

Short-Form Departmental Disclosure Statement

Valuers Bill

A short form disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

There was no original disclosure statement for this Bill because revision Bills are exempt from the requirements. Substantive Amendment Papers that relate to an exempt Bill do not require a disclosure statement. However, this disclosure statement has been prepared as the Amendment Paper includes a change that requires an affirmative answer to one of the relevant questions in Part 3 of the main disclosure statement template.

This disclosure statement was prepared by Land Information New Zealand (LINZ).

LINZ certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

2 April 2025.

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<p>The Amendment Paper updates the maximum penalty amounts in:</p> <ul style="list-style-type: none"> • Clause 9 - Penalty for offences relating to annual practising certificate • Clause 26 - Offence for false or fraudulent representation or declaration • Clause 41 - Disciplinary powers • Clause 90 - Rules of Institute • Clause 105 (1)(m) - Regulations • Clause 109 - Penalty for holding out offences <p>The Amendment Paper creates a new offence and penalty in clause 37B - Board may order that inquiry be held in private and may prohibit publication of information relating to inquiry.</p>	

1.1. Was the Ministry of Justice consulted about these provisions?	YES
<p>The penalties are being updated due to the inflation over the period since they were set, which has reduced their effectiveness to deter the offending. Continuing penalties are being removed, as continuing penalties are no longer used in legislation because they can quickly lead to large, indeterminate penalties that create uncertainty in the law and which may be disproportionate to the behaviour.</p> <p>LINZ engaged with the Ministry of Justice (MOJ) on the penalty increases. LINZ advised MOJ the comparable regimes referenced when setting the penalty amounts, and the harm caused by the offending. The comparable regimes are the Lawyers and Conveyancers Act 2006, the Real Estate Agents Act 2008, and the Plumbers Gasfitters and Drainlayers Act 2006.</p> <p>MOJ advised LINZ on how to ensure that the penalty amounts are fair, proportionate and consistent. As a result, the maximum penalty the Valuers Registration Board can impose on a registered valuer after an inquiry into a complaint was reduced from a proposed increase from \$10,000 to \$30,000, to \$20,000.</p> <p>The rationale for each of the proposed increases is attached as Appendix 1.</p>	

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	NO
2.1. Was the Privacy Commissioner consulted about these provisions?	NO

Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
10. Do the proposed amendments create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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Appendix: Valuers Bill Amendment Paper: Proposed changes to penalties rationale

Section of Valuers Act 1948	Clause in Amendment Paper		Proposal	Rationale
43	9	Penalty for offences relating to annual practising certificate	<p>Increase the maximum penalty from \$500 to \$10,000</p> <p>Remove the continuing offence and fine</p>	<p>Comparable penalties in legislation are:</p> <ul style="list-style-type: none"> New Zealand Institute of Chartered Accountants Act 1996 (NZICAA), section 14 (\$5,000) (<i>noting the NZICAA penalty has not been updated since 1996</i>), and Lawyers and Conveyancers Act 2006 (LCA), section 46 (\$50,000). <p>Noting that experienced valuers may be earning \$150,000 to \$250,000 a year, the maximum penalty should reflect the potential financial gain from practising for an extended period without a practicing certificate, \$10,000 is closer aligned to the potential gain than the \$5000 in the NZICAA.</p> <p>Continuing offence and fine: Continuing offences are no longer used today as they introduce the possibility of large, indeterminate fines. This aligns with Legislation Design and Advisory Committee (LDAC) Guidelines.</p>
43	26	Offence for false or fraudulent representation or declaration	<p>Increase the maximum penalty from \$500 to \$10,000</p> <p>Remove the continuing fine in paragraph (b) of subclause (2)</p>	<p>The fine has been updated to reflect clauses 9 as it would likely result in the same harm(s).</p> <p>Continuing fine: Continuing offences are no longer used today as they introduce the possibility of large, indeterminate fines. This aligns with LDAC Guidelines.</p>
	37B	Board may order that inquiry be held in private and may prohibit publication of information relating to inquiry	Add a maximum fine of \$3,000	<p>The Valuers Registration Board (Board) deals with sensitive information that could potentially harm a valuer's reputation. The Board's procedures to protect the information are limited and if a party decides to publish it, the Board has no means of restraining publication. This fine creates a mechanism.</p> <p>Comparable penalties in legislation are in:</p> <ul style="list-style-type: none"> LCA Real Estate Agents Act 2006 (REAA)

31(1), 33(1), 1(A), (5)	41	Disciplinary powers	Increase the maximum penalty from \$10,000 to \$20,000	<p>It was originally proposed to increase the penalty from \$10,000 to \$30,000. Following Ministry of Justice review of the Amendment Paper (AP), this was reduced to \$20,000.</p> <p>Comparable penalties in legislation are:</p> <ul style="list-style-type: none"> • LCA, section 242 (\$30,000 for similar offence), and • REAA, section 110 (\$15,000 for similar offence) <p>Using the LCA and REAA as a continuum, conduct likely to involve discipline under clause 41 is closer aligned to REAA. Misconduct by lawyers may create more risk for the public, due to risk of inadvertent legal consequences, access to privileged information and the ability to represent the client.</p> <p>Note that there have been three instances of the maximum penalty being used.</p> <ul style="list-style-type: none"> • The increase to \$20,000 from \$10,000, set in 1993, is consistent with consumers price index (CPI) changes.
16	90	Rules of Institute	Increase the maximum penalty from \$500 to \$1,000	Last updated in 1997 from \$10 to \$500. The increase to \$1,000 from \$500 is consistent with CPI changes.
44	105	Regulations	Increase the maximum penalty from \$500 to \$1,000	<p>Comparable penalties in legislation are in the Plumbers, Gasfitters and Drainlayers Act 2006 (PGDA), section 172(1)(j), (\$1,000).</p> <p>Raising the maximum fine to \$1,000 is consistent with the PGDA and is consistent with CPI changes.</p>
43	109	Penalty for holding out Offences	<p>Increase the maximum penalty from \$500 to \$10,000</p> <p>Remove the continuing offence and daily fine</p>	<p>The fine has been updated to reflect clauses 9 and 26 as it would likely result in the same harm(s).</p> <p>Continuing fine: Continuing offences are no longer used today as they introduce the possibility of large, indeterminate fines. This aligns with LDAC Guidelines.</p>