visa application	The conditions that apply to the visa, or can be applied to a visa should also be stipulated, but may include the period in which it is valid, and whether it is for single entry or multiple entry. This Provision and this Part is linked to Part 2	Should the power be given to only immigration officers or should the Minister also have the power to issue visas? (See Part 2 (8) of Vanuatu Immigration Act 2010 Delegation of Functions and Powers.

2.	An immigration officer may grant entry, impose conditions on entry or refuse entry on specified grounds with no right to appeal, except in the case of citizens and persons with certain immigration status, who must be granted permission to enter.	To give immigration officers the power to refuse entry that cannot be appealed at the border regardless of a visa or certain other immigration status being held	The right of citizens to enter their country should not be undermined. This provision should also protect the rights granted to people holding a particular immigration status e.g. permanent residence	
3.	An immigration officer may grant any permit, or refuse any permit on specified grounds, and may grant a different class of permit to the class applied for, and may vary or impose conditions on the permit granted, or may cancel a permit	To create the power to refuse permits	<p>The grounds for refusing a visa, entry or any permit (1,2 and 3) should be specified and may include: the application requirements were not met, the person was previously deported, declared a prohibited immigrant, had previous convictions, has insufficient funds, or was not of good character, or was assessed as not genuine, or did not meet health requirements, or where entry may be a risk to national interest or security.</p> <p>The grounds for cancelling a visa or permit may be similar to those for refusing a visa or permit.</p> <p>The WG also noted that there needed to be a provision added for the power to cancel any permits when granted in error or where applicant has provided false and misleading information or where there has been a change in circumstances.</p>	
4.	A grant of a visa or permit may be conditional on the payment of a bond or on a sponsor undertaking to employ, accommodate, maintain, or cover any costs of repatriation or deportation	To create power to impose bonds or require a sponsor		
5.	Upon request, an immigration officer must give the reasons for any decision to refuse to grant a visa, permission to enter, or any other immigration permission in writing	To provide transparency to the decision process	Focuses on promoting transparency as often the reasons provided by immigration agencies for specific decisions under this provision are very broad and general and often do not	

			indicate the basis for the decision.	
6.	The order and manner in which a visa, entry permission or permit is processed is at the discretion of the Minister or an immigration officer, subject to any immigration instructions or regulations	To enable the processes to be determined by operational needs and practicalities	General instructions or operating procedures would nevertheless be produced to give guidance	
7.	The WG discussed whether there needed to be a specific provision advising that immigration officers are also bound by the provisions of the legislation and are required to follow rules and instructions when making decisions under the Immigration Act.			This provision can be governed by the drafting precedent of individual PIDC countries.

Part 6

Turnaround, removal and deportation

Purpose

To set out the circumstances and processes by which a person can be removed from your country

Key provisions

1. A person can be arrested, detained and removed from your country within a specified period of time, as if a deportation order had been served, if that person:
 - a. fails to present him/herself to a designated officer
 - b. fails to apply for entry in the prescribed manner
 - c. is not the holder of a visa, where a visa waiver does not apply
 - d. is refused a visa on arrival where a visa waiver does apply
 - e. is refused permission to enter
 - f. holds a visa that is subsequently cancelled
 - g. is a stowaway

Reason for provision

To create the power for persons in certain circumstances to be immediately turned around at the border and returned to their point of origin

Comments

The powers in this provision should be time-limited and their extent clear as there is generally no right of appeal.

The New Zealand Act stipulates this provision ceases to apply after 72 hours.

For most PIDC Members, it seems that the norm is that the person should be removed on the next outbound flight.

Additional notes

Will require a legal definition of a stowaway. What is a person is stowaway but claiming asylum under international conventions?

	<p>h. holds a transit visa and the transit period has expired</p>			
<p>2.</p>	<p>A person is liable for deportation if that person:</p> <ul style="list-style-type: none"> a. is in your country unlawfully b. was granted a permit in error c. holds a permit under a false identity d. breaches the conditions of his/her permit e. is convicted of a criminal offence f. concealed relevant information in relation to his/her application for a permit g. obtained his/her permit by fraud or forgery h. is on reasonable grounds believed to be a threat to security as determined by the Minister, including in relation to transnational crimes i. is declared a prohibited immigrant j. has had her refugee or protection status cancelled. 	<p>To set out the grounds for deportation of a person already in-country.</p> <p>May need to add a provision on character of person.</p>	<p>There is a cross-over between a person who is liable for deportation and a person who is declared a prohibited immigrant (see Part 11.1) which requires consideration.</p> <p>As the provisions of Sub-section 2g are quite general and vague in nature, the WG supports that a high-ranking official such as the Minister or Head of State endorse the deportation in writing to ensure this provision is not abused.</p> <p>The provisions of 2h are used by a number of PIDC Members and has a number of classes that have already been enacted by Parliament.</p> <p>The WG noted that as a matter of policy the threshold for the deportation of temporary visitors is lower for than for residents. (Refer to Section 4 of this Part)</p> <p>In the New Zealand experience residents are monitored for possible deportation up until 10 years after residency has granted.</p> <p>This is true as long as the person is holding a residence class visa. However, if the person has since become a citizen, they can no longer be liable for deportation. It was problematic when citizens are later found to have "lied" to obtain a residence visa. Member states may want to consider the relationship with citizenship requirements. E.g. in New Zealand, citizenship forms now ask if "in any course of applying for a visa, did you provide false or misleading information". This gives more power for Internal Affairs to refuse or revoke citizenship, thus making the person revert to residence visa status and allowing for deportation liability provisions to be enacted</p>	
<p>3.</p>	<p>A refugee or a person claiming to be a refugee may not be deported except where the Refugee Convention allows.</p>		<p>This cross-references with Part 8 below</p>	

4.	A person who holds a resident permit is not liable to deportation after a specified period of time	To provide protection to a person who has been legally resident for certain amount of time	<p>If a person has been legally resident for a long time they may have a settled private and family life in your country. In such cases deportation may not be the most appropriate response.</p> <p>The WG discussed this matter and agreed the possible social harm of removing a long-time resident outweighed most benefits to be obtained. The WG again noted the New Zealand experience of a 10-year threshold but thought that this best be left to national circumstances.</p>	
5.	A notice signed by the Minister or designated officer must be served on a person liable for deportation stating the grounds for deportation, any right to and period of appeal, the period the person will be prohibited from entering your country and any other relevant detail, including any requirement to repay costs	To ensure due process before a person is deported		
6.	A person who is in your country unlawfully or is determined to be a threat to security need not be served with this notice of liability for deportation	To provide a means to more speedily deport someone in certain circumstances		
7.	A designated officer may serve a deportation order when a liability notice has been served and any period of appeal has expired or an appeal was unsuccessful, or when no liability notice needs to be served			
8.	A deportation order should state the grounds for deportation, any right to and period of appeal, the period the person is prohibited from entering your country and any other relevant detail, including any requirement to repay costs	To provide for due process	As with the deportation liability notice, it is important to ensure a person is aware of what is happening and what deportation will mean	
N1	There should be provisions to allow the person to apply for a variation of their permit if there is a change of circumstances.	To provide a transparent and fair process for a permit holder to seek to vary existing permit conditions due to a bona fide change in circumstances.	Encourages persons to engage with immigration and not hide.	

N2	<p>A person seeking protected status cannot be deported. (torture convention and certain elements of the ICCPR) where person risks arbitrary deprivation of life under ICCPR.</p>	<p>To formalise international obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the ICCPR.</p>		
	<p>Additional issues raised by the WG for consideration.</p> <p>Should there also be limitations on deportation of diplomats? (ref. section 166 of NZ Immigration Act)</p>			
	<p>Can a person be liable for deportation while they are outside of your country? For example, if the person holds a visa to return to your country? Making them liable for deportation may provide them with appeal rights, and in some circumstances, it may be easier to cancel a visa so the person cannot return, rather than going through a deportation process.</p>			
	<p>Should there be provisions for the cancellation or suspension of liability for deportation? If so, under what circumstances?</p>			
	<p>Should there be provisions for the cancellation or suspension of deportation orders? If so, under what circumstances?</p>			
	<p>Should there be specified periods/timeframes in which a deported person is prohibited from re-entering your country? If so, should different prohibition periods apply for different reasons? What are consequences of attempted re-entry and should there be a power for the Minister to reduce or remove a prohibition period. Ref: Sections 179 – 182 of NZ Immigration Act.</p>			

Part 7		
People smuggling and human trafficking		
Purpose	To deter and address the serious and often organised crimes of people smuggling and human trafficking, and to ensure the appropriate treatment of victims of trafficking	
Key provisions	Reason for provision	Additional notes
<p>The Pacific Islands Forum Secretariat has developed model legislation to address transnational organised crime, including people smuggling and human trafficking. This model legislation was reviewed and updated in 2016. Although an immigration act is an appropriate place for both legislation on people smuggling and human trafficking, it is important to ensure that the definition of trafficking is not restricted to the movement of people across borders, as the act of trafficking can also occur domestically.</p> <p>The PIDC supports the implementation of the PIFS model. As the model has already been developed, key provisions are not outlined here. The PIDC secretariat can provide this model legislation and the appropriate contact at PIFS upon request. However, members should cross-reference the PIFS model with crime legislation to ensure that domestic trafficking is covered in legislation. Other models are available from the Bali Process and UNODC.</p> <p>The WG reviewed the model legislation developed by the Pacific Islands Forum Secretariat and were of the view that the existing updated provisions were adequate to assist PIDC Members in meeting their international obligations under the Palermo Convention and relevant Convention Protocols.</p> <p>The only issue that the WG noted needed to be reviewed in greater depth was the alignment of the model legislation with the Model Framework's employment conditions of non-citizens.</p>		

