# Migration Amendment (Protecting Migrant Workers) Bill 2021

EXPOSURE DRAFT – CONTEXT PAPER

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# Overview

Wage underpayment and employee exploitation deny employees their legal entitlements and have the further effect that there is not a level playing field for employers, such that the overwhelming majority of employers who are trying to do the right thing are competing against those that underpay or exploit workers. The Government considers it unacceptable that a small number of employers engage in exploitative behaviours, and is seeking to enhance the existing penalty, compliance, and enforcement frameworks.

The Government has a strong record protecting vulnerable workers. The Government has passed tougher laws to better protect vulnerable workers by improving the evidence gathering powers of the regulator, the FWO, increasing penalties and boosting the FWO's resources by more than $100 million in recent years, including $10.8 million in the 2019–20 Budget to improve migrant workers' understanding of their workplace rights and crackdown on non-compliant employers.

In 2016 and 2017, the Government implemented measures to address the exploitation of migrant workers in Australia, which included measures to strengthen law enforcement under the *Fair Work Act 2009* (Fair Work Act), and the establishment of the Migrant Workers' Taskforce (Taskforce) to undertake a whole of government review of the problem.

This paper provides background information on the proposed implementation of relevant recommendations from the Report of the Migrant Workers' Taskforce (March 2019) (the Taskforce Report). The Taskforce recognised the measures already in place to counter migrant worker exploitation, including sanctions for exploitative sponsor employers, information sharing among government agencies and in-language promotion of products and services available to potential employees.

Information on the Department of Home Affairs' visa programs can be found via the Department's Administration of the Immigration and Citizenship Programs paper. This paper has been produced to help external stakeholders understand how the Department of Home Affairs administers Australia's Immigration and Citizenship Programs. Paragraphs 204 to 210 are particularly relevant to migrant worker exploitation and provide up-to-date information and statistics to describe what the Department and the Australian Border Force are doing to counter exploitative behaviours.

The Department is seeking input from the community (by way of written submissions) about the Migration Amendment (Protecting Migrant Workers) Bill 2021 (the Bill). The Bill includes a suite of proposed changes to the *Migration Act 1958* (the Migration Act) that will further

enhance migrant worker protections. This paper includes an overview of the various measures contained in the draft Bill, for public consideration and input.

Submissions for this consultation will close at midnight on 16 August 2021. Submissions received, other than those provided on a confidential basis or deemed inappropriate for publication by the Department, will be made available on the Department's website. Submissions will be made public unless an express statement is included in the submission requesting confidentiality. If you request that your submission remain confidential, you are encouraged to consider whether the whole submission is confidential or whether some parts of the submission may be made public.

The Bill includes five key proposals aimed at deterring unscrupulous employers, informing potential migrant workers, providing increased visibility of employers using the migrant workforce and equipping the ABF to meet compliance expectations. These are:

1. new criminal offences in relation to the coercion or the exertion of undue influence or pressure on a migrant worker in relation to a work arrangement in certain circumstances (addressing Recommendation 19 from the Taskforce Report)
2. provisions to prohibit employers declared as 'prohibited employers' from employing additional non-citizen workers (excluding permanent residents) (addressing Recommendation 20 from the Taskforce Report)
3. positive obligations on employers and other parties in the employment chain to use the relevant departmental system (currently the Visa Entitlement Verification Online (VEVO) system) to verify a non-citizen's immigration status and visa conditions prior to employing or referring a non-citizen for work
4. aligning and increasing penalties for work-related breaches and related offences
5. new compliance tools for the ABF to support behavioural change.

# Background

The Australian Government established the Migrant Workers' Taskforce (the Taskforce) in 2016 to identify proposals for improvements in law, law enforcement and investigation, and other practical measures to more quickly identify and rectify cases of migrant worker exploitation. The Taskforce focused on four key elements of compliance:

1. ensuring market participants are well aware of their entitlements and responsibilities and of how and where to get assistance
2. the role of regulators in taking action to promote compliance
3. the important issue of ensuring that employees obtain redress for underpayment where this has occurred, and
4. whether existing laws, functions and powers of regulators are appropriate to enforce effective compliance when necessary.

The Taskforce Report identified gaps in the existing regulatory framework, and highlighted opportunities for improvement. The Taskforce made 22 recommendations to Government, and the Government has, in principle, accepted all of the recommendations.

