

SUBMISSION ON

Immigration (Fiscal Sustainability and System Integrity) Amendment Bill

28 July 2025

To: Education and Workforce Committee, Parliament

Name of Submitter: Horticulture New Zealand

Supported by: Vegetables NZ, Tomatoes NZ, New Zealand
Kiwifruit Growers Inc

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OVERVIEW

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Our submission

Horticulture New Zealand (HortNZ) thanks the Education and Workforce Committee for the opportunity to submit on the Immigration (Fiscal Sustainability and System Integrity) Amendment Bill.

The details of HortNZ's submission and decisions we are seeking are set out in our submission below.

HortNZ's Role

Background to HortNZ

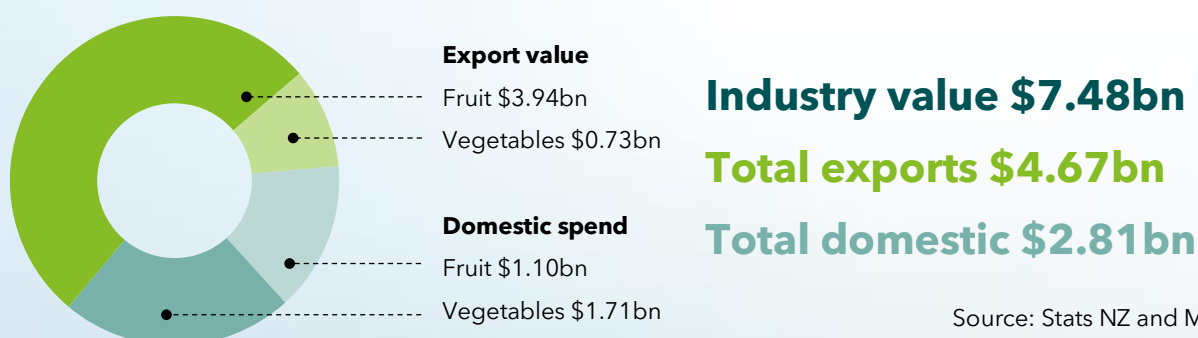
HortNZ represents the interests of approximately 4,500 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

There are approximately 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain, and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



Executive Summary

HortNZ welcomes the opportunity to comment on the proposed changes to the Immigration Act, particularly as they relate to migrant exploitation prevention, the immigration levy and expanded regulation making powers.

Migrant Exploitation - New Criminal Offence

HortNZ **strongly supports** the introduction of a new criminal offence which prohibits seeking or receiving premiums in exchange for employment or job offers.

We recommend the government consider reviewing the proposed fine of \$100,000, which may not provide a sufficient deterrent relative to the maximum seven-year imprisonment term.

Labour Inspectorate Resourcing

The implementation of new offences and expanding visa compliance obligations will place added pressure on the Labour Inspectorate. HortNZ has consistently advocated for increased inspectorate capacity in our submissions on the Accredited Employer Work Visa (AEWV), Global Workforce Seasonal and Surge Capacity Seasonal Visas¹ as well as increased resourcing of the inspectorate in the Recognised Seasonal Employer (RSE) scheme to reinforce compliance. Without adequate resourcing, these reforms risk being under-enforced.

Immigration Levy Extension

The Bill proposes to extend the immigration levy beyond migrants to include employers of visa holders, such as those operating under the RSE scheme and the AEWV schemes. HortNZ **does not support** this extension as RSE and AEWV employers already bear the full cost of recruitment, training and pastoral care.

Support for Ministerial Regulation-Making Powers

HortNZ **supports** the proposal to expand the Minister's regulation making powers. Enabling more flexible, timely adjustments to immigration settings – including visa durations, re-entry rules, or caps – is essential to supporting workforce planning in horticulture, where labour demand is seasonal and regionally variable.

We encourage the government to ensure that any use of these delegated powers is transparent, evidence-based, and subject to consultation with affected sectors. This will help maintain confidence and continuity in workforce access while upholding the integrity of the immigration system.

¹ https://www.hortnz.co.nz/assets/About-Us/Submissions/HortNZ_Global_Workforce_Seasonal_Visa_and_the_Surge_Capacity_Seasonal_Visa_Submission.pdf
https://www.hortnz.co.nz/assets/About-Us/Submissions/HortNZ_Accredited_Employer_Work_Visa_Submission.pdf

Submission

1. Migrant Exploitation: New Criminal Offence

HortNZ supports strong, well-targeted legislative measures to prevent the exploitation of migrant workers. We recognise the significant power imbalance that can exist in employment relationships involving migrant workers, particularly in low-skilled, temporary, and offshore recruitment settings. Horticulture employers must meet high ethical standards, and our industry is committed to ensuring that migrant workers are treated fairly, lawfully, and with dignity.

