

Departmental Disclosure Statement

District Court (District Court Judges) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Justice.

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

April 2019

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Part One: General Policy Statement

The District Court (District Court Judges) Amendment Bill amends the District Court Act 2016 to increase the maximum number of District Court Judges that can be appointed at any time from 160 full-time equivalents to 182 full-time equivalents.

Over the past few years, the District Court's workload has increased significantly due to an increase in both the volume and complexity of the court's work. As District Court Judges are required to deal with most cases, more judges are needed to help manage the increased workload.

In addition, the Youth Court's jurisdiction has been expanded to include 17 year olds. Additional judges are required because the rehabilitative focus of the Youth Court is more resource-intensive than adult court processes.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>A Regulatory Impact Statement (RIS) was not required for the proposal to appoint further District Court Judges because of the administrative nature of the amendment.</p> <p>However, two RIS were prepared in 2016 on the proposal to expand the Youth Court jurisdiction to include 17 year olds:</p> <ul style="list-style-type: none">Investing in Children: Including 17 year olds and convictable traffic offences not punishable by imprisonment in the youth justice system – produced by Ministry of Justice – 28 November 2016Investing in Children: Including 17 year olds and convictable traffic offences not punishable by imprisonment in the youth justice system (Addendum RIS) – produced by Ministry of Justice – 28 November 2016, <p>These RIS can be found and downloaded from the Ministry of Justice and Treasury's websites:</p> <p>https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/regulatory-impact-statements/</p> <p>http://www.treasury.govt.nz/publications/informationreleases/ris</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
Treasury's opinions on the two RIS that were prepared in 2016 on the proposal to expand the Youth Court jurisdiction are set out in full in Appendix One of this disclosure statement.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>A cost-benefit analysis of the proposal to increase the number of District Court Judges was not undertaken due to the technical nature of the amendment.</p> <p>However, analysis on the size of the potential costs and benefits of the expanded Youth Court jurisdiction is available in the two RIS prepared in 2016. The relevant page numbers in the RIS (accessed through the hyperlinks above in section 2.3) are pages 15- 26 and 37-60 of the RIS; and pages 3-7 of the Addendum RIS.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The amendment to increase the number of District Court Judges is not relevant to New Zealand's international obligations.

However, the expansion of the Youth Court's jurisdiction to include 17 year-olds significantly increases the alignment of New Zealand's justice system to the United Nations Convention on the Rights of the Child. It also responds to a recommendation from the United Nations Committee on the Rights of the Child to raise the age of criminal majority to 18 years (recommendation 45 (b) in the Committee's 2016 concluding recommendations on NZ's Fifth Periodic Report).

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The amendment to increase the number of District Court Judges will not have specific implications for Māori as individuals, communities or tribal groupings.

However, the expansion of the Youth Court jurisdiction to include 17 year olds will provide greater alignment between the way young Māori are treated in the justice system and the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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Advice was not provided on the amendment to increase the number of District Court Judges.

However, advice was provided in 2016 relating to the proposal to expand the Youth Court jurisdiction. This can be found at:

<https://www.justice.govt.nz/assets/Documents/Publications/cypf-bill-supplementary-advice.pdf>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
The Chief District Court Judge's office was consulted on the proposal to increase the number of District Court Judges that can be appointed at any one time.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill 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

4.2. Does this Bill 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

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill 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

4.7. Does this Bill 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
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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Appendix One: Independent opinion on RIS quality (section 2.3.1)

As noted above, a RIS was not required for the proposal to appoint further District Court Judges because of the administrative nature of the amendment.

However, the two RIS prepared on the proposal to expand the Youth Court jurisdiction to include 17 year olds met the threshold for receiving an independent opinion on the quality of the RIS from the RIA Team based in the Treasury. Their opinions for Cabinet on these RIS are set out in full below.

RIS: Including 17 year olds, and convictable traffic offences not punishable by imprisonment in the youth justice system

28 November 2016

“The Regulatory Impact Analysis Team at the Treasury (RIAT) has reviewed the RIS “Including 17 year olds and convictable traffic offences not punishable by imprisonment in the youth justice system” produced by the Ministry of Justice. The reviewers consider that the information and analysis summarised in the RIS does not meet the quality assurance criteria for regulatory impact analysis.

The RIS does not analyse the impacts of recommendations 8, 10 to 12 and 14 in the Cabinet Paper. Officials have attempted to incorporate these late changes into the analysis, but there are evidence gaps in the consideration of overall impacts and the policy objectives appear to have been applied inconsistently. Based on the stated objectives of the reforms, the proposals have potentially significant implications for vulnerable people and for longer-term justice outcomes.”

Addendum RIS: Including 17 year olds, and convictable traffic offences not punishable by imprisonment in the youth justice system

28 November 2016

“The Regulatory Impact Analysis Team at the Treasury (RIAT) has reviewed the RIS “Including 17 year olds and convictable traffic offences not punishable by imprisonment in the youth justice system” produced by the Ministry of Justice. The reviewers consider that the information and analysis summarised in the RIS meets the quality assurance criteria for regulatory impact analysis.

The initial RIS draws on a wide range of evidence, from both New Zealand and overseas, of the probable benefits of including more young people within the Youth justice system. It also includes a formal cost benefit analysis showing that under reasonable assumptions, quantifiable effects will take some time to show a positive return, but that these are likely to increase over the long term. The addendum analyses additional proposals that generate a greater distinction between 17 year old and younger serious and recidivist offenders. It shows that it is difficult to assess in advance, whether the different impacts of these proposals on the original cost-benefit analysis will cancel each other out. If the proposals are implemented RIAT would recommend provision for a full evaluation of outcomes in practice.”