



COVERSHEET

Minister	Hon Scott Simpson	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Retail Payment System (Ban on Merchant Surcharges) Amendment Bill: Approval for Introduction	Date to be published	19 September 2025

List of documents that have been proactively released

Date	Title	Author
September 2025	Retail Payment System (Ban on Merchant Surcharges) Amendment Bill: Approval for Introduction	Office of Minister of Commerce and Consumer Affairs
11 September 2025	Retail Payment System (Ban on Merchant Surcharges) Amendment Bill: Approval for Introduction LEG-25-MIN-0180 Minute	Cabinet Office
3 September 2025	Addendum to Regulatory Impact Statement: Ban on merchant surcharges for accepting payments	MBIE

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 Confidential advice to Government.

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Cabinet Legislation Committee

Retail Payment System (Ban on Merchant Surcharges) Amendment Bill: Approval for Introduction

Proposal

1. I seek approval for the introduction of the Retail Payment System (Ban on Merchant Surcharges) Amendment Bill (**the Bill**) on 15 September 2025. I also seek agreement to refer the Bill to the Finance and Expenditure Committee for four months and one days consideration, with the aim of the Bill being enacted as soon as is practicable.

Policy

2. Payment surcharges are an additional charge on the price of many everyday goods and services for New Zealanders. These surcharges are often excessive, hidden to consumers, and mask the total cost of goods and services.
3. Merchants are charged to receive Mastercard and Visa payments processed through the schemes' networks, and up to 30% of merchants seek to recover these costs through surcharges. The Commerce Commission (**Commission**) estimates that consumers pay up to \$150 million in payment surcharges each year, however about \$45 - \$65 million likely exceeds merchants' reasonable costs.
4. On 17 July 2025, the Commission released its final decision to further regulate interchange fees on the Mastercard and Visa credit and debit networks. Interchange fees are a major component of the total amount merchants are charged, and the Commission's decision is expected to save New Zealand businesses about \$90 million annually from December this year. This builds on the initial fee caps set in 2022, which led to \$140 million in annual savings for New Zealand businesses.
5. On 21 July 2025, Cabinet agreed to amend the Retail Payment System Act 2022 (**the RPS Act**) to introduce a ban on consumer surcharges for the majority of in-store payments [ECO-25-MIN-0106]. Cabinet agreed that the ban would take effect shortly after the Commission's decision to lower interchange fees within the Visa and Mastercard networks so as to minimise the impact for merchants, especially smaller businesses. Cabinet agreed:
 - 5.1. that the ban would initially cover (**the initial ban**):
 - i. Visa and Mastercard in-store domestic debit and credit payments (all methods, including contactless);
 - ii. EFTPOS in-person debit payments; and

- 5.2. the initial ban could be extended through regulations, on the recommendation of the Minister of Commerce and Consumer Affairs, to other payment methods (e.g. online), classes of issuer (e.g. foreign-issued), classes of payment (e.g. prepaid cards) and payment networks (e.g. PayPal).
6. Cabinet also agreed the Commission, as New Zealand's retail payments regulator, would monitor and enforce the ban, and to provide:
 - 6.1. for the existing enforcement provisions (corrective notices and pecuniary penalties) in the Retail Payment System Act 2022 to apply to the ban; and
 - 6.2. that any surcharge charged in contravention of the ban is unenforceable and, if paid, the consumer is entitled to a refund from the merchant.
7. This policy is reflected in the attached Bill.