The Attorney-General's Department (AGD), supported by the Fair Work Ombudsman (FWO), are the lead agencies responsible for administering the *Fair Work Act 2009* (the Fair Work Act), which provides for protections of certain rights, including workplace rights and the right to be free from undue influence or pressure in negotiating individual arrangements of workers in Australia. AGD also leads a whole of government working group comprising eight agencies to oversee the implementation of the Taskforce recommendations. This group convenes regular meetings to link, track and share progress on all 22 Taskforce recommendations and the work of the two working groups established for this purpose, being the Fair Entitlements Guarantee group and the Labour Hire Intermediaries group.

The Department is leading the implementation of two key recommendations:[1]

- Recommendation 19:

…that the Government consider developing legislation so that a person who knowingly unduly influences, pressures or coerces a temporary migrant worker to breach a condition of their visa is guilty of an offence.

- Recommendation 20:

…that the Government explore mechanisms to exclude employers who have been convicted by a court of underpaying temporary migrant workers from employing new temporary visa holders for a specific period.

# Existing Policy and Protections

Operating under the authority of the Migration Act, the Department has primarily focused on administering and regulating the lawful entry and stay of non-citizens in Australia. In this context, it focuses on ensuring non-citizens hold a valid visa; and if they are working, that they are not doing so in breach of a work-related visa condition.

[1] The Department is also jointly responsible, with the Fair Work Ombudsman, for implementing **Recommendation 21:** "It is recommended that the Fair Work Ombudsman and the Department of Home Affairs undertake a review of the Assurance Protocol within 12 months to assess its effectiveness and whether further changes are needed to encourage migrant workers to come forward with workplace complaints." See https://immi.homeaffairs.gov.au/visas/working-in-australia/work-rights-and-exploitation. This recommendation is being addressed separately to the proposed amendments outlined in this paper.

Together, these two requirements classify a worker either as a 'legal worker' or an 'illegal worker' in the context of the Migration Act. A non-citizen is only permitted to work in Australia if they are a 'legal worker'.

The Migration Act also includes:

- a range of work-related offences and civil penalty provisions,[2] which were introduced in 2007 to reduce the numbers of 'illegal workers' and to ensure that people who knowingly or recklessly employ 'illegal workers' are subject to sanctions.
- an *Employer Sponsorship Framework*. Under this framework
    - the Department seeks to ensure the employers who sponsor work visas meet certain obligations.
    - the framework outlines explicit rules (obligations) for employers wishing to sponsor a worker to come to Australia. There are approval processes (for those employers) and specific sanctions for breaching their obligations.
    - employers who have breached their sponsorship obligations can be banned from sponsoring other 'sponsored' workers for a period of time.
    - banned employers are also publicly listed on the register of sanctioned sponsors, which deters other sponsors from breaching their obligations and enabling migrant workers to inform themselves about potential sponsors.

      note: the ban does not apply to hiring other migrant workers (who are not sponsored) such as international students or working holiday makers. See further discussion below - under Proposed Legislative Amendments - about expanding the ban of certain employers.

Because of the detailed nature of the employer sponsor obligations, and because they are explicitly outlined in the Migration Act, the Australian Border Force (ABF) oversees and enforces employment conditions under the *Employer Sponsor Framework*.
See: https://www.abf.gov.au/about-us/what-we-do/sponsor-sanctions/overview

[2] Subdivision C of Division 12 of Part 2 of the Migration Act includes a number of criminal offences and civil penalty provisions.

# Proposed Legislative Amendments

The proposed legislative changes in the Bill will expand the remit of the ABF to play a greater role in addressing the exploitation of migrant workers who are not engaged through the employer sponsor program (i.e. temporary migrant workers with work rights whose visa has not been sponsored by an employer).

Some examples of temporary migrant workers with work rights include international students, temporary graduate visa holders, working holiday makers, and provisional visa holders with work rights, who are not sponsored by an employer. Relevant visa conditions for all visa types are outlined on the Department's website.

The proposed amendments respond to key gaps and opportunities identified in the Taskforce Report, combined with other available research and consultations, including:

- within the Department, including with ABF compliance teams and the Department's Intelligence Division
- across government, including with AGD, the FWO, the Department of Education, Skills and Employment, and the Department of Foreign Affairs and Trade, and
- with international colleagues, including in New Zealand, Canada, the United Kingdom, the United States, South Korea, Switzerland, and across the European Union.

Specifically, the Department has focused on addressing the following challenges:

- Evidence that some unscrupulous employers have used Migration Act settings, and the threat of either visa cancellation or refusal, or some other adverse immigration outcome, to exploit vulnerable migrant workers.
- For some, the threat of visa cancellation, whether real or perceived, because the non-citizen has breached a condition of their visa, has been used to coerce or exert undue pressure or influence or coercion over the visa holder, making them vulnerable to exploitation.
- For others, the threat of withholding evidence of work completed, which would jeopardise the visa holder's future visa application (i.e. without the evidence of the work, the visa application would be refused), has been used to exert undue pressure, influence or coercion over the visa holder, making them vulnerable to exploitation.

- For others, a threat of another type of adverse outcome, as a result of a 'dob-in' to the ABF, has been used to exert undue pressure, influence or coercion over the non-citizen, making them vulnerable to exploitation.
- There is currently a mechanism to ban employers from sponsoring the visas of additional migrant workers for breaching their obligations under the *Employer Sponsor Framework* (see above under Existing Policy and Protections).
    - However, this ban is limited. Currently, that same employer is still able to employ other migrant workers (who are not sponsored), giving the ban only limited deterrent capability.
    - Further, other employers of migrant workers (those not engaged in sponsoring work visas) are not subject to a ban. The Department has found examples of banning regimes elsewhere (including New Zealand, Canada, the United Kingdom, Poland, Switzerland, and Korea).
    - There is an opportunity to increase the scope of the ban and improve the level of deterrence.
- Some employers continue to employ migrant workers without verifying their visa status and conditions prior to employment, despite an existing obligation to do so. There are opportunities to further clarify the obligation of employers and third party providers to verify the visa status and conditions of non-citizen employees before employing or referring that non-citizen for work.
- Existing penalty provisions for the contravention of work-related provisions in the Migration Act are not providing a sufficient deterrence for some unscrupulous employers. In fact, there is a concern that the penalties can be seen by some as 'the cost of doing business'. With the penalties in the Fair Work Act increasing up to 10 times, the Department has identified an opportunity to increase a range of work related penalties, and align those penalties with the penalties available for 'paying for visas'. The aim is to send a strong message that any breach of a work-related provision is considered serious.
- The Fair Work Ombudsman (FWO) uses enforceable undertakings, infringement notices and compliance notices as compliance tools to drive behavioural change without the need to prosecute all cases through the courts. There is an opportunity to support higher levels of voluntary compliance by allowing for the use of these tools, where appropriate.

# Migration Amendment (Protecting Migrant Workers) Bill 2021

## Exposure Draft

# Overview

The proposed amendments to the *Migration Act 1958* (the Migration Act) are contained in the Schedule to the Migration Amendment (Protecting Migrant Workers) Bill 2021 (the Bill).

This Schedule comprises seven Parts:

- Part 1—New employer sanctions
- Part 2—Prohibition on certain employers employing additional non-citizens
- Part 3—Use of computer system to verify immigration status
- Part 4—Aligning and increasing penalties for work-related breaches
- Part 5—Enforceable undertakings for work-related breaches
- Part 6—Compliance notices for work-related breaches
- Part 7—Other amendments.

An exposure draft of the Bill has been prepared to support public consultation and submissions on the proposed amendments to the Migration Act.

This document provides an overview of each Part of the Schedule to the draft Bill. It outlines key details of the amendments the Bill would make to the Migration Act, and how each of these amendments will contribute to strengthening existing protections for migrant workers under the Migration Act.

This document is not an exhaustive statement of each provision in the exposure draft of the Bill. This document is intended to assist readers of the exposure draft, when considering it for the purposes of making a submission to the consultation process.

**Commencement and implementation**

If passed, the amendments to the Migration Act by the *Migration Amendment (Protecting Migrant Workers) Act 2021* will commence on a date to be proclaimed by the Governor-General, no later than 12 months after the Act receives the Royal Assent.

# Part 1 – New employer sanctions

Part 1 introduces new criminal offences and related civil penalty provisions to support Fair Work legislation and to strengthen existing protections in the Migration Act for non-citizens working in Australia.