Part 8		
Refugee and protection status determination		
Purpose	To set out the process by which a migrant can claim refugee or other protection status, how that claim will be considered, appropriate treatment and rights to appeal, and codify obligations under international law.	
Key provisions	Reason for provision	Additional notes
<p>PIDC has developed draft model provisions for refugee status determination in the region. The following key provisions summarise those in the model and reflect input from UNHCR.</p>		
1. Any person seeking asylum or recognition as a refugee must have their claim determined by a designated officer	UNHCR will provide advice and technical support as required to enable a determination to be made on a claim	

2.	A person must be recognised as a refugee or protected person if he or she is a refugee within the meaning of the Refugee Convention, Convention Against Torture, or Covenant on Civil and Political Rights			Need to confirm that member states are signatory to these conventions.	
3.	It is the responsibility of the claimant to provide all relevant information and evidence in support of their claim				
4.	The designated officer must inform the claimant of the decision on the claim, the reasons for the decision, and the claimant's rights to appeal where a claim has been declined				
5.	An appeal can be made to a tribunal or other appropriate independent authority against a decision not to recognise a claimant as a refugee or to cancel a refugee status			This is reiterated in Part 9 below	
6.	A person whose claim has not been finally determined and any person who is recognised as a refugee cannot be removed or deported except where the Refugee Convention allows and must be provided with an appropriate immigration status			The WG agreed that there should be a special temporary permit like currently in place in Australia to forbid the granting of additional permits or visas for family members of claimants.	
7.	A claim is not finally determined until the expiry of any appeal period, or if an appeal is lodged, that appeal is determined				
N1	The legislation needs to clearly identify a designated officer that is responsible for making the Refugee determination. In addition, some guidance is necessary on how a designated officer who determines refugee status of claimants is selected.			The WG agreed that the designated officer should ideally be someone who is impartial or neutral. While the designated officer could be selected from immigration or from another agency or organisation such as UNHCR, IOM or PIDC depending on domestic circumstances. The final decision at the national level will need to be based amongst other things on how independent the PIDC Member would like the designated officer to be.	
N2	The legislation needs a rule for the expulsion of a refugee if warranted. (An exception contained under the refugee convention) For			Does expulsion refer to the removal of refugee status? Or suspending a claim if there are concerns about the person e.g. involvement in crimes against humanity or threat to	

	example if the refugee poses a danger to the community			national security? Need to clarify as these are two separate matters. (ref. sections 135A and 143-145 of NZ immigration act). If removing refugee status then what is the process for cancellation?	
N3	The legislation should allow or at the least not expressly forbid the Designated Officer to freely engage with relevant organisations that deal with refugee matters such as UNHCR and IOM				
N4	The legislation should provide for a procedure to cancel refugee status if the status was obtained by fraud.				
N5	Mass arrivals is currently a potential threat to PIDC Members that needs to be managed.			PIDC Members need to develop possible policies or procedures for mass arrivals of refugees.	
N6	The legislation needs a provision to cease recognition of a person as a refugee when there has been a change of circumstance in the refugee's country.			This provides the community with some level of comfort that the granting of refugee status may not be a permanent solution.	
N7	Should be no penalty for illegal entry for genuine claimants			For many genuine refugees fleeing persecution, using false documents to facilitate travel is the only option for survival and they should not be punished for this in genuine instances.	
N8	The legislation should provide an ability to grant a refugee travel documents.			UNHCR can provide additional text and details on this provision that was raised as part of the WG's discussion.	
	Should there is a process for subsequent / new claims? (ref. s141 of NZ Immigration Act?)				
	Is a claim considered to be withdrawn if the claimant leaves your country? (ref. S142 of NZ Immigration Act)				