The horticulture sector is deeply invested in the success and reputation of New Zealand's immigration system. The RSE scheme, for example, is underpinned by strong pastoral care obligations and a multilateral approach involving industry, government, and Pacific partner countries. HortNZ plays a central role in advocating for the integrity of that system and ensuring that participating employers uphold their responsibilities.

1.1. Regulatory Changes

Clause 47 inserts new Section 351A, making it a criminal offence for any 'employment-related person' (employers, agents or anyone involved in recruitment) to knowingly seek or receive a premium for employment or the promise of employment - regardless of whether the worker has started work or whether the payment is made offshore.

HortNZ **strongly supports** the intent of Clause 47 however, we note that enforcement of this provision will be extremely difficult where payments or recruitment arrangements occur offshore. New Zealand authorities have limited jurisdiction and investigative capacity in overseas jurisdictions, particularly where informal payment systems or unregistered agents are involved.

Closing the loophole around recruitment premiums is essential to:

- Reinforce New Zealand's integrity as a safe place to work
- Support the government's migrant exploitation action plan²
- Provide clear criminal pathways to deter exploitation practices.

HortNZ notes the penalties proposed under Section 351A – a maximum of seven years' imprisonment, a fine of up to \$100,000, or both. We support the seriousness with which migrant exploitation is treated, however we observe that the disparity between these two penalties may appear disproportionate.

A seven-year maximum jail term rightly positions this offence alongside serious crimes involving violence, fraud, or corruption. By contrast, a \$100,000 fine may not represent a

² https://www.mbie.govt.nz/immigration-and-tourism/immigration/temporary-migrant-worker-exploitation-review?utm_source=chatgpt.com

meaningful deterrent for some commercial entities, particularly where systemic misconduct may have generated significantly greater financial gain.

Legal penalties should reflect not just punitive intent but also act as a credible deterrent. We support the principle of strong enforcement and would encourage the government to ensure penalties are aligned in a way that reflects the scale, intent, and impact of offending – both in terms of financial harm and reputational risk to New Zealand’s immigration systems.

1.2. Labour Inspectorate Considerations

While the proposed new offence under Section 351A will be primarily enforced by Immigration Compliance and Investigations (ICI) within MBIE, it will have flow on impacts for the Labour Inspectorate.

The Labour Inspectorate is often the first point of contact for investigating workplace breaches involving migrant workers. In practice, inspectors may encounter premium-related exploitation indicators during investigations focused on wages, hours, or conditions.

In prior submissions on the AEWV), the Global Workforce and Surge Capacity Seasonal Visas, and the RSE scheme, HortNZ has consistently advocated for significantly increased funding, capability and regional presence for the Labour Inspectorate.

Given the increasing regulatory burden on employers and the central role of the Labour Inspectorate in identifying and responding to migrant exploitation, it is essential that MBIE’s compliance and enforcement functions are properly resourced.

HortNZ strongly recommends that any legislative change of this nature be accompanied by a clear and measurable commitment to enforcement resourcing, including specific investment in the capacity of the Labour Inspectorate to respond proactively to risks in the regions and sectors most affected.

2. Immigration Levy

The government is proposing to extend the immigration levy beyond visa applicants to include other individuals and groups who are seen to benefit from the immigration system – including employers of migrant workers. This marks a significant shift from the current approach, where the levy is paid only by visa applicants themselves.

HortNZ is concerned that these changes could impose unfair and disproportionate costs on horticulture employers who rely on migrant workers under highly regulated schemes like the RSE and AEWV schemes. While we support the need for a sustainable immigration system, we do not support the extension of the levy to employers, particularly in a way that does not reflect the actual impact of these visa categories on public services.

2.1. Preferred Option

The consultation presents four options for how the levy could be structured:

- **Option 1: Status quo:** Visa applicants continue to pay the immigration levy as per s399
- **Option 2:** Amend the Act to specify particular groups (e.g. employers) are liable for the levy

- **Option 3:** Amend the Act to enable regulations to impose the levy on ‘anyone’ interacting with the immigration system
- **Option 4** (Preferred by Government): Amend the Act to give the government the power to create detailed rules regulations about who has to pay an immigration levy – without having to go back to Parliament each time they want to change who pays or how much.