The Migrant Workers' Taskforce (the Taskforce) found that migrant workers who are in Australia on a temporary basis may have poor knowledge of their workplace rights, are young and inexperienced, may have low English language proficiency and try to fit in with cultural norms and expectations of other people from their home countries. The Taskforce observed that these factors combine to make migrant workers particularly vulnerable to unscrupulous practices at work. All workers in Australia have rights and protections at work. People from overseas working in Australia have these same workplace rights.

The new offences and related civil penalty provisions will protect migrant workers against unscrupulous employers, labour hire intermediaries and other parties who might seek to coerce or exert undue influence or pressure on migrant workers to accept a work arrangement that jeopardises their immigration status.

**Coercing etc. a non-citizen to breach work-related conditions**

The first offence relates to coercing or exerting undue influence or pressure on a non-citizen to breach work-related visa conditions. This offence would arise where a person coerces, or exerts undue influence or undue pressure on a non-citizen to accept or agree to a work arrangement that would involve a breach of a work-related condition applying to the non-citizen.

A work-related condition is a condition that either prohibits the holder of a visa from working in Australia, or restricts the work that the holder of a visa may do in Australia.

> There have been cases where employers have persuaded students to work longer hours than permitted under their visa restrictions. Some employers have coerced students on the threat of referring them to the immigration authorities (Report of the Migrant Workers' Taskforce)

This offence is supplemented by a civil penalty provision – with a civil penalty of 240 penalty units – as an alternative to criminal proceedings [refer to Part 4 - Aligning and increasing penalties for work related breaches].

**Coercing etc. a non-citizen by using migration rules**

The second offence relates to coercing or exerting undue influence or pressure on a non-citizen by using migration rules. This offence would arise where a person coerces, or exerts undue influence or undue pressure on a non-citizen to accept or agree to a work arrangement to avoid an adverse effect on the non-citizen's immigration status, or that would result in the non-citizen being unable to satisfy a work-related visa requirement.

A work-related visa requirement means a requirement under the Migration Act or the *Migration Regulations 1994* (the Migration Regulations) for a non-citizen to provide information or evidence about work the non-citizen has undertaken in Australia. This could be in connection with the visa the non-citizen currently holds, or a future visa application.

> There have been reports that some working holiday makers have accepted unsafe working conditions when undertaking specified periods of work in order for them to qualify for a second or third working holiday visa.

This offence is supplemented by a civil penalty provision – with a civil penalty of 240 penalty units – as an alternative to criminal proceedings [refer to Part 4 - Aligning and increasing penalties for work related breaches].

# Part 2 – Prohibition on certain employers employing additional non-citizens

Part 2 establishes a framework whereby the Minister may declare certain employers to be 'prohibited employers' for a specified period of time. Affected employers will be prohibited from employing additional non-citizen employees (other than permanent residents) while their 'prohibited employer' status remains in effect.

**Prohibition on certain employers employing additional non-citizens**

The Minister's discretion to declare an employer to be a 'prohibited employer' will apply to:

- a person who is an approved work sponsor and is subject to a bar imposed by the Minister under paragraph 140M(1)(c) or (d) of the Employer Sponsorship Framework in the Migration Act
- a person who is convicted of a work-related offence under the Migration Act

- a person who is the subject of a civil penalty order in relation to contravention of a work-related provision under the Migration Act
- a person who is the subject of an order for contravention of certain civil remedy provisions under the *Fair Work Act 2009* in relation to the employment of a non-citizen [for the full list of provisions, refer to the table under s 245AYD(10) on p. 11 of the Bill].

Examples may include:

- an employer who breaches the Employer Sponsorship Framework for failing to keep appropriate records (see Sponsorship Obligations)
- an employer who allows an unlawful non-citizen to work (without first taking reasonable steps to check their visa status)
- an employer who allows a migrant worker to work in breach of the work-related conditions of their visa (without first taking reasonable steps to check their visa conditions)
- an employer who requires a migrant worker to give some of their pay back to the employer (or another person), where this behaviour results in the employer being subject to a court order under the relevant provision of the *Fair Work Act 2009*

The period during which a prohibited employer is subject to a prohibition would be specified in the declaration.

The criteria to be considered by the Minister when deciding whether to make a declaration will be prescribed by the regulations. Additionally, before the Minister declares a person to be a prohibited employer, the Minister must give the person a written notice:

- stating that the Minister proposes to make such a declaration, and giving the reasons for it, and
- inviting the person to make a written submission to the Minister, setting out reasons why the Minister should not make the declaration.