Appeal and review measures			
Purpose	To ensure that there is a transparent process by which decisions can be reconsidered within a context of fairness and accountability		
Key provisions	Reason for provision	Comments	Additional notes
1. No request for reviews, reconsideration or appeal can be made against a decision by the Minister or an immigration officer (or designated officer) in any matter relating to a visa for travel to your country, or an entry permission	To minimise the administrative burden that could be posed by appeals against straightforward decisions	<p>Checks and balances are in place in place in the form of listed criteria for visas and entry permission, and with the requirement to provide reasons for refusal in writing upon request.</p> <p>The WG discussed this provision in some detail and noted that in some instances there may be locals with a vested interest and the removal of appeals here may be detrimental. (For e.g. employers seeking to bring employees in)</p> <p>As such Members may choose to introduce provisions for limited appeals on specific grounds.</p> <p>Members would need to discuss who would hear the appeals if introduced and also provide specific criteria for the appeal (process or substantive appeal and if appeal approved what happens then, does officer hearing appeal make decision or is the matter referred back to original decision maker)</p>	<p>For offshore applications, when an offshore application is declined, reasons for the decline should be provided in writing. This gives the applicant an opportunity to review the decision and reapply with additional information or explanation.</p> <p>Providing clear reasons for decline would also prevent the need for requests for reviews or reconsideration.</p> <p>Additionally, if there is an appeal process for offshore applicants, member states should also consider the administrative costs of the appeal and if the applicant should cover some of the costs by way of fee.</p> <p>Attaching a fee may deter an appeal or encourage reapplication instead.</p> <p>Also note that in the NZ Immigration Act, rather than stating that there are no rights of reconsideration or review for offshore applicants, it is silent on the matter, and instead provides for “Limited Rights for Review of temporary visa decisions”.</p>

2.	<p>An appeal can be made to the Minister against a decision by an immigration officer (or designated officer) in a matter relating to a permission to be in your country</p>	<p>To provide the opportunity for an administrative review of a case</p>	<p>Ideally, grounds for appeal should be left simple. For example: it is an appeal against the decision (the decision is incorrect); or there are humanitarian grounds that warrant an exception to regulations/instructions.</p> <ul style="list-style-type: none"> • In drafting it will be important to specify the period in which an appeal can be lodged after a decision has been made. • Members will have to determine what rights they would like to grant persons already in country for the various statuses and classes that they might apply for. • In addition, this provision will need to provide criteria to be used as a basis for the appeal. • Member can decide if appeals should be made to the Minister or an independent legal body? 	<p>Need to clarify if this means a person can appeal a decision on a temporary visa/permit, or appeals for residence decisions only?</p> <p>May wish to distinguish between appeal and "right of reconsideration".</p> <p>Appeals signals the involvement of an independent legal body to reassess a decision.</p> <p>Right of reconsideration allows another officer or delegated official to reassess a case, and is potentially more efficient, especially in the case of temporary visas.</p> <p>Should also consider if a person on an expired visa can seek reconsideration or appeal or a decision? This may not be desirable as the person also becomes liable for deportation once visa expires.</p> <p>Need to consider if there is a set timeframe allowed for an applicant to apply for reconsideration or appeal</p>
3.	<p>An appeal can be made to a tribunal or other appropriate independent authority against a decision not to recognise a claimant as a refugee or to cancel a refugee status</p>	<p>To protect refugees from return to persecution</p>	<p>The right to appeal in asylum cases is important given the potential consequences of returning a genuine refugee to a place where they fear persecution. If possible, the appeal should be to an independent body.</p>	
4.	<p>An appeal can be made against a decision that a person is liable for deportation</p>			

5.	With the leave of the High Court (or equivalent), an appeal can be made to the High Court when a determination by any authority is believed to be wrong in point of law. An appeal cannot be made to the High Court on the facts of a case.		By limiting the role of the higher court to determining points of law	
6	The WG noted Members providing appeals under this Part of the legislation will need to determine what appeal rights will be given to various classes of persons seeking to appeal decisions.		As noted above, Member may need to consider if there should be distinction between appeals and other possible review processes (e.g. right of reconsideration).	
	The Act should also detail the broad appeal process; what determinations can the Tribunal or independent legal body make; and what happens following a determination in favour of an applicant?			

Part 10			
Designation of powers			
Purpose			
To establish who has the power to designate and appoint immigration officers and the role of ministers			
Key provisions		Reason for provision	Comments
1.	The Permanent Secretary may designate as an immigration officer: <ul style="list-style-type: none"> a) a public officer or class of public officers suitably qualified and trained; or b) subject to conditions specified in the instrument of appointment and after consulting the Minister any other person in your country or in another country c) The WG noted that there may be a need for some Members to identify places locally and in overseas countries where processing functions can be undertaken. 	To enable a range of public officers to exercise immigration powers, including e.g. police and customs officers, or staff in overseas missions	Although the title Permanent Secretary is used here, some Acts use Chief Executive or Principal Immigration Officer as per domestic circumstances. In some cases it may be the Minister or even the Prime Minister 1b The WG agreed that a possible future activity that may be considered by Members is allowing for designation of overseas based officials for overseas processing. On this basis the WG agreed that Sub-Section 1b provided adequate future proofing language to support any possible actions for overseas processing.
			Additional notes

