

Departmental Disclosure Statement

Public Finance (Fines Collection Costs – Budget Measures) Amendment Bill
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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.

3 May 2024

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Part One: General Policy Statement

This Bill amends the Public Finance Act 1989 to increase from 10% to 14% the percentage the Crown retains (as fines collection costs) from amounts of fines recovered for offences prosecuted by or on behalf of local authorities or other organisations. Those fines include fines imposed for infringement offences.

The increase to 14% is based on the comparable proportion charged by private debt collectors. The recovery rate will remain competitive while still helping to cover the costs of collection. The increase to the percentage reflects that the costs of collection have increased over time and it will help recover Crown costs. (Those factors also support related increases, by secondary legislation, to collection fees in line with the New Zealand Consumers Price Index.) The increase is justified because it is appropriate that some costs are recovered from the local authorities and other organisations that benefit from using the Crown's collection services. Increasing the percentage of fines retained by the Crown will (with related increases to collection fees) better ensure the collection and enforcement of court fines remain fiscally sustainable.

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

Relevant international treaties

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

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	N/A

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Stage 2 Cost Recovery Impact Statement: Increasing revenue from changes to the fees and costs in collection of fines; prepared by the Ministry of Justice, 11 April 2024. The Stage 2 Cost Recovery Impact Statement (CRIS) can be located at: Regulatory Impact Assessments New Zealand Ministry of Justice and on the Treasury website at: Regulatory impact statements The Treasury New Zealand	

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?	NO
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The Regulatory Impact Statement did not meet the threshold for a Treasury RIA team assessment.

A Quality Assurance Panel from the Ministry of Justice has reviewed the Stage 2 Cost Recovery Impact Statement prepared by the Ministry of Justice and considered the information and analysis partially meets quality assurance criteria. The panel noted that:

A panel within the Ministry of Justice has reviewed Cost Recovery Impact Statements for the increase to fees in courts and tribunals, and for the changes to the fees and costs in collection of fines. The panel considers that the information and analysis in both documents partially meet the Quality Assurance criteria.

The papers are both clear, concise and generally convincing. The panel noted that there are considerable constraints on the analysis that restricted the options considered to adjustment for the CPI (or 10% for some fees). In the absence of a more comprehensive review it is difficult to say if increasing costs have tracked with CPI.

Finally, the paper does not meet the consultation requirements because the proposals in the paper have not been the subject of any substantial consultation with relevant stakeholders.

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

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

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) Details of the estimated additional revenue and estimated costs to implement the change proposed in the Bill are set out at page 9 of the CRIS.</p> <p>(b) While the increase in the percentage of the fines recovered that will be retained by the Crown means there will be a loss of income for local authorities and other organisations who use the collections services, it is unlikely to be a substantial loss, given that revenue from fines collected by the court only makes up only a small portion of local authority revenue. The amount generated in Crown Revenue currently from retaining a percentage of these fines is small (under \$3m in 2022/23). If this was to increase proportional to the increase to the percentage retained, it is estimated that the loss of revenue from local authorities and other organisations would be an additional 1.2m per year at most. As the change only applies to new fines imposed from 1 July 2024 onwards and given that fines imposed in one year can take a number of years to be collected, it is likely that a loss of revenue for local authorities at that level would not be seen for some time (4+ years).</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
The legislation does not create new obligations or standards, or impact on existing obligations or standards.	

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?

The Bill does not affect New Zealand's international obligations.

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 increase in the percentage retained by the Crown of fines recovered for local authorities and other organisations will not engage 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

Crown Law has assessed the Public Finance (Fines Collection Costs – Budget Measures) Amendment Bill. Its advice has been provided to the Attorney-General, which is expected to be available on the Ministry of Justice's website upon introduction of the Bill: [Advice on consistency of Bills with the Bill of Rights Act | New Zealand Ministry of Justice](#)

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

3.4.1. Was the Ministry of Justice consulted about these provisions?

N/A

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

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO

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?	NO
As the Bill was prepared under Budget confidentiality and with considerable time constraints no consultation was undertaken.	

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

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

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

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

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

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

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

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

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