Additional policy decisions made since July 2025 Cabinet decisions

8. In July 2025, Cabinet authorised me to make additional policy decisions and minor or technical changes, consistent with the general policy intent, on issues that arise in drafting or passage through the House [ECO-25-MIN-0106].
9. I have since taken several decisions related to the scope of the initial ban following advice from my officials. Targeted stakeholder consultation has made it clear that the ban needs to be simple and easy for merchants and consumers to understand. A ban that differentiates between card types within the Visa and Mastercard networks would be complex for merchants to implement, and would likely create friction at the till when consumers go to pay. Merchants would also struggle to appropriately surcharge transactions that fell outside the scope of the ban, requiring significant ongoing oversight by the Commerce Commission.
10. The Reserve Bank of Australia has recently noted the implementation risks associated with a partial ban, as initially proposed by the Australian Government¹, and now proposes a broad restriction on surcharging for scheme card payments.²
11. I propose that the initial ban is extended to also cover in-store payments relating to:
 - 11.1. additional **domestic-issued** cards in the Visa and Mastercard **debit** networks (**prepaid** and **commercial debit** cards);
 - 11.2. additional **domestic-issued** cards in the Visa and Mastercard **credit** networks (**commercial credit** cards); and
 - 11.3. all **foreign-issued** cards in the Visa and Mastercard **debit** and **credit** networks, including commercial debit and credit cards.

¹ In late 2024, the Australian Government proposed banning surcharges on debit cards from January 2026, subject to a review by the Reserve Bank of Australia.

² <https://www.rba.gov.au/payments-and-infrastructure/review-of-retail-payments-regulation/2025-07/>

12. I consider that the expanded scope of the ban, to include all in-store EFTPOS, Visa and Mastercard consumer payment cards, aligns with previous Cabinet policy objectives to reduce drip pricing and excessive surcharging and mitigate risks for fintechs entering the payments sector. Further details about the reasons for these decisions are outlined in Annex One. In summary,
 - 12.1. The original decision for a differential ban that applied to domestic-issued but not foreign-issued cards would raise the risk of excess surcharges for overseas visitors given the difficulties for merchants in calculating the associated marginal costs. In addition, new interchange fee caps on the schemes' foreign-issued cards should mitigate the impact of extending the surcharge ban for merchants whose customers use these cards.
 - 12.2. Fintechs that offer prepaid debit cards have raised concerns that the original decision to exempt these from the surcharging ban would have reduced the attractiveness of their products, and imposed additional costs.
 - 12.3. Domestic-issued commercial debit cards were intended to be included in the original ban, and this subsequent decision makes this clear. These cards are subject to regulated interchange fee caps, which are the same as those applied to personal debit cards.
 - 12.4. Interchange fees for commercial credit cards continue to be unregulated and are more costly for merchants to accept. However, I consider that not including commercial credit cards would cause confusion for consumers and merchants.
13. These additional policy decisions are reflected in the Bill and will allow the surcharge ban to be implemented more quickly and be more easily understood by merchants and consumers, with the effect of a ban on merchant surcharging for all in-store Visa and Mastercard transactions. A comprehensive ban achieves the lowest compliance costs for merchants, and will best achieve Cabinet's intent to improve price transparency and the consumer experience.

Aspects of the Bill that may be contentious

14. Merchants are likely to raise concerns that the surcharging ban may raise their costs, particularly if consumers respond to the removal of surcharges by increasing their use of higher cost payment methods, such as contactless or credit. However, I consider that this ban protects consumers and, with the additional policy decisions, will be easier for merchants to implement and understand.
15. Some business stakeholders will also be concerned that the one-month implementation period following commencement does not provide sufficient time for:
 - 15.1. the Commission and industry/merchant bodies to issue merchant and consumer guidance; and
 - 15.2. terminal providers to conduct software updates, testing, and release in circumstances where merchants wish to continue surcharging for payments

that are excluded from the initial ban and/or offer discounts for low-cost payment methods.

16. The Select Committee may consider this issue further, but I am keen for consumers to enjoy the benefits of the ban at the earliest opportunity.

Impact Analysis

17. The regulatory impact statement (**RIS**) *Ban on merchant surcharges for accepting payments* was prepared and submitted at the time that Cabinet approved the policy relating to the Bill [ECO-25-MIN-0106]. A panel of officials from the Ministry of Business, Innovation and Employment (**MBIE**) reviewed the RIS and found that it partially meets quality requirements. MBIE prepared the attached *Addendum to RIS* for the additional policy decisions on the basis that these changes do not materially impact on the analysis. The MBIE panel confirms that its assessment is unchanged.