2.	The Permanent Secretary must specify in writing which functions and powers an immigration officer is authorised to perform under the Act	To allow for designated officials to hold a limited range, but not all powers in the Act	E.g. this would enable customs officers at the primary line to hold entry permission decision-making powers, but not detention powers. In some jurisdictions, the Minister may hold this power. The WG noted that some officers are warrant holders with requisite powers under the legislation and are entitled to undertake some powers in ICA (Immigration Controlled Areas) or with additional authorisation to undertake searches outside of ICAs	
3.	The Minister may give the Permanent Secretary or other immigration officer written policy directions consistent with the Act as to the exercise of any power or function and the Permanent Secretary or immigration officer must comply with the directions	To clarify the relationship between the Minister and the Permanent Secretary and other public officials	This provision provides a fall-back general power for Ministers to ensure various acts and decisions can be made.	
4.	Directions given by the Minister must not relate to an individual	To prevent the misuse of Ministerial power		

Part 11		Powers		
Purpose		To provide powers to immigration officers to perform their functions and carry out their duties		
Key provisions		Reason for provision	Comments	Additional notes
1.	The Minister [or Permanent Secretary or Principle Immigration Officer] may declare any non-citizen a prohibited immigrant who is a person who is liable to deportation (as set out above) and that person will have any permits cancelled and is not eligible to re-enter your country after departure	To define create a category of persons that are prohibited from entry – the category equates to those persons liable for deportation	This is a common provision in immigration legislation in the region, but consideration could be given as to whether it is needed in view of provisions relating to persons liable for deportation. This is a common provision in the Pacific Islands and was also discussed in the provisions that allow for exclusions under core provisions. (Part One Section 4). It may be this part is unnecessary but most PIDC members will be more familiar with this provision.	

2.	<p>For the purposes of exercising powers, functions and duties under the Immigration Act, an immigration officer may question:</p> <ol style="list-style-type: none"> any person seeking permission to travel to, enter, be in or remain in your country; or any person who the officer on reasonable grounds believes to have committed an offence under the Immigration Act; or any person who the officer reasonably believes can give information on the above persons 	<p>To enable immigration officers to question anyone arriving in your country or suspected of having committed an offence or who may have information about a person of interest</p>	<p>An immigration officer may not necessarily need the power to require someone to complete an entry or departure form or to undertake a medical examination, as failure to do these things will result in a refusal of visa, permission to enter, or other permit.</p> <p>A key part of this Part of the Model Legislative Framework that deals with Powers is enabling designated Officers to implement statutory obligations. For 2a, the WG noted that at the national level individual Members might also want to include a power for immigration to further provide information in addition to the powers provided in Part 3.</p> <p>The WG noted that 2c provided wide ranging powers and would need some guiding provisions</p>	
3.	<p>For the purposes of exercising powers, functions and duties under the Immigration Act, an immigration officer may require a person to supply relevant details and produce relevant documents or provide the location of those documents</p>	<p>To create the power to require information and documents</p>		
4.	<p>For the purposes of exercising powers, functions and duties under the Immigration Act, an immigration officer may, without a warrant, and with force if necessary,</p> <ol style="list-style-type: none"> enter and search any ship, aircraft or vehicle in territorial sea (or exclusive economic zone), or seeking to enter or having entered your country; or enter and search any border place where the officer has good cause to believe an offence is likely to be, or is being, committed; or a person liable for deportation or turnaround is in the place; or enter and search any building or premises in which the officer believes on 	<p>To create powers of entry and search</p> <p>The WG noted that Members needed to consider the appropriate territory for Powers to apply to taking into account the provisions of UNCLOS.</p>	<p>Border place can be defined in a broad sense to include areas in and around a port or airport and any foreshore or land border area.</p> <p>Members will have to review domestic law to determine if a definition already exists noting that NZ Immigration Act 285(3) provides an example of a definition Members may seek to adapt if appropriate.</p> <p>Consideration may need to be given to other entry and search powers that may be required, for example, to carry out in-country compliance.</p>	

