

Hon Andrew Little
Minister of Justice

Proactive release – District Court (District Court Judges) Amendment Bill: Approval for Introduction

Date of issue: 16 July 2019

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	District Court (District Court Judges) Amendment Bill: Approval for Introduction <i>Cabinet Paper</i> Office of the Minister of Justice	Some information has been withheld in accordance with section 9(2)(h) to maintain legal professional privilege.
1a	District Court (District Court Judges) Amendment Bill	<i>The copy of the bill provided to Ministers with this paper has been withheld in accordance with section 61 of the Legislation Act 2012 and section 9(2)(h) of the Official Information Act 1982 to maintain legal professional privilege.</i> <i>The bill received Royal assent on 5 June 2019.</i> <i>The District Court (District Court Judges) Amendment Act 2019 is publicly available at: www.legislation.govt.nz</i>
1b	Departmental Disclosure Statement	<i>This document is publicly available at: disclosure.legislation.govt.nz</i>
2	District Court (District Court Judges) Amendment Bill: Approval for Introduction <i>Cabinet Minute</i> Cabinet Office <i>LEG meeting of 21 May 2019</i>	Some information has been withheld in accordance with section 9(2)(h) to maintain legal professional privilege.

Budget Sensitive

Office of the Minister of Justice

Chair, Cabinet Legislation Committee

District Court (District Court Judges) Amendment Bill: Approval for Introduction

Proposal

1. I seek approval:

1.1. to introduce the District Court (District Court Judges) Amendment Bill (the Bill), which will increase the maximum number of District Court Judges that can be appointed at any time from 160 full-time equivalents (FTE) to 182 FTE [CAB-19-MIN-0174.09, CAB-19-MIN-0174.09.22, and CAB-18-MIN-0158.06 (Initiative ID 10643)]

1.2. for the Bill to pass all stages under urgency as part of Budget night legislation on 30 May 2019.

Policy

2. The District Court Act 2016 (the Act) prescribes the maximum number of District Court Judges that can be appointed at any time. The Bill amends the Act to increase the maximum number of District Court Judges that can be appointed at any time from 160 FTE to 182 FTE. The additional 22 FTE judges comprise:

2.1. an additional ten District Court Judges approved for Budget 19 [CAB-19-MIN-0174.09 and CAB-19-MIN-0174.09.22];

2.2. two further judges approved in Budget 18 [CAB-18-MIN-0158.06 (Initiative ID 10643)]

2.3. a buffer of ten District Court Judges to enable further judges to be funded through future Budgets without the need for further legislative change.

3. The additional judges, which have been funded, cannot be appointed until the maximum number of judges prescribed in the Act has been raised.

4. The ten additional judges approved for Budget 19 are needed to help the District Court manage its workload. This court deals with over 200,000 cases each year. Over the past few years, the amount of time it is taking to resolve cases, particularly in the family and criminal jurisdictions, has increased.¹ This is largely due to an increase in 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.² Additional funding has also been approved for Oranga Tamariki – Ministry for Children and other sector agencies to support the operation of the District Court.

¹ The Family Court is a division of the District Court.

² Community Magistrates, Justices of the Peace and Court Registrars hear some cases.

5. The two new judges approved in Budget 18 will assist the Youth Court to deal with the additional work arising from the expansion of its jurisdiction to include 17 year olds.³ The expanded jurisdiction, which comes into effect on 1 July 2019, is expected to improve reoffending outcomes for 17 year olds. Those dealt with in adult courts have a 15% higher reoffending rate than those dealt with in the Youth Court.
6. I am also proposing to increase the maximum number of judges that can be appointed by a further ten judges, in addition to the numbers referred to in paragraphs 4 and 5. This will avoid the need for further legislative change if additional judges are funded in future Budgets. Ministry of Justice analysis indicates that further judges are needed for the District Court to work effectively.

Regulatory impact analysis

7. Two Regulatory Impact Statements were submitted to Cabinet in 2016 when the proposal to expand the Youth Court jurisdiction to include 17 year olds was considered [CAB-16-MIN-0637]. In 2016, the Treasury assessed these Regulatory Impact Statements as meeting the quality assurance criteria for regulatory impact analysis.
8. Impact Analysis was not required for the Budget 19 initiative or the proposed buffer because of the administrative nature of these proposals. Additional District Court Judges are needed to manage the District Court's increased workload.

Compliance

9. The Bill complies with:
 - 9.1. the principles of the Treaty of Waitangi;
 - 9.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 9.3. the disclosure statement requirements (the disclosure statement is attached to this paper);
 - 9.4. the principles and guidelines set out in the Privacy Act 1993;
 - 9.5. relevant international standards and obligations;
 - 9.6. the *Legislation Guidelines* (2018 edition) maintained by the Legislation Design and Advisory Committee.

Consultation

10. The Treasury and the Chief District Court Judge's office were consulted on the proposal to appoint ten additional District Court Judges through Budget 19 to help manage the District Court's increased workload.
11. The following agencies were consulted in 2016 on the proposal to expand the Youth Court's jurisdiction to include 17 year olds: the Ministries of Social Development, Health

³ Youth Court Judges are also District Court Judges. The Youth Court is also division of the District Court. Additional Youth Court Judges are needed because the rehabilitative focus of the Youth Court is more resource intensive than the adult court processes.

Education, Transport, and Pacific Peoples, the New Zealand Police, the Department of Corrections, the Treasury, Te Puni Kōkiri and the State Services Commission.

Binding on the Crown

12. The Act binds the Crown. The Bill will not change this.

Allocation of decision making powers

13. The Bill does not affect the allocation of decision-making powers between the Executive and courts or tribunals.

Associated regulations

14. No regulatory changes are needed.

Other instruments

15. The Bill does not include any provisions empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

16. The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

Commencement of legislation

17. The Bill will come into effect on the day after Royal assent.

Parliamentary stages

18. s9(2)(h)

19. I seek approval to pass all stages of the Bill under urgency as part of Budget night legislation. Given the technical nature of the Bill, and its purpose to primarily give effect to Budget decisions, I consider enactment under urgency to be appropriate.

20. Further, the Ministry of Justice has advised that recruitment of the additional judges cannot commence until the Act has been amended. Enactment under urgency will minimise the period between Budget 19 and the appointment of the new judges funded through Budgets 18 and 19.

21. The Bill should be introduced and passed on 30 May 2019.

Proactive Release

22. I propose to proactively release this paper in full within 30 business days after Budget 19 announcements.

Recommendations

23. The Minister of Justice recommends that the Committee:

1 s9(2)(h)

2 **note** that the Bill will implement Budget decisions to increase the maximum number of District Court Judges that can be appointed at any time from 160 full-time equivalents (FTE) to 182 FTE to:

- help the District Court manage its increased workload [CAB-19-MIN-0174.09 and CAB-19-MIN-0174.09.22];
- assist the Youth Court to deal with the additional work arising from the expansion of its jurisdiction to include 17 year olds [CAB-18-MIN-0158.06 (Initiative ID 10643)];
- enable additional judges to be funded through future Budgets and appointed without the need for further legislative change;

3 **approve** the Bill for introduction, subject to the approval of the government caucuses and sufficient support in the House of Representatives;

4 **agree** the Bill is to pass all stages under urgency as part of Budget night legislation;

5 **agree** that the Bill be introduced and passed on 30 May 2019.

Authorised for lodgement

Hon Andrew Little
Minister of Justice



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

District Court (District Court Judges) Amendment Bill: Approval for Introduction

Portfolio Justice

On 21 May 2019, the Cabinet Legislation Committee:

- 1 s9(2)(h) [REDACTED]
- 2 **noted** that the Bill will implement Budget decisions to increase the maximum number of District Court Judges that can be appointed at any time from 160 full-time equivalents (FTE) to 182 FTE to:
 - 2.1 help the District Court manage its increased workload (Initiatives ID 10682 and 11662) [CAB-19-MIN-0174.09 and CAB-19-MIN-0174.09.22];
 - 2.2 assist the Youth Court to deal with the additional work arising from the expansion of its jurisdiction to include 17 year olds [CAB-18-MIN-0158.06 (Initiative ID 10643)];
 - 2.3 enable additional judges to be funded through future Budgets and appointed without the need for further legislative change;
- 3 **approved** the District Court (District Court Judges) Amendment Bill [PCO 21826/1.5] for introduction, subject to the approval of the government caucuses and sufficient support in the House of Representatives;
- 4 **agreed** the Bill is to pass all stages under urgency as part of Budget night legislation;
- 5 **agreed** that the Bill be introduced and passed on 30 May 2019.

Vivien Meek
Committee Secretary

Hard-copy distribution: (see over)

Present:

Rt Hon Jacinda Ardern
Rt Hon Winston Peters
Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon David Parker
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Damien O'Connor
Hon Tracey Martin
Hon Julie Ann Genter
Hon Eugenie Sage
Hon Ruth Dyson (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Hard-copy distribution:

Minister of Justice

RELEASED BY THE MINISTER OF JUSTICE