Compliance

18. The Bill complies with:
 - 18.1. the principles of the Treaty of Waitangi;
 - 18.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 18.3. the disclosure statement requirements (a disclosure statement has been prepared and is attached to this paper);
 - 18.4. the principles and guidelines set out in the Privacy Act 2020;
 - 18.5. relevant international standards and obligations; and
 - 18.6. the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

19. The Ministry of Business, Innovation and Employment (**MBIE**) consulted with 11 industry and merchant stakeholders via individual meetings in August and September 2025.
20. Officials also consulted with the Commerce Commission, the Treasury, the Ministry for Regulation, the Ministry of Justice, the Reserve Bank of New Zealand, and MBIE (Small Business and Tourism and Hospitality) in developing the policy and the Bill. The Department of Prime Minister and Cabinet was informed.

Binding on the Crown

21. The Bill would bind the Crown, with the exception of pecuniary penalties, for which the Crown shall not be liable.

Creating new agencies or amending law relating to existing agencies

- 22. The legislation does not create any new agencies. The Act will amend the law relating to existing agencies. The Ministry of Business, Innovation and Employment will administer the Act and the Commission will be empowered as the regulator.
- 23. The Act will not amend the existing coverage of the Ombudsmen Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of decision-making powers

- 24. The Executive would be empowered to make regulations that extend the ban.
- 25. The courts would be able to make decisions about contraventions and pecuniary penalties, and other enforcement matters. Their powers under this Act are based on existing powers in the RPS Act.

Associated legislation

- 26. Regulations will not be needed to bring the Bill into operation.
- 27. Cabinet agreed to include an empowering provision in the Bill to enable regulations to extend the ban to other payment methods, classes of issuer, classes of payment and payment networks [ECO-25-MIN-0106]. As such, the Bill includes a regulation-making power to prescribe other circumstances in which a merchant must not charge a payment surcharge. Before making a recommendation, the Minister responsible for administering the Act must consult affected parties and the Commission.

Commencement of legislation

- 28. The Act will come into force one month after the date on which it receives the Royal assent.

Parliamentary stages

- 29. I intend to introduce the Bill on 15 September 2025, and depending on the availability of House time, will move the first reading of the Bill in the week beginning 15 September. The Bill should be passed as soon as is practicable.
- 30. Confidential advice to Government
- 31. I propose the Bill be referred to the Finance and Expenditure Committee, with a report-back date of 17 January 2026.

Proactive Release

- 32. I intend to proactively release this paper within 30 business days, subject to possible redactions in line with the Official Information Act 1982.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

1. **note** that the Retail Payment System (Ban on Merchant Surcharges) Amendment Bill (**the Bill**) Confidential advice to Government
2. **note** that the Bill proposes an initial, targeted ban on certain in-store payment surcharges, with the ability for regulations to extend the ban in future as agreed by Cabinet [ECO-25-MIN-0106];
3. **note** that Cabinet agreed the initial ban would apply to Visa and Mastercard in-store domestic debit and credit payments (all methods, including contactless) and EFTPOS in-person debit payments;
4. **note** that Cabinet authorised me to make additional policy decisions and minor or technical changes, consistent with the general policy intent previously agreed by Cabinet;
5. **note** that additional policy decisions have been made under delegated authority to the scope of the initial ban on surcharging to:
 - 5.1. extend the initial ban to:
 - 5.1.1. in-store **foreign-issued** Visa and Mastercard **debit** (personal, commercial and prepaid) and **credit** payments;
 - 5.1.2. in-store **domestic** Visa and Mastercard **prepaid debit** payments;
 - 5.1.3. in-store **domestic and foreign-issued** Visa and Mastercard **commercial credit** payments;
 - 5.2. clarify that the initial ban includes in-store **domestic** Visa and Mastercard **commercial debit** payments;
6. **approve** the Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
7. **agree** that the Bill be introduced on 15 September 2025;
8. **agree** that the Government propose that the Bill be:
 - 8.1. referred to the Finance and Expenditure Committee for consideration, with a report-back date of 17 January 2026; and
 - 8.2. enacted as soon as practicable.