The person would have 28 days to respond to the Minister, after the person is given the notice, or within a period of time stated in the written notice. The Minister must consider any written submission made by the person that is received by the Minister within the time provided.

The Minister's decision to declare an employer a 'prohibited employer' will be open to merits review by the Administrative Appeals Tribunal.

A prohibited employer who contravenes the prohibition would be liable to a civil penalty. The declaration of 'prohibited employer' can be made in relation to a body corporate or a natural person. The civil penalty extends to circumstances where a natural person is declared to be a 'prohibited employer', has a material role in a decision made by a body corporate and where the same body corporate contravenes the prohibition.

**Publishing information about prohibited employers**

The Minister will be required to publish details of 'prohibited employers' on the Department's website, with exceptions to be provided in the regulations. Publication provides transparency to prospective migrant workers and the Australian community generally, demonstrating that the Minister will take action against employers who have been found to breach sponsorship obligations, to contravene work-related provisions, to commit work-related offences under the Migration Act or to have contravened certain provisions of the Fair Work Act in relation to the employment of non-citizens. Publication will also act as a deterrent to other employers, putting employers on notice that the Minister will take action to protect vulnerable migrant workers from unscrupulous employment practices.

**Prohibited employers - additional reporting obligations**

When an employer's 'prohibited employer' status ends, that employer will be subject to certain additional reporting requirements for a period of 12 months afterwards.

During that 12-month period, the employer will be required to give the Department certain information in relation to any new non-citizen employees (other than permanent residents). This will include:

- the name of the non-citizen
- a description of the work for which the non-citizen is employed
- if the non-citizen holds a visa that is subject to a work-related condition – details of the condition, and
- any other information prescribed by regulations.

# Part 3 – Use of computer system to verify immigration status

Part 3 builds on VEVO's long-established role as the single source of truth when checking visa status and conditions for visa holders, migration agents, employers, education providers and other organisations.

The amendments in Part 3 establish civil penalty provisions that require a person to use VEVO to determine whether a non-citizen is lawful and has the necessary permission to work, either when starting to allow a non-citizen to work or referring a non-citizen for work.

A contravention of one of these provisions would give rise to liability for a civil penalty of 48 penalty units.

To comply with the requirement to use VEVO, a person may:

- log in to VEVO directly to conduct the check, or
- rely on an arrangement with another person for that person to log into VEVO to conduct the check.

In either case, the effect of the provisions is to require the use of VEVO to undertake the necessary checks in order for the employer, labour hire intermediary or another party to the employment chain to determine that a non-citizen is lawful and has requisite permission to work. The provisions allow for flexibility in relation to whether the VEVO check is undertaken directly by the first person, or by another party (including the prospective employee) – but in any case, the onus is on the first person to determine, on the basis of a VEVO check, that a non-citizen is lawful and has permission to work.

Part 3 also includes the recasting and tightening of the defences to existing work-related offences in the Migration Act relating to allowing or referring a non-citizen for work. The amendments tighten the defences by providing that a non-citizen's immigration status and work-related visa conditions must be checked on VEVO, either directly by the employer or by another party to the employment arrangement.

**Required system users**

While the provisions generally offer flexibility in relation to who undertakes the required VEVO check, the amendments provide that 'required system users' must log into and use VEVO directly to determine whether a non-citizen is lawful and has permission to work. A required system user cannot rely on VEVO checks undertaken by another party.

A required system user includes:

- a former ‘prohibited employer’ (for a period of 12 months after their prohibited employer status ends)
- a person who is determined by the Minister to be a required system user, or
- a class of persons specified by the Minister in a legislative instrument.

The decision to determine that a person is a required system user might arise in situations where, for example, an employer is recruiting labour directly from overseas, or where there are overseas labour hire contractors or overseas third parties supplying labour. By making a person a required system user, this is intended to place the onus squarely on that person to conduct the necessary checks in relation to all prospective non-citizen employees.

# Part 4 – Aligning and increasing penalties for work-related breaches

Part 4 increases the pecuniary penalties across the work-related civil penalty provisions and related offences in the Migration Act, and for approved work sponsors who fail to satisfy a sponsorship obligation under the Sponsorship Obligations Framework in the Migration Act and Regulations.

The work-related civil penalty provisions in the Migration Act currently attract a pecuniary penalty of 90 penalty units (for individuals). The civil penalty for breaching sponsorship obligations is set at 60 penalty units.

The Bill increases all these pecuniary penalties to 240 penalty units (for individuals). While the civil penalty for breaching a sponsorship obligation is increased to 240 penalty units for an approved work sponsor, this remains at 60 penalty units for any other case (also noting the Sponsorship Framework in the Migration Act also extends to family sponsors, who are not affected by these amendments).

This aligns the civil penalties for work-related civil penalty provisions, and the sponsorship obligations provision, with the higher penalties associated with the current prohibitions in sections 245AR and 245AS of the Migration Act in relation to asking for or receiving, or offering to provide or providing, a benefit in return for the occurrence of a sponsorship-related event.

The alignment of the pecuniary penalties associated with these civil penalty provisions demonstrates that the Government considers all contraventions of provisions relating to the employment of non-citizens to be equally serious. For financial penalties to have a deterrent effect, they must be set at a level that actually deters people from contravening and offending. These increased civil penalties reflect the severity of the impact of a contravention on the individual migrant worker directly affected by that act, but also the significant damage that the actions of a few unscrupulous employers or labour hire intermediaries can have on Australia's reputation as a destination of choice.

# Part 5 – Enforceable undertakings for work-related breaches

Part 5 establishes arrangements for the Minister or the Minister's delegate to enter into an enforceable undertaking with an employer, labour hire intermediary or other party that has not complied with work-related offences and work-related provisions under the Migration Act. This will include the new offences and civil penalty provisions to be introduced by the Bill, in addition to the established offences and provisions in the Migration Act.

The amendments to the Migration Act by Part 5 of the Bill provide a mechanism to trigger standard provisions for enforceable undertakings in the *Regulatory Powers (Standard Provisions) Act 2014* (the Regulatory Powers Act).

Enforceable undertakings can be used to address conduct that may have resulted in a breach of one or more work-related provisions in the Migration Act, as well as the sponsorship obligations under the Employer Sponsorship Framework, where:

- an investigation has identified a likely breach (or multiple breaches) of work-related provisions
- the other party (e.g. the employer or labour hire intermediary) is prepared to voluntarily address the issue, and
- they agree to take preventative actions in the future.

Typically an enforceable undertaking will contain additional obligations, such as:

- an acknowledgement by the employer that the law has not been followed;
- an agreement by the employer to do certain actions to fix the breach (for example, remedying an underpayment, apologising, printing a public notice);
- a commitment by the employer to future compliance measures.

# Part 6 – Compliance notices for work-related breaches

Part 6 establishes powers and a framework in the Migration Act to enable an authorised officer to issue compliance notices as an alternnative to commencing court proceedings for contraventions of the work-related provisions of the Migration Act.

Compliance notices are a non-punitive mechanism for the Department and the ABF to work with employers, labour hire intermediaries and other parties to address alleged contraventions of the work-related provisions of the Migration Act.

If at any stage while undertaking their functions an authorised officer forms a reasonable belief that a person is engaging in, or has engaged in, conduct (including an omission) that constitutes or would constitute:

- a work-related offence, or
- a contravention of a work-related provision,

the authorised officer may give the person a compliance notice specifying action that the person must take, or must refrain from taking, to address the conduct. This may include a requirement for the person to produce reasonable evidence of compliance with the notice.

A person who complies with a compliance notice is not taken to have admitted the contravention or to have been found to have committed the contravention.

Where a person complies with a compliance notice, the Department is unable to commence court proceedings against that person for the particular contraventions that are the subject of the compliance notice.

If a person who is given a compliance notice does not comply with that notice, a court may impose a civil penalty of up to 48 penalty units.

A person may apply to the court to have a compliance notice reviewed if they have not committed a contravention set out in the compliance notice, or if the compliance notice does not comply with the necessary requirements under the Migration Act.

# Part 7 – Other amendments

Part 7 updates existing provisions in the Migration Act's Sponsorship Framework in line with the new provisions in relation to work-related offences and provisions described in Part 5. These amendments ensure the approach to triggering the Regulatory Powers Act to enter into (and enforce) enforceable undertakings is consistent across the Migration Act.

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