HortNZ **strongly prefers Option 1 (Status quo)**, however, if Option 4 is pursued, we submit that employers that employ migrants in the horticulture sector should be excluded from any new or extended immigration levy framework.

2.2. Proposed changes to immigration levy

Section 399AB(1) proposes that regulations may permit the collection of an extended immigration levy from:

- (a) Visa applicants
- (b) Employers who hold, or have applied for, approval to employ migrants on temporary entry class work visas; and
- (c) Education providers (as defined in section 10 of the Education and Training Act 2020) that enrol international fee-paying students.

Clause (b) would likely capture employers operating under both the RSE and AEWV schemes. These employers are already subject to a range of costs and compliance obligations, including payment of levies through the accreditation process and, in the case of RSE employers, through the Agreement to Recruit (ATR) process.

The proposed provision to allow for an extended immigration levy risks creating duplication or layering of levies on top of existing charges, without clear justification or transparency around how additional funds would be used.

2.2.1. TRAINING

399AB (2) b Extended immigration levy requires employers of migrants to contribute to the cost of skills training in New Zealand to recognise the training costs avoided and therefore the benefits received by employers through recruiting people from outside New Zealand who are already skilled.

HortNZ understands this means that employers who hire already skilled migrant workers should pay a levy because they are seen as avoiding the cost of training a New Zealander to do that job and are therefore benefiting by importing those skills without contributing to New Zealand's training system.

In the horticulture sector, the suggestion that employers avoid training costs by recruiting migrant workers does not reflect the reality of industry practice. Training remains a core responsibility for horticulture employers, whether workers are recruited from New Zealand or offshore.

Moreover, under both the RSE and AEWV schemes, employers must first demonstrate that no suitable New Zealanders are available for the role. This includes labour market testing, engagement with the Ministry of Social Development, and formal approval processes that ensure offshore recruitment is used only to fill genuine labour shortages. Employers in these schemes are not bypassing the domestic labour market or the training system – they are

responding to persistent labour supply gaps while continuing to invest in training, supervision, and workforce development at their own expense.

In addition, HortNZ notes that government support for vocational training for migrants has been actively reduced in recent years. The Industry Training and Apprenticeships Act 1992, which allowed migrants to access subsidised training through Industry Training Organisations at the same cost as New Zealanders, was repealed in April 2020. Since then, immigrant workers must pay full training fees unless their occupation is listed on Immigration New Zealand's Green List.

Horticulture occupations are not included on the Green List, as they are often (incorrectly) categorised as low-skilled or seasonal. This exclusion, despite the highly technical nature of many horticulture roles, limits opportunities for migrant workers to access government-supported training and creates perverse outcomes. In practice, employers are still required to train these workers – at their own cost – to ensure productivity, food safety, and compliance with employment and health and safety laws.

Furthermore, there appears to be no coordination between the Ministry of Education and Immigration New Zealand in managing the downstream training impacts of immigration policy settings like the Green List. If the Government is unwilling to fund training for migrant workers – and does not enable it – then it is inappropriate to suggest employers are avoiding a cost they are already paying, and certainly not appropriate to impose an additional levy on that basis.

Accordingly, any proposal to apply an extended immigration levy on the basis that horticulture employers are avoiding skills training costs must be reconsidered. The horticulture sector does not avoid training costs by hiring migrant workers – it continues to invest significantly in training regardless of where workers come from. Given the lack of government-supported training access for migrants and the clear evidence that employers are already bearing these costs, applying an extended immigration levy on the basis of "avoided training costs" is unjustified and inappropriate.

2.2.2. RSE WORKERS

RSE employers operate under a purpose built, highly regulated seasonal visa scheme that is designed to support regional and pacific economies while maintaining strong international and ethical standards. The Regulatory Impact Statement³ appears to suggest that employers of RSE workers may benefit from immigration and therefore should contribute through a levy.

However, this assumption does not reflect the RSE reality. RSE workers:

- Are temporary, staying for up to seven months only (exception for two geographically isolated countries where the duration is 7-9 months)
- Do not bring dependants
- Are not eligible for publicly funded healthcare and are required to have fully funded medical insurance while in New Zealand so do not burden the public health system

³ <https://www.mbie.govt.nz/dmsdocument/30542-regulatory-impact-statements-immigration-fiscal-sustainability-and-system-integrity-pdf>

- Do not access public education.

The majority of roles filled through the RSE scheme are classified as unskilled or low-skilled positions. These roles require job-specific training that is delivered on the job, often at significant cost to the employer. The only structured skills development programme available to RSE workers is the Ministry for Foreign Affairs and Trade funded RSE worker training programme⁴.