	reasonable grounds the person in a deportation notice or order to be; and serve the notice or execute the order				
5.	<p>Where an immigration officer believes on reasonable grounds that records relating to a person who is liable for deportation, or who is suspected of acting contrary to permit conditions, or who has committed an offence under the Immigration Act, or relating to an employer's or educational establishment's compliance with their obligations, the officer may:</p> <ul style="list-style-type: none"> a) enter premises other than a dwellinghouse/home b) require the holder of the records to produce them for inspection, and c) copy or require a person to provide a copy of the records 	To provide limited powers of entry and search to places that are not homes to access records and check for compliance	This provision would enable immigration officers to acquire records of suspected persons (from e.g. employers, educational establishments and accommodation providers), and check whether employers and educational establishments are meeting their obligations		
6.	On being provided with a letter signed by an immigration officer with good cause a person, officer or employee of a body must provide for inspection any record that may help to establish the whereabouts of a named person or the names of persons occupying specified premises	To create the power to access address information from official or other sources that may have privacy rules	The departments, agencies and types of body (such as police, utility providers, phone providers etc.) could be listed. The entities to be included on this list are to be determined at the national level by Members.		
7.	Where a person is liable for deportation or turnaround an immigration officer may require the person to surrender any travel tickets, or cash, or security in place of travel tickets, and these may be used towards effecting the person's deportation or departure	To give powers to confiscate documents or items that may assist with removal from your country			
8.	An immigration officer may at any time without a warrant and solely on the basis of this provision enter any immigration control area or any building or craft in that area for the purposes of carrying out his or her functions	To ensure immigration officers have access to restricted immigration areas	This provision needs to have a matching provision that allows for the creation of immigration control areas		

9.	<p>An immigration officer may require a person to allow biometric information to be collected from the person where there is good cause to suspect the person has acted in contravention of the Immigration Act or regulations or is liable for turnaround or deportation to enable current or future identification, and including as necessary to meet the transit requirements of any country the person will travel to or through</p>	<p>To help in combating identity fraud</p>	<p>Biometric information may include a photograph, fingerprints, DNA or other material.</p> <p>Depending on the jurisdiction or existing practice the legislation may need to state what happens if the person refuses. An immigration officer may need to apply to a court for a compulsion order</p>	
10.	<p>An immigration officer may seize and hold the passport of a citizen and non-citizen and prevent departure where a court orders so on the grounds that the person owes debts in your country, is involved in court proceedings, or where departure would not be in the interests of justice or national security</p>	<p>To prevent non-citizens leaving when there are good grounds for doing so.</p>	<p>The WG: (a) noted that there was a need to ensure that an independent body provided oversight for this provision to minimise potential for abuse; (b) agreed that there was a potential need to include this power for citizens as well; and (c) noted that Members at the national level might wish to provide a timeframe for which the seized passport could be held for.</p>	
11.	<p>An immigration officer may seize and hold the purported passport or travel documents of a non-citizen in order to:</p> <ul style="list-style-type: none"> a) establish whether the document is genuine or obtained irregularly b) preserve it as evidence c) facilitate removal or to encourage other compliance requirements 	<p>To make clear the circumstances in which a passport can be held by immigration</p>	<p>The WG noted that a possible best practice here would be to secure false documents and look to pass on the false documents to diplomatic representatives of relevant foreign countries upon conclusion of any court proceedings.</p>	
12.	<p>For the purposes of the immigration act, upon request from an immigration officer, a police officer shall be accorded the specific powers of an immigration officer as necessary.</p>	<p>To enable the cross-vesting of powers</p>	<p>The WG noted that there was a need to closely manage this provision. Members needed to provide specific and targeted powers to ensure that Police did act beyond their legal authority</p>	
13.	<p>Where an immigration officer believes they may be at risk of harm in the course of their duties, the officer may request police assistance.</p>	<p>To underpin police assistance in law</p>	<p>It is important that there is a clear responsibility on the part of the police to provide assistance when it is requested</p>	
N1	<p>Under this Part, the WG noted the need for provisions to establish Immigration Controlled Areas and Border Places to enhance effective immigration border controls.</p>			

