

Fair Trading Amendment Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Fair Trading Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

The Fair Trading Amendment Bill would amend the Fair Trading Act 1986. It would also make consequential minor amendments to other legislation.

The bill aims to:

- ensure that the Fair Trading Act remains fit for purpose as business practices and digital markets evolve
- strengthen deterrence of unfair trading conduct
- support appropriate consequences for breaches
- enable efficient and effective enforcement.

The bill also includes targeted changes intended to support proactive disruption of scams and to streamline regulatory settings for product safety.

The Fair Trading Act is a core part of New Zealand's consumer law framework. It sets baseline rules for how businesses interact with consumers, including prohibitions on misleading and deceptive conduct, false representations, and unfair practices.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Reform of penalties and enforcement

The bill seeks to update the Fair Trading Act's enforcement and remedies framework by shifting most breaches from a model focused on criminal enforcement to a civil liability regime. The bill would retain criminal offences for a limited set of intentional or serious misconduct provisions, including serious product safety offending and conduct that obstructs enforcement.

The bill would introduce maximum civil penalties for breaches. The new civil penalties would be higher than the current maximum fines for equivalent criminal offences. For serious breaches, the new maximums could also take into account the value of the relevant transaction or the financial benefit from misconduct.

Reasonable mistake defence

Clause 20 would replace sections 43A and 43B to insert defences for contravention of civil liability provisions. Many of these contraventions are currently criminal offences for which a "reasonable mistake" defence is available.

As introduced, new section 43B would provide a defence for a person who is in contravention of certain provisions because of a statement that is false or misleading (or likely to mislead). The defence would require that the person had made all inquiries that were reasonable in the circumstances and believed, on reasonable grounds, that the statement was not false or misleading.

We note that the defence in proposed new section 43B is limited to some false or misleading statements. We consider this overly narrow, given that the Fair Trading Act regulates not just statements but also wider conduct. We consider that continuing to provide for a "reasonable mistake" defence in the civil liability regime would provide a clearer and more workable safeguard. It would recognise that a reasonable mistake may relate to conduct other than a statement.

We recommend replacing proposed new section 43B with a reasonable mistake defence similar to section 106 of the Credit Contracts and Consumer Finance Act 2003. The new provisions would require the person's breach to have been due to a reasonable mistake, and would require the person to have remedied the breach where possible, and compensated or offered to compensate affected people where there is loss.

An example of the reasonable mistake defence in case law is *Commerce Commission v Bellsouth NZ* (1998). The case involved mistaken beliefs about what information consumers would consider important when advertising a new prepaid mobile plan. In considering the defence, the court took into account the steps the business had taken to avoid the mistake.

Effect of defences

Proposed new section 43F provides that conduct must still be treated as contravening a civil liability provision, even if a defence is available. Submitters asked why conduct would still be treated as contravening a civil liability provision if the person has established a defence and is not liable.

We recommend deleting new section 43F. We understand that the provision was included because it was drawn from the Financial Markets Conduct Act 2013 model. We have considered whether a provision of this kind is needed in the Fair Trading Act's context, including whether it is needed to preserve liability for another person involved in the contravention. We do not consider it necessary for that purpose, and deleting it is not intended to affect secondary liability.

Management banning orders

Section 46C of the Fair Trading Act empowers the District Court to ban an individual from being a director of an incorporated or unincorporated body that carries out business in New Zealand or from taking part in the management of one. The Fair Trading Act requires two relevant enforcement events to occur before a management banning order can be made.

Clause 23 would amend section 46C to enable a management banning order if an individual had had a pecuniary penalty order made against them. A small number of submitters raised concerns that the bill may lower the threshold for management banning orders. They were concerned that the bill as introduced could allow a single pecuniary penalty order to satisfy the threshold. Submitters considered that the existing threshold of two relevant enforcement events should be preserved.

We agree that the bill should preserve the existing threshold for management banning orders. We therefore recommend amending section 46C so that the two relevant enforcement events continue to apply and a pecuniary penalty order counts as a relevant event for those purposes.

Application of civil remedies

Clause 17 would insert new subpart 3, "Civil liability", into Part 5 of the Fair Trading Act. New subpart 3 provides for civil remedies for contraventions of a range of provisions in the Fair Trading Act.

Submitters were concerned about whether existing civil remedies would continue to be available for sections 9, 14(2), and 23 of the Act. These provisions are not listed as civil liability provisions or criminal provisions under proposed new subpart 3. We heard that this might create uncertainty about whether remedies such as declarations, compensatory orders, injunctions, and other orders would remain available for contraventions.

We recommend amending the bill to make it clear that existing civil remedies would remain available for all relevant provisions in Parts 1 to 4A of the Fair Trading Act. This would ensure that existing civil remedies continue to be available.

Proceedings for compensation orders

The bill as introduced would move the ability of the court to award compensatory orders from existing section 43 in the Fair Trading Act to proposed new sections 41J and 41K.

We understand that some submitters were uncertain whether compensatory orders could continue to be made in criminal proceedings or whether separate civil proceedings would be required. To clarify this, we recommend amending the bill to make it clear that the existing position would be maintained: a compensation order may be made in criminal proceedings, and separate proceedings are not required. We also recommend amending the bill to clarify that a non-party cannot have an order for compensation made against them.

Consequences under other legislation

The bill would make related amendments to several licensing and registration regimes to reflect the Fair Trading Act's new civil liability framework. The amendments relate to legislation that regulates auctioneers, immigration advisