



## COVERSHEET

<b>Minister</b>	Hon Dr David Clark	<b>Portfolio</b>	Commerce and Consumer Affairs
<b>Title of Cabinet paper</b>	Resolving Historical Issues with Companies Office Funding and Proposed Long-Term Funding Model	<b>Date to be published</b>	1 July 2022

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
November 2021	Resolving Historical Issues with Companies Office Funding and Proposed Long-Term Funding Model	Office of the Minister of Commerce and Consumer Affairs
17 November 2021	Resolving Historical Issues with Companies Office Funding and Proposed Long-Term Funding Model DEV-21-MIN-0230 Minute	Cabinet Office

### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Legal professional privilege or Confidential advice to Government.



# Cabinet Economic Development Committee

## Minute of Decision

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### Resolving Historical Issues with Companies Office Funding and Proposed Long-Term Funding Model

**Portfolio**                      **Commerce and Consumer Affairs**

On 17 November 2021, the Cabinet Economic Development Committee:

- 1        **noted** that there has been cross-subsidisation of certain registry functions carried out by the Companies Office (described in Treasury guidance as systematic under- and over-recovery) under a range of legislation;
- 2        **noted** that this is a legacy issue that predates the current government and goes back to prior to the formation of the Ministry of Business Innovation and Employment (MBIE);
- 3        **legal privilege** [REDACTED]
- 4        **agreed** to retrospectively validate MBIE's collection and use, for corporate registry purposes, of fees prescribed and collected under any of the following legislation:
  - 4.1      the Companies Act 1993;
  - 4.2      New Zealand Business Number Act 2016;
  - 4.3      Incorporated Societies Act 1908;
  - 4.4      Insolvency Practitioners Regulation Act 2019;
  - 4.5      Limited Partnerships Act 2008;
  - 4.6      Building Societies Act 1965;
  - 4.7      Friendly Societies and Credit Unions Act 1982;
  - 4.8      Retirement Villages Act 2003;
  - 4.9      Financial Markets Conduct Act 2013;
  - 4.10     Financial Service Providers (Registration and Dispute Resolution) Act 2008;
  - 4.11     Personal Property Securities Act 1999;
  - 4.12     Auditor Regulation Act 2011;

- 4.13 Industrial and Provident Societies Act 1908;
- 4.14 Financial Reporting Act 2013;
- 4.15 Building Societies Act 1965;
- 4.16 Charitable Trusts Act 1957;
- 4.17 Securities Act (Contributory Mortgage) Regulations 1988;

- 5 **agreed** to provide that memorandum account funds that have historically been collected through fees charged under one of the pieces of legislation referred to in paragraph 4 above may be used to fund corporate registry services and related functions under each of the other said piece of legislation;
- 6 **agreed** to enable some or all users of a register established under one of the pieces of legislation listed in paragraph 4 above to be charged fees and levies for corporate registry services and related functions provided under one of the other said pieces of legislation;
- 7 **agreed** to amend charging provisions as necessary to deliver a consistent and coherent system of charging for both regulatory functions and the general functions of the regulator;
- 8 **authorised** the Minister of Commerce and Consumer Affairs to extend the decisions in paragraphs 4 to 7 above to other legislation that may be identified as necessary to give full effect to those policies;

**Financial implications**

- 9 **agreed** to fund the continued provision of corporate registry services (such as registration of an incorporated society) provided by the Companies Office that are forecast to operate at a loss in 2021/22, as a result of discontinuing any cross-subsidisation between registers;
- 10 **approved** the following changes to appropriations to give effect to the policy decision in paragraph 9 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Business, Science and Innovation Minister of Commerce and Consumer Affairs	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Departmental Output Expense: Registration and Provision of Statutory Information (funded by revenue Crown)	\$3.746	-	-	-	-

- 11 **agreed** that the change to the appropriation for 2021/22 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- 12 **agreed** that the expenses incurred under paragraph 10 above be charged against the between-Budget contingency established as part of Budget 2021;

**Legislative implications**

- 13 **approved** the inclusion of two Bills giving effect to paragraphs 4 to 8 above on confidential advice

- 14 **agreed** that a Bill giving effect to paragraphs 4 and 5 above be introduced on Budget night and passed through all stages under urgency;
- 15 **invited** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to paragraphs 4-8 above;
- 16 **authorised** the Minister of Commerce and Consumer Affairs to make any minor policy changes or amendments necessary to address minor or technical matters that are not inconsistent with the recommendations in the paper under DEV-21-SUB-0230.

Janine Harvey  
Committee Secretary

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**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods  
Hon David Parker  
Hon Stuart Nash  
Hon Kris Faafoi  
Hon Willie Jackson  
Hon Kiri Allan  
Hon Dr David Clark  
Hon Phil Twyford  
Rino Tirikatene MP  
Dr Deborah Russell MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV