



# COVERSHEET

<b>Minister</b>	Hon Nicola Willis	<b>Portfolio</b>	Economic Growth
	Hon Cameron Brewer		Commerce and Consumer Affairs
<b>Title of proactive release</b>	Cabinet papers for the Fair Trading Amendment Bill	<b>Date to be published</b>	11 June 2026

## List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
October 2025	Cabinet paper: Amendments to the Fair Trading Act 1986	Office of the Minister of Commerce and Consumer Affairs
13 October 2025	Amendments to the Fair Trading Act 1986 CAB-25-MIN-0353 Minute (revised)	Cabinet Office
April 2026	Cabinet paper: Fair Trading Amendment Bill – Approval for Introduction	Office of the Minister of Commerce and Consumer Affairs
30 April 2026	Fair Trading Amendment Bill: Approval for Introduction LEG-26-MIN-0077 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 Constitutional conventions.

## In Confidence

Office of the Minister of Commerce and Consumer Affairs

Cabinet Economic Policy Committee

## Amendments to the Fair Trading Act 1986

### Proposal

- 1 This paper seeks agreement to amend the Fair Trading Act 1986 (**the Act**) to strengthen the Act's penalties regime, support online service providers to disrupt scams, and to streamline updating product safety regulations.

### Relation to government priorities

- 2 The proposals in this paper support the Government's economic growth priority by supporting New Zealand businesses and consumers to transact fairly, efficiently, and with confidence.

### Executive Summary

- 3 The Act is a key piece of consumer legislation that underpins a fair trading environment for New Zealand businesses and consumers. There have been no substantial changes to the Act since 2014, and evidence now shows that the Act's criminal penalties regime and penalty levels need updating to adequately deter unfair conduct.
- 4 I propose amending the Act to shift many of the criminal penalties for breaching its provisions, to a civil regime. This amendment will allow for higher monetary penalties to better deter breaches of the Act across sectors and enable more flexible enforcement against unfair conduct.
- 5 Increased maximum penalty amounts, modelled on the Financial Markets Conduct Act 2013 (**FMC Act**), will also be included in the Act. These penalty levels will help to better deter breaches of the Act and enable penalties to be imposed that better reflect the commercial gain from non-compliance.
- 6 In addition to strengthening the penalties regime, I propose amending the Act to give online service providers legal protection if they disrupt suspected online scam content in good faith. This will encourage providers to act more quickly to disrupt scams and protect New Zealand consumers online.
- 7 I also propose updating the Act to allow product safety regulations to reference future versions of the same standard, subject to approval by a designated official. This improvement removes the need to seek Cabinet approval to update product safety standards every time a new version of a standard is released. This will provide an efficient way to ensure product safety rules are kept up-to-date and aligned with best practice.

## Background

- 8 The purpose of the Act is to contribute to a trading environment in which the interests of consumers are protected, businesses compete effectively, and consumers and businesses participate confidently. To this end, the Act:
- 8.1 prohibits certain unfair conduct and practices in relation to trade;
  - 8.2 promotes fair conduct and practices in relation to trade;
  - 8.3 provides for the disclosure of consumer information relating to goods and services; and
  - 8.4 promotes safety in respect of goods and services.
- 9 The Act was last substantively updated in 2014. As set out below, there is evidence that the Act's penalties regime does not effectively deter non-compliance, and its criminal penalties regime is not the most efficient or effective way of addressing many breaches of the Act.
- 10 In June 2025, Minister Willis as Acting Minister of Commerce and Consumer Affairs (Grocery Sector) brought a paper to Cabinet identifying the need to ensure the Act's penalties regime promotes consumer interests and prevents unfair practices [CAB-25-MIN-0236 refers]. This Cabinet paper seeks to strengthen the Act's penalties regime by inserting a civil liability regime, and by significantly increasing maximum penalty levels for breaches.

## Strengthening the Act's penalties regime

### *Inserting a civil penalties regime in the Fair Trading Act*

- 11 The Act currently has a criminal regime for all breaches of the Act with monetary penalties per offence of up to \$200,000 for an individual, and up to \$600,000 for a body corporate. These levels were last updated in 2014. The current criminal regime:
- 11.1 requires any breach to be proven 'beyond reasonable doubt' which can be complex and costly and can prevent action on some breaches;
  - 11.2 does not reflect the commercial nature of the conduct the Act deals with, which may not warrant criminal convictions;
  - 11.3 does not align with the higher civil penalty regimes used to enforce other legislation like the FMC Act or Commerce Act 1986 (Commerce Act); and
  - 11.4 does not enable penalties to be set at higher levels that could more effectively deter breaches of the Act by businesses and individuals.
- 12 The Commerce Commission (the **Commission**) is receiving increasing volumes of complaints from consumers about potential breaches of the Act. In 2020/21 the Commission received 8,841 complaints, and by 2024/25 this had increased to 10,851 complaints – a 22 percent increase in five years. Over this time, the Commission received a total of over 48,000 complaints related to the Fair Trading Act. These high volumes of complaints suggest that there are persistent concerns about potential unfair trading conduct, and that the current penalties regime may not sufficiently deter non-compliance.

## IN CONFIDENCE

- 13 The penalties regime has also, in certain high-profile instances, not enabled courts to impose penalties that appropriately reflect the estimated commercial benefit from breaching the Act. This means that businesses considering breaching the Act could view maximum penalties as an acceptable cost of the conduct, that may be outweighed by the benefits of a breach.
- 14 In 2023, One New Zealand (formerly Vodafone) was convicted of 18 charges under section 11 of the Act for misleading customers about its FibreX broadband service and fined \$3.675 million. While this was a record fine, the Commission estimated One New Zealand's revenue from the conduct was over \$22 million – significantly higher than the penalty imposed or the maximum amount that could have been imposed under the Act currently (\$10.8 million for 18 charges).
- 15 I propose inserting a civil liability regime in the Act to deal with most breaches of the Act's provisions. Civil proceedings are decided on the "balance of probabilities" (the civil standard) rather than the higher criminal standard of "beyond reasonable doubt". While it removes the potential for a criminal conviction, it enables fines to be set at higher levels by removing the punitive 'value' of a conviction and replacing this with a higher maximum penalty.
- 16 This approach is better suited to addressing commercial misconduct and is already used in the FMC Act, the Commerce Act, and Australia's Competition and Consumer Act 2010. The civil liability regime I propose inserting in the Fair Trading Act will allow the courts to make orders broadly similar to those in the FMC Act, and will include the relevant legislative provisions to enable such orders to be made. [See explanatory note at the bottom of this page](#)
- 17 There are some breaches of the Act that should remain criminal offences where the conduct can have serious impacts on consumers or impede the course of law, such as:
- 17.1 demanding or accepting payment without intending to supply as ordered;
  - 17.2 promoting or operating pyramid selling schemes;
  - 17.3 serious product safety contraventions – like breaching unsafe goods notices, compulsory product recalls, or suspension of supply notices;
  - 17.4 ignoring management bans (where a person is banned from being a director of a New Zealand business for breaching fair trading law);
  - 17.5 failing to supply information, documents or evidence to the Commission; and
  - 17.6 resisting, obstructing or delaying an authorised person from exercising powers under the Act.
- 18 I propose that such provisions continue to be criminal offences in line with guidance from the Legislation Design and Advisory Committee (**LDAC**)<sup>1</sup>. However, I want to ensure that such egregious conduct is deterred so I also propose increasing penalties for these, as outlined below.
- 19 The Act also has infringement offences for a small number of provisions involving straightforward and low-level breaches, like not disclosing a person's

<sup>1</sup> LDAC Legislation Guidelines:2021 edition, chapter 26.

## IN CONFIDENCE

trader status online. A breach of these provisions incurs an infringement notice and fee of up to \$2,000. These provisions will remain criminal offences.

### *Increasing maximum penalty levels in the Act to deter unfair conduct*

- 20 The Act currently has maximum penalties of \$200,000 for individuals and \$600,000 for body corporates, for breaches unfair conduct provisions like misleading pricing (Part 1), product safety (Part 3), and safety of services (Part 4). I propose increasing maximum penalties for these breaches based on penalties for similar provisions in the FMC Act. Maximum penalties would be set at the greater of:
- 20.1 **\$1 million** for individuals or **\$5 million** for body corporates; or
  - 20.2 **three times** the value of the commercial gain made or loss avoided; or
  - 20.3 the **consideration** for the relevant transaction(s) that constituted the contravention<sup>2</sup>.
- 21 The Act also currently has penalties for breaches of management banning orders that are set at \$60,000 for any person. I propose increasing the maximum penalty for this breach based on the penalty for breaching banning orders in the FMC Act. I propose increasing this maximum penalty to:
- 21.1 **\$200,000** for any person.
- 22 Contraventions of the Act's consumer information regime (Part 2) and consumer transactions and auctions (Part 4A) currently have maximum penalties of \$10,000 for individuals and \$30,000 for body corporates. I propose increasing maximum penalties for this conduct to:
- 22.1 **\$60,000** for an individual; and
  - 22.2 **\$200,000** for a body corporate.
- 23 Under Part 5 it is an offence to resist, obstruct or delay a person exercising a power under the Act (section 47F) and to fail to supply information, documents or evidence (section 47J). These provisions both have current maximum penalties of \$10,000 for individuals and \$30,000 for body corporates. I propose increasing maximum penalties for these offences to:
- 23.1 **\$60,000** for an individual; and
  - 23.2 **\$200,000** for a body corporate.
- 24 A full list of the proposed penalties is set out in **Annex 1**. Note that the increased penalties above will apply to conduct under the new civil liability regime as well as conduct that will remain criminal as set out in **Annex 1**.
- 25 Increasing the Act's penalties modelled on equivalent levels in the FMC Act ensures that similar breaches of each – like misleading and deceptive conduct – face similar penalties. It also reflects feedback from stakeholders that setting penalties at higher levels (such as in line with the Commerce Act's \$10 million maximum) could disproportionately deter investment by businesses, lead to over-compliance, and would create inconsistency with the FMC Act.

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<sup>2</sup> Consideration is a contract law term that means the value of a transaction (financial or non-financial). We will consider further, as part of drafting, how this is to be defined in the Act.

- 26 In Australia, the Competition and Consumer Act 2010 includes penalties of up to AUD\$2.5 million for an individual and for businesses the greater of AUD\$50 million, three times the value of benefit obtained, or 30 percent of a firm's turnover during the breach period. Officials considered setting the Act's penalty levels in line with Australian legislation but recommended modelling penalties on the FMC Act to support legislative alignment, reduce the risk of over-compliance by businesses, and ensure penalties are proportionate to the size of the New Zealand market.
- 27 Officials will also ensure that, in drafting the amended penalties provisions, penalties for body corporates will apply to all types of business structures – including co-operatives.

### **Supporting online service providers to disrupt online scams (safe harbour)**

- 28 Last year, Cabinet agreed that the Minister of Commerce and Consumer Affairs would lead coordination to address online financial scams (ECO-24-MIN-0234 refers). Since taking on this portfolio, I have worked with government agencies, industry and non-government organisations to identify how we can better prevent, detect and respond to scams. This work has led to the establishment of the New Zealand Anti-Scam Alliance.
- 29 Online financial scams cause significant harm to New Zealanders. Reported financial losses have been nearly \$200 million a year, but could be as high as \$2 billion, when accounting for unreported losses. Scams also have other impacts, including identity theft, emotional impacts, a loss in trust in public institutions and in transacting online. Currently, there have been low incentives for industry to take proactive action.
- 30 Online service providers, like telecommunications companies, domain name hosts and digital platforms have indicated a willingness to do more to disrupt suspected scam content. However, online service providers have expressed concerns to me about potential civil liability if legitimate content is removed in error, which is preventing them from taking proactive action.
- 31 I propose introducing a legislative defence (a 'safe harbour') to protect online service providers from civil liability when acting in good faith to remove suspected scam content. While uncommon in New Zealand, this type of defence is part of the Harmful Digital Communications Act 2015. Australia also has a similar defence in its recently passed Scams Prevention Framework Act 2025. The safe harbour could include conditions to ensure it is used appropriately – such as a good faith requirement, reasonable grounds for believing the content is a scam, and an obligation to reinstate the service within a reasonable timeframe if legitimate content is removed. For example, Australia's safe harbour provision has a maximum timeframe of 28 days.
- 32 This safe harbour will be coupled with the Anti-Scam Alliance's ongoing work on improving 'trusted flagger' mechanisms, where authenticated organisations can produce reliable reports about suspected scams. This non-legislative tool will help mitigate any potential misuse and provide further assurances that the effect to legitimate businesses is minimised.

### **Streamlining updates to product safety standards**

- 33 Under the Act, product safety standard regulations can be made to set minimum requirements for the design, construction and performance of goods

to ensure they are safe. These regulations often incorporate official standards by reference, including New Zealand Standards, joint Australia/New Zealand Standards, or international standards from recognised bodies such as the International Organization for Standardization (**ISO**).

- 34 Currently, when a standard is incorporated into regulation, it typically refers to a specific version. Even if a standard is later updated, the regulation continues to refer to a specific version until it is formally amended. Because such amendments require Cabinet approval, they are seldom undertaken. This has led to outdated standards remaining in force for many years. For example, the Product Safety Standards (Pedal Bicycles) Regulations 2000 still refer to AS/NZS 1927:1998, despite a newer version being released in 2010.
- 35 To address this regulatory lag, I propose amending the Act to allow product safety regulations to reference future versions of the same standard, subject to departmental approval to ensure that the latest version is applicable to a New Zealand context before being updated in regulations. Full Cabinet approval would be required when a standard is first introduced, but future updates to reflect new versions of the standard would be delegated to departmental approval. Streamlining updates to product safety standards will reduce costs for businesses, enhance efficiency, and ensure our product safety framework remains aligned with best practice.
- 36 I propose progressing these changes through the Regulatory Systems (Commercial Matters) Amendment Bill that is currently being developed. Once changes are implemented, officials will ensure that the new regime is clearly communicated to industry and consumers through updated guidance and engagement with affected sectors.

### **Cost-of-living Implications**

- 37 The proposals in this paper to enhance the Act's penalties regime will have a positive impact on New Zealanders' costs of living by deterring conduct that can result in consumers paying more for products or purchasing products they do not want or need. The safe harbour proposal to disrupt online scams will help prevent New Zealanders from losing money to online scams.

### **Financial Implications**

- 38 The proposals in this paper will enhance the Commission's ability to take enforcement action under the Act. This may result in an increase in enforcement activity and higher enforcement costs to the Commission, which will be met from within baselines.
- 39 The Ministry of Justice expects to incur a small additional cost in implementing system changes to update offence rules – which it currently estimates at around \$200,000 ( $\pm$  50% as a contingency) and which cannot be met within baseline funding. This cost estimate will be refined once Cabinet decisions are made and detailed requirements are confirmed.
- 40 The higher penalty amounts proposed will increase the potential financial impact on businesses that breach the Act. However, courts would retain discretion to set penalty levels within maximum amounts based on the nature of the conduct.

**Legislative Implications**

41	Constitutional Conventions
42	Constitutional Conventions

**Impact Analysis**

**Regulatory Impact Statements**

- 43 A Quality Assurance Panel from the Ministry of Business, Innovation and Employment (**MBIE**) reviewed the RIS prepared by MBIE titled *Updating the penalties regime in the Fair Trading Act 1986*. The panel considers that the information and impact analysis in the RIS **partially meets** the Quality Assurance criteria. See **Annex 2**.
- 44 A Quality Assurance Panel from MBIE reviewed the RIS prepared by MBIE titled *Legislative limitations on civil liabilities for entities disrupting scams* on 20 May 2025. The Panel consider that the information and impact analysis summarised in the RIS **meets** the Quality Assurance criteria. See **Annex 3**.
- 45 The Ministry for Regulation has determined the proposal to automatically update product safety standards is **exempt** from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts.

**Climate Implications of Policy Assessment**

- 46 There are no climate implications arising from the proposals in this paper.

**Population Implications**

- 47 An enhanced penalties regime will help ensure that all New Zealand consumers and businesses benefit from a fairer consumer environment where firms are deterred from breaching the provisions of the Act. New Zealanders can have more confidence that transactions will be undertaken fairly.
- 48 On the safe harbour proposal to help disrupt online scams, demographic information for scam victims is fairly even across age, gender, length of banking relationship and location. However, women and those aged 50 years or older are slightly more likely to be scam victims. Therefore, the proposals in this paper may affect those population groups slightly more.

**Human Rights**

- 49 There are no direct human rights implications from proposals to amend the Act’s penalties regime or to automatically update product safety standards.
- 50 While the safe harbour proposal to help disrupt online scams does not raise direct human rights concerns, safe harbour provisions may limit access to civil redress and potentially engage the right to natural justice. This risk is mitigated by the proposed safeguards and existing complaints processes.

### **Use of external Resources**

- 51 One contractor engaged by MBIE has helped to help prepare this Cabinet paper to supplement permanent resources due to workload pressures.

### **Consultation**

- 52 Targeted consultation was undertaken on proposals to strengthen penalties and automatically update product safety standard regulations between 28 July and 8 August 2025. This consultation highlighted that:
- 52.1 proposals to shift to civil pecuniary penalties and increase maximum penalty levels are supported by consumer groups but generally opposed by businesses and some law firms citing limited evidence of a problem and issues of proportionality and procedural safeguards; and
  - 52.2 streamlining how consumer safety standard regulations are updated is generally supported by submitters.
- 53 Officials have also undertaken targeted consultation on the scam safe harbour provisions with representatives from the digital platform, banking, telecommunications, sectors, and consumer advocates. These groups supported the anti-scam proposals in this paper.
- 54 The following agencies have been consulted on this Cabinet paper: the Commerce Commission, Ministry for Regulation, Ministry of Justice, The Treasury, Financial Markets Authority, Ministry of Housing and Urban Development, and Parliamentary Counsel Office. The Legislation Design and Advisory Committee (LDAC) was also engaged. The Department of Prime Minister and Cabinet was informed.

### **Comment on this Cabinet paper by the Ministry for Regulation**

- 55 The Ministry for Regulation is concerned with the scale of proposed change to penalties and the level of evidence being presented on the effectiveness of current penalties and the impacts of changes. The Fair Trading Act affects practically every business in the economy and the impacts of a 500%+ increase in penalties is difficult to predict. The Ministry's concerns include the potential risk for disproportionately complex and expensive compliance assurance processes and the effects of a perceived anti-business sentiment affecting business confidence.
- 56 I note that proposed penalties align with those in the FMC Act, providing precedent. Strong penalties are needed to deter harmful conduct and protect consumers.

### **Communications and Proactive Release**

- 57 The Minister of Commerce and Consumer Affairs will announce the proposals in this paper following Cabinet approval. This Cabinet paper will be proactively released within 30 business days with appropriate redactions, if needed.

### **Recommendations**

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

*Strengthening the Fair Trading Act 1986 penalties regime*

**IN CONFIDENCE**

- 1 agree to amend the Fair Trading Act 1986 to replace the majority of the existing criminal liability regime with a civil liability regime for breaches of the Act;
- 2 agree to set maximum penalties under the civil liability regime in the Fair Trading Act 1986 in line with the following levels:

Provisions in the Act	Maximum penalty (per offence)
<ul style="list-style-type: none"> <li>• Part 1: Unfair conduct (except sections relating to accepting payment with no intent to deliver, pyramid schemes, and asserting right to payment for unsolicited goods).</li> <li>• Part 3: Product safety sections relating to voluntary product recalls.</li> </ul>	The greater of: <ol style="list-style-type: none"> <li>i. <b>\$1 million</b> for individuals or <b>\$5 million</b> for body corporates; or</li> <li>ii. <b>three times</b> the value of the commercial gain made or loss avoided; or</li> <li>iii. the <b>value</b> of the consideration for the transaction(s) that constituted the contravention.</li> </ol>
<ul style="list-style-type: none"> <li>• Part 2: Consumer information (except infringement offences).</li> <li>• Part 4A: Consumer transactions and auctions (except infringement offences).</li> </ul>	<b>\$60,000</b> for an individual and <b>\$200,000</b> for a body corporate.

- 3 agree that offences involving serious and deliberate conduct (e.g. demanding or accepting payment without intending to supply, or obstructing the Commission), and provisions with infringement offences, remain criminal matters;
- 4 agree to increase maximum penalties for criminal offences in the Fair Trading Act 1986 in line with the following levels:

Provisions in the Act	Maximum penalty (per offence)
<ul style="list-style-type: none"> <li>• Part 1: Unfair conduct sections relating to accepting payment without intent to deliver, pyramid schemes, and asserting right to payment for unsolicited goods.</li> <li>• Part 3: Product safety sections relating to safety standards, unsafe goods, compulsory product recalls, suspension of supply notices.</li> <li>• Part 4: Safety of services.</li> </ul>	The greater of: <ol style="list-style-type: none"> <li>i. <b>\$1 million</b> for individuals or <b>\$5 million</b> for body corporates; or</li> <li>ii. <b>three times</b> the value of the commercial gain made or loss avoided; or</li> <li>iii. the <b>value</b> of the consideration for the transaction(s) that constituted the contravention.</li> </ol>
<ul style="list-style-type: none"> <li>• S46E: Breaching management bans.</li> </ul>	<b>\$200,000</b> for any person.
<ul style="list-style-type: none"> <li>• Part 2: Consumer information (infringement offences).</li> <li>• Part 4A: Consumer transactions and auctions (infringement offences).</li> <li>• S47F: Offence to resist, obstruct, delay.</li> <li>• S47J: Offence to not supply information.</li> </ul>	<b>\$60,000</b> for an individual and <b>\$200,000</b> for a body corporate.

- 5 authorise the Minister of Commerce and Consumer Affairs to take any further decisions needed to adjust penalties in the Fair Trading Act 1986, in line with the policy intent of this paper;

*Streamlining updates to product safety standards*

- 6 agree to amend the Fair Trading Act 1986, through the Regulatory Systems (Commercial Matters) Amendment Bill, to allow product safety regulations to reference any future version of the same standard subject to departmental approval;
- 7 note that Cabinet would continue to approve initial product safety standard regulations with subsequent updates approved by a designated official;

*Supporting online service providers to disrupt online scams (safe harbour)*

- 8 agree to introduce a legislative provision for online service providers to support proactive industry action to disrupt suspected online scam content;

*Legislative implications*

- 9 agree that the amendments to the Fair Trading Act 1986 to strengthen its penalties regime, and the online scams safe harbour, be developed and implemented through a Fair Trading Amendment Bill;

10 Constitutional Conventions

- 11 agree that the amendment to the Fair Trading Act 1986 to streamline updates to product safety standards be developed and implemented through the Regulatory Systems (Commercial Matters) Amendment Bill;

12 Constitutional Conventions

- 13 authorise the Minister of Commerce and Consumer Affairs to issue drafting instructions to Parliamentary Counsel Office to give effect to the above recommendations;

- 14 authorise the Minister of Commerce and Consumer Affairs to make additional policy decisions consistent with the policy intent of this paper, including on issues that arise during drafting of the Fair Trading Amendment Bill and Regulatory Systems (Commercial Matters) Amendment Bill;

- 15 note that this Cabinet paper will be proactively released within 30 business days of final Cabinet decisions.

Authorised for lodgement

Hon Scott Simpson

Minister of Commerce and Consumer Affairs.

**Annex 1 – Proposed Fair Trading Act 1986 penalties regime**

Attached separately.

**Annex 2 – Regulatory Impact Statement on amending the Fair Trading Act 1986 penalties regime**

Attached separately.

**Annex 3 - Regulatory Impact Statement on the safe harbour provision to support online service providers to disrupt online scams**

Attached separately.

**Annex 1: Proposed Fair Trading Act 1986 penalties regime**

**Proposed civil penalties**

The sections below are subject to criminal liability in the Fair Trading Act 1986 (**the Act**) currently. As set out in this Cabinet paper, they would become civil pecuniary penalties with increased maximum penalty amounts.