It is also important to recognise the substantial contribution RSE workers already make to the New Zealand economy, particularly through income tax. RSE workers are taxed at a flat rate of 10.5% from their first dollar earned. With approximately 16,000 RSE workers employed in New Zealand each year, this translates to over \$40 million in income tax revenue annually - paid directly by workers who make a vital seasonal contribution to the horticulture industry but do not draw on the full range of public services and entitlements.

2.2.3. AEWV EMPLOYERS

In contrast, AEWV roles are generally higher skilled, such as machinery operators, irrigation technicians, or crop managers. These workers may arrive with formal qualifications or significant industry experience from overseas. However, some training is still required to adapt to New Zealand conditions, including site-specific induction, employment standards, health and safety compliance, and operating procedures. AEWV workers may remain in New Zealand for up to three years, providing longer-term workforce stability - but their successful integration into the workplace still requires employer investment in training and support.

The AEWV system is already costly and compliance heavy, with mandatory accreditation, job checks, visa fees, pastoral care obligations, and complex immigration engagement. Adding a levy on top of these costs, based on a blanket assumption of avoided training, would be unjustified and economically damaging, especially to smaller employers.

Applying an immigration levy on the assumption that employers are avoiding domestic training obligations misrepresents the reality of horticultural employment. Horticulture employers continue to shoulder the cost of worker development - without drawing on the public training system - and should not be unfairly penalised under a generalised levy mechanism.

2.2.4. INFRASTRUCTURE

Section 399AB(2)(a) states that the purpose of the extended immigration levy is to fund or contribute to the cost of public infrastructure and services impacted by immigration—specifically the education and health systems. This includes:

- Funding for specialist teachers, school property, teacher training, and learning support services to address increased demand in the education sector
- Contributions toward health services associated with parent visa holders or sponsors, such as aged care or primary care usage.

While this may be appropriate for some longer-term migrant categories, HortNZ submits that these justifications do not apply to employers of RSE or most AEWV workers in the horticulture sector, for the following reasons:

⁴ [Labour Mobility | New Zealand Ministry of Foreign Affairs and Trade](#)

- RSE workers are not accompanied by dependants meaning they do not contribute to increased school enrolments or place pressure on the public education system. AEWV workers can bring dependents under strict criteria, however this would not be representative of this visa category
- RSE and AEWV workers receive training directly from their employers on the job, not through publicly funded education or vocational institutions. Training costs are fully borne by employers and would be the same if hiring New Zealanders
- These workers are temporary by design. RSE workers typically stay in New Zealand for up to seven months per year and are required to return to their home country at the end of the season. AEWV workers can stay for up to three years however their visas do provide a pathway to residency

In short, the horticulture sector's use of the immigration system does not generate the types of downstream pressure on health and education services that this extended levy is intended to address. Applying this levy to RSE or AEWV employers would therefore be misaligned with the stated purpose of the legislation.

We urge the government to recognise the low system impact and high employer investment associated with these migrant workers and to exclude horticulture employers from any levy framework developed under this proposal.

2.3. Ministerial Regulation-Making Powers

HortNZ supports the proposed amendments that enable the Minister of Immigration to make regulations governing the settings and conditions of temporary entry class visas, including those issued under RSE and AEWV schemes.

We agree that greater flexibility through regulation will allow the immigration system to respond more efficiently to changing labour market conditions, including the ability to adjust visa durations, renewals, and caps where needed. This is particularly relevant for the horticulture sector, where workforce demand is seasonal, regional, and subject to variables such as climate, crop yield and export pressures.

Any future adjustments to RSE caps, AEWV settings or visa extension criteria made under these new powers should be developed in partnership with industry to ensure stability and confidence in the workforce planning process.

3. Conclusion

HortNZ supports a fair, well-functioning immigration system that upholds worker welfare, strengthens industry capability and reflects the distinct characteristics of the sectors it serves. We welcome initiatives to improve protection for migrant workers and maintain the integrity of New Zealand's labour market, particularly through the introduction of new criminal offences to address exploitation and recruitment misconduct.

However, we are concerned that the proposed extension of the immigration levy risks placing disproportionate costs on an industry that already invests heavily in training, compliance, pastoral care and worker wellbeing. These schemes are designed to address genuine labour shortages, are highly regulated and are not major drivers of demand on public health or education systems.

Horticulture is a critical contributor to New Zealand’s economy, regional communities and global reputation. These reforms must balance the need for system sustainability with the reality that the horticulture sector continues to carry a significant share of the cost – and responsibility – for a well-supported migrant workforce.