Authorised for lodgement

Hon Scott Simpson

Minister of Commerce and Consumer Affairs

Annex One: Reasons for additional policy decisions

Foreign-issued cards

1. The first additional policy decision I have made provides for the scope of the initial ban to be extended to cover in-store foreign-issued Visa and Mastercard debit (personal, commercial and prepaid) and personal credit payments.
2. From 1 May 2026, in-store foreign-issued Visa and Mastercard payments will become subject to the following interchange fee caps:

Foreign-issued cards	Current cap	Current market rates	New caps (Final decision)
Debit (personal, commercial and prepaid)	Uncapped	0.60% – 2.40%	0.60%
Personal credit	Uncapped	1.10% – 2.40%	0.70%

3. The new debit and personal credit caps are slightly higher than the equivalent proposed domestic caps (0.2 per cent for contactless debit and 0.3 per cent for credit) and will not come into effect until five months after the revised domestic caps. However, the new caps will reduce merchants' costs of acceptance, and I no longer consider that there is justification to exempt foreign-issued cards from the surcharge ban.
4. If the initial ban was retained, stakeholders have indicated that merchants would find it difficult to identify the marginal costs of acceptance of foreign-issued cards and would be likely to apply excessive surcharges to them, potentially in the order of 5 per cent. This could create significant tension with tourists, and risks undermining the Government's growth agenda. I consider that the risk of unintended consequences is too high, and I have decided to extend the initial ban to cover foreign-issued Visa and Mastercard debit (personal, commercial and prepaid) and personal credit payments. Foreign commercial credit would also be subject to the initial ban (see below).
5. This decision means the ban will have a greater impact on merchants who operate in high tourism areas and accept more foreign-issued cards. However, it will also significantly lower merchants' compliance burden, and reduce regulatory enforcement costs.

Prepaid debit cards

6. The second additional policy decision I have made provides for the scope of the ban to be extended to cover in-store domestic Visa and Mastercard prepaid debit payments. The Commission has chosen not to cap interchange on domestic prepaid debit to support competition and efficiency in the domestic card issuing market.
7. Cabinet previously decided to exclude prepaid debit from the initial ban on the basis that allowing merchants to surcharge for Visa and Mastercard prepaid payments

would support competition by providing fintechs a margin to compete and sending signals to switch to new payment methods. However, I have since heard concerns from fintechs who offer prepaid products that the exclusion would force them to reissue their cards, with costs in the order of \$2–\$3 million for a single fintech stakeholder.

8. I am concerned that excluding prepaid debit would impose a significant regulatory disadvantage on New Zealand's fintech sector which relies on prepaid debit products to compete with the incumbent banks debit offerings (which will soon be surcharge free). My decision to extend the ban to cover in-store Visa and Mastercard prepaid debit will support new entry into the payments and banking sectors.

Commercial cards

9. The final additional policy decision I have made clarifies the treatment of in-store commercial³ Visa and Mastercard debit and credit cards, following stakeholder inquiries.

A. Commercial debit

10. Under the Commission's final decision:
 - 10.1. domestic Visa and Mastercard commercial debit payments will remain subject to a 0.20 per cent interchange cap; and
 - 10.2. from 1 May 2026, a 0.60 per cent interchange cap will apply to foreign-issued Visa and Mastercard commercial debit payments.
11. I have decided that all Visa and Mastercard commercial debit payments will be subject to the initial ban. This reflects stakeholder commentary that the ban needs to be broadly scoped, simple and easy to implement.

B. Commercial credit

12. The Commission has chosen not to cap interchange on domestic and foreign-issued Visa and Mastercard commercial credit cards. These transactions will continue to incur interchange fees of approximately 0.45–2.20 per cent for domestic and 1.85–2.35 per cent for foreign. The Commission's final decision notes that it considers these fees are too high, but that further analysis is required to determine the appropriate cap.
13. I have decided that Visa and Mastercard commercial credit payments should be included in the initial ban. This will make the ban simpler for merchants and consumers to understand, with the effect of a ban on surcharging for all in-person Visa and Mastercard transactions.

³ Issued to businesses, for use wholly for purposes other than personal, domestic or household purposes.