Part of the Act	Section of the Act	Offence	Offence section	Current maximum penalty level	Proposed maximum penalties
<b>Part 1: Unfair Conduct</b>	7	Unconscionable conduct.	40(1)	Individuals: \$200,000. Body corporates: \$600,000.	The greater of: i. <b>\$1 million</b> for individuals or <b>\$5 million</b> for body corporates; or ii. <b>three times</b> the value of the commercial gain made or loss avoided; or iii. the <b>value of the consideration</b> for the transaction(s) that constituted the contravention.
	10–13	Misleading, deceptive, false, or unsubstantiated conduct.			
	14(1)	False representations and other misleading conduct in relation to land.			
	16	Misuse of trademarks.			
	17	Gifts or prizes with hidden conditions.			
	19	Bait advertising.			
	20	Referral selling.			
	21(c)	No reasonable grounds to believe the person will be able to supply goods or services within specified period.			
	22	Misleading business opportunity claims.			
26A–B	Unfair contract terms.				
<b>Part 3: Product safety</b>	31A	Voluntary product recalls.			
<b>Part 2: Consumer information</b>	28A	Disclosure by fund-raisers.	40(1B)	Individuals: \$10,000. Body corporates: \$30,000.	Individuals: <b>\$60,000</b> . Body corporates: <b>\$200,000</b> .
<b>Part 4A: Consumer transactions and auctions</b>	36F–36H	Layby sales.			
	36M–36P	Uninvited direct sales.			
	36V	Extended warranties.			
	36ZB–36ZF	Auction rules.			

**Proposed criminal penalties**

The sections below are subject to criminal liability in the Act currently. As set out in this Cabinet paper they would remain criminal offences with increased maximum penalty amounts.

Part of the Act	Section of the Act	Offence	Offence section	Current maximum penalty level	Proposed maximum penalties
<b>Part 1: Unfair Conduct</b>	21(a), 21(b)	Accepting payment while not intending to deliver, or intending to deliver goods and services that are materially different.	40(1)	Individuals: \$200,000. Body corporates: \$600,000.	The greater of: i. <b>\$1 million</b> for individuals or <b>\$5 million</b> for body corporates; or ii. <b>three times</b> the value of the commercial gain made or loss avoided; or iii. the <b>value of the consideration</b> for the transaction(s) that constituted the contravention.
	21C	Asserting rights to payment in respect of unsolicited goods or services.			
	24	Pyramid selling schemes.	40(1A), 40A	Any person: \$600,000. In addition to a fine, the court can also impose an amount not exceeding value of commercial gain.	
<b>Part 3: Product safety</b>	30	Compliance with product safety standards.	40(1)	Individuals: \$200,000. Body corporates: \$600,000.	
	31	Unsafe goods.			
	32	Compulsory product recalls.			
	33D	Suspension of supply notices (infringement offence).			
<b>Part 4: Safety of services</b>	36	Compliance with services safety standards.			

IN CONFIDENCE

Part of the Act	Section of the Act	Offence	Offence section	Current maximum penalty level	Proposed maximum penalties	
<b>Part 2: Consumer information</b>	28, 28B	Consumer information and trader status disclosure (infringement offence).	40(1B)	Individuals: \$10,000. Body corporates: \$30,000.	Individuals: <b>\$60,000</b> . Body corporates: <b>\$200,000</b> .	
	<b>Part 4A: Consumer transactions and auctions</b>	36C, 36D				Layby sales disclosure (infringement offences).
		36L				Uninvited direct sales disclosure (infringement offence).
	36U	Extended warranties disclosure (infringement offence).				
<b>Part 5: Enforcement and remedies</b>	46C	Management banning orders.	46E	Any person: \$60,000.	Any person: <b>\$200,000</b> .	
		47F	Offence to resist, obstruct or delay.	47F	Individuals: \$10,000.	
		47G	Offence to not supply information in contravention of s47G.	47J	Body corporates: \$30,000.	Individuals: <b>\$60,000</b> . Body corporates: <b>\$200,000</b> .