Part 12 Arrest, detention and monitoring				
Purpose To give immigration officers the power to arrest certain persons for specified purposes as well as the periods of detention				
Key provisions	Reason for provision	Comments	Additional notes	
<p>1. An immigration officer may arrest and detain a person, at such a place as they direct, who is:</p> <ul style="list-style-type: none"> a) liable for turnaround or deportation; b) suspected to be liable for turnaround or deportation and has failed to provide satisfactory evidence to prove otherwise; c) on reasonable grounds suspected to be a threat or risk to security; d) in breach of any agreed residence and reporting requirements used in place of detention; e) declared a prohibited immigrant. 	To enable immigration officers to arrest and detain certain persons	<p>Detention is never automatic and only to be applied to persons that are either non-compliant, dangerous or both.</p> <p>The WG agreed that in the absence of existing provisions in this area, Immigration should seek to introduce the tiered 4, 96 and 28 detention schemes.</p> <p>Want to remove prohibited immigrant clause.</p> <p>Might want to insert a purpose clause to support these clauses in court.</p> <p>This Part must be treated as a code for the purposes of the detention and monitoring of any person if the reason for the detention or monitoring arises under this Act, and no person who is liable for arrest and detention under this Act may be granted bail from that detention.</p> <p>Immigration officers must be trained on how to execute arrest and SOPs aligned to police arrests developed to ensure there are no human rights or liability issues.</p>		
<p>2. The arrest and detention of a person must be for the purpose of removing the person from your country, or pending the provision of additional evidence, or so the purpose of the Immigration Act is not defeated</p>	To limit the reasons for which an immigration officer can detain a person			
<p>3. A person liable for detention for a purpose set out above, may be detained by an immigration officer for a maximum of (4) hours.</p> <p>The WG noted that where relevant, there needed to be a clause allowing detention by immigration or police for immigration</p>	To limit an immigration officer's powers of detention	<p>This maximum is included in the NZ Act. Longer periods of detention require a police officer to exercise his or her powers. The Fiji Act gives immigration officers the status of a police officer for the purposes of the Immigration Act. Longer maximum periods of detention may be</p>		

	purposes for 96 hour (based on whether there were existing provisions or not). For longer periods of detention, a specific provision was required requiring immigration officials to apply to Courts for a longer period under a Warrant of Committal			appropriate depending on national circumstance. For significant periods an application to court may be required and should be in line with existing criminal procedure.	
4.	At the discretion of an immigration officer, a person liable to arrest and detention may agree to reside at a specified place; and/or report to a specified place at specified times; and/or provide a guarantor who is responsible for ensuring the person complies with any requirements; and/or attend any required interview; and/or undertake any other action to facilitate departure	To provide an alternative to detention where appropriate		The WG noted that: (a) places for detention must be based on various considerations including but not limited to risk to public safety; labour market, absconding and media backlash; (b) best practice would be to separate suspected criminals and labour cases; and (c) there was a need to insert possible sanctions for the Guarantor if the person did not comply with conditions.	
5.	When an immigration officer is exercising the power of detention the officer may use reasonable physical force to prevent harm, or damage to property or escape; and may search for and seize any item that may be a threat	To allow an immigration officer to use reasonable force to when circumstances demand it during arrest and detention			
D1	Common issues that would have to be discussed by PIDC Members included: (a) having the Head immigration officer identify suitable places where persons can be detained; and (b) inserting provisions providing that detention was a discretionary power to be used only when the person was a flight risk or risk to the public or both.			Immigration detention is to allow officials to put the illegal migrant on the plane and not to be used for punishment The WG agreed that where no existing provisions existed, in the case of a detained person, if after 6 months the person through no fault of their own remains in detention, that person must be released on conditions.	

Part 13		
Responsibilities of employers and education providers		
Purpose	To ensure employers and education providers share some responsibility for the integrity of the immigration system	
Key provisions	Reason for provision	Comments
		Additional notes

1.	Every employer must take reasonable steps to ensure that an employee is entitled to work in your country	To give employers a share of responsibility for preventing illegal migrant working	<p>This could be accompanied by a penalty system for employers who do not take reasonable steps, and more severe penalties for those who knowingly employ illegal migrants</p> <p>This is linked closely to granting of work permits and the conditions placed upon specific instances. Immigration officer must be able to access information and also employers can look at issues being raised here will require PIDC Members to meet at the national level with the counterparts in Labour and Commerce and MFAT.</p>
2.	Every education provider must take reasonable steps to ensure that a person is entitled to study in your country	To give education providers a share of responsibility for preventing illegal migrant working and other forms of irregular migration	As above this should be accompanied by a penalty system and more severe penalties for providers that knowingly allow a person without entitlement to take a course of study
	Also related to offences of employers and education providers; should immigration officers also be given powers to search premises of employers or education providers. Should there also provisions to issue notices to allow employers or education providers to correct breaches? Or are powers left to say, labour inspectorates or other departments who may then issues notices and report to the immigration department? Again, issues of capacity and resources come into question and how to best avoid duplication of functions across different departments.		

