

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.

September 2024

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Part One: General Policy Statement

This Bill amends the District Court Act 2016 to increase the maximum number of district court judges that can be appointed at any time by 1 from 182 full-time equivalents to 183 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. More judges have been appointed to help manage the increased workload bringing the total number of full-time equivalent judges to at or near the statutory maximum. The increase in the statutory maximum is to support the implementation of the reforms in the Sentencing (Reform) Amendment Bill, which will require another District Court Judge to support a likely increase in sentencing events.

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>No Regulatory Impact Statement (RIS) was developed for the proposal to increase the limit on the number of District Court judges by one (from 182 to 183) to support the implementation of the Sentencing (Reform) Amendment Bill because of the administrative nature of the amendment. However, a RIS was prepared for the Sentencing Reform Amendment Bill at the time the decision was made.</p> <p>The RIS can be found and downloaded from the Ministry of Justice's and Treasury's website: https://www.justice.govt.nz/justice-sector-policy/regulatory-stewardship/regulatory-impact-assessments/ https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments</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?	NO
<p>The RIS above did not meet the threshold for receiving an independent opinion on its quality from the RIA Team based in the Treasury.</p>	

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?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
A cost-benefit analysis of the proposal to increase the number of District Court Judges by one was not undertaken.	

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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We have considered New Zealand's international obligations and there are no relevant obligations to the policy to be given effect by this Bill.

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 by one will not have specific implications for Māori as individuals, communities, or tribal groupings.
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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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The Bill will be vetted for consistency with the New Zealand Bill of Rights Act 1990 by Crown Law Office.

Advice provided to the Attorney-General by the Crown Law Office, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights .
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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3.4.1. Was the Ministry of Justice consulted about these provisions?	NO
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The Ministry of Justice was the lead agency for developing these provisions, and the relevant policy teams were consulted during policy development and drafting of the Bill.

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
<p>The Ministry of Justice undertook some targeted consultation during policy development, and with some non-departmental central government agencies with prosecution functions during the drafting stage. The detail of this is set out in Appendix 1.</p> <p>More widespread external consultation with the general public or other groups was not carried out because of time constraints and Ministerial direction.</p>	

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
<p>Judges' remuneration is set independently by the Remuneration Authority to maintain judicial independence. District Court judges are remunerated through a permanent legislative authority in section 31(1) of the District Court Act 2016. A permanent legislative authority is, in relation to spending public money, an express authority given by or under an Act to spend public money without further authority (see section 2 of the Public Finance Act 1989). A permanent legislative authority has been set up because Parliament wishes to signal a commitment to not interfere with judicial remuneration, to maintain judicial independence. To enable control of the overall budget for judicial remuneration, as judges have security of tenure, Parliament maintains a cap on the full-time equivalent number of permanent judges that can be appointed (the judicial cap). As the District Court (District Court Judges) Amendment Bill increases the judicial cap, this has a long-term impact on the spending of public money.</p>	

Appendix One: Further Information Relating to Part Three

External consultation – question 3.6

Consultation during policy development

In April 2024, during policy development of the Bill, the Ministry of Justice consulted representatives of the judiciary, the New Zealand Law Society, the Parole Board, the Public Defence Service, and the Chief Victims Advisor to Government about the workability of options. No feedback was received regarding the amendment to increase the maximum number of District Court Judges by one.

Consultation with some non-departmental central government agencies with prosecution functions during drafting of the Bill

In August 2024, the Ministry of Justice provided a draft of the Bill to the following non-departmental central government organisations that have prosecution functions: Commerce Commission, Fire and Emergency New Zealand, Financial Markets Authority, Human Rights Commission, New Zealand Transport Agency, Real Estate Authority, and WorkSafe New Zealand. No feedback was received regarding the amendment to increase the maximum number of District Court Judges by one.