Part 14	Information collection, sharing and data protection		
Purpose	To allow for the sharing of information for certain purposes with specified agencies		
Key provisions	Reason for provision	Comments	Additional notes

1.	<p>A person authorised by the Permanent Secretary (Head of Immigration) may share with and receive from any other government agency information and intelligence in order to detect, prevent, investigate, prosecute and respond to offences or suspected offences against the Immigration Act or other national legislation</p>	<p>To provide a legal basis for disclosing information between government agencies nationally</p>	<p>The detail needed for provisions relating to information-sharing will depend on national circumstance and existing legislation covering e.g. data protection</p> <p>Need to support by developing information sharing protocols, security classifications as well as information classifications. This will need to be managed by the PIDC WG on information sharing.</p>	
2.	<p>A person authorised by the Permanent Secretary may provide information to an employer or education provider for the purpose of verifying whether that person is entitled to undertake the work or study specified</p>	<p>To allow for the sharing of certain information with employers and education providers to help them avoid employing or enrolling people without entitlement</p>	<p>The WG noted that there would be a need at the national level to determine whether there were any issues relating to international obligations under the CRC for migrant children</p>	
3.	<p>A person authorised by the Permanent Secretary may share with any overseas government agency, or other recognised agency, information and intelligence in order to detect, prevent, investigate, prosecute and respond to offences or suspected offences in your country or the country concerned, or for the purpose of processing international passengers</p> <p>Implementation at the national level required</p> <p>discussions of relevant domestic laws and policies pertaining to informed consent and domestic issues regarding privacy.</p>		<p>This provision can be used to support targeting and profiling activities.</p>	

Offences	Guide to max. Penalty/sentence level	Summary of offence
<p>The following penalty amounts are those stated in the New Zealand Immigration Act 2009. In stating the maximum penalties, it is presumed that they would be applied by a court. Penalty notices or administrative fines may also be appropriate for some offences, as proposed for breaches of with carrier responsibilities.</p>		
<p>1. Every person commits an offence who makes any statement, or provides any information, evidence or submission, or produces any document knowing that it is false or misleading, or fails to comply in any way with the persons responsibilities as set out in Part 3</p>	<p>7 years, or NZD 100,000, or both for most serious forms of offence</p>	<p>Provision of false information</p>
<p>2. Every person commits an offence who, whether in or outside your country, aids, abets, incites, counsels, or procures any other person to enter, be or to remain in your country or to breach any condition of a visa or other permission, or to complete a document in a manner that is known to be false or misleading</p>	<p>7 years, or NZD 100,000, or both (May include costs of deportation or removal)</p>	<p>Aiding and abetting</p>
<p>3. Every person commits an offence who without reasonable excuse refuses or fails to comply with any requirement of an immigration officer in accordance with the Immigration Act, including to produce any document or information, to remain in a specified area, to provide biometric information, or the exercise of any other power</p>	<p>3 months, or NZD 10,000, or both</p>	<p>Obstructing exercise of powers</p>
<p>4. Every person commits an offence who, whether in or outside your country:</p> <ul style="list-style-type: none"> a) uses or seeks to use an immigration or identity document knowing it relates to another person, or knowing that it is forged or fraudulently obtained; or b) sells, lends, hires or gives an immigration or identity document relating to them to another person knowing the recipient will, or intending the recipient to, use it falsely or sell, lend, hire, or give it 	<p>7 years, or NZD 100,000, or both</p>	<p>Fraud and imposters</p>
<p>5. Every carrier, or person in charge, of a craft commits an offence if they fail to comply with any of the above responsibilities without a reasonable excuse</p>	<p>For a carrier: 3 months, or NZD 50,000, or both For a person in charge: 3 months, or NZD 25,000, or both Summary/administrative fine: maximum NZD 5,000 for a carrier and NZD 2,500 for a person in charge</p>	
<p>6. Every employer commits an offence who:</p> <ul style="list-style-type: none"> a) allows or continues to allow any person to work for that employer, 	<p>a) NZD 50,000</p>	

	<p>knowing that the person is not entitled to work under the Immigration Act; or</p> <p>b) allows a person who is not entitled to work to do so, unless reasonable steps have been taken to verify that entitlement</p>	<p>b) NZD 10,000</p>	
7.	<p>Every employer commits an offence who, while allowing an unlawful employee to work, exploits that person by contravening specified labour laws or by denying that person the right to make free choices</p>	<p>7 years, or NZD 100,000, or both</p>	
8.	<p>Every education provider commits an offence who:</p> <p>a) allows or continues to allow any person to undertake a course of study knowing that person is not entitled to do so; or</p> <p>b) allows any person to undertake a course of study who is not entitled to do so, unless reasonable steps have been taken to verify that entitlement</p>	<p>a) NZD 50,000</p> <p>b) NZD 30,000</p>	<p>This would exclude ordinary compulsory education</p>
9.	<p>Every person commits an offence who breaches the confidentiality of a refugee claimant or a refugee where the breach identifies the person concerned and is likely to endanger their safety</p>	<p>None stipulated in NZ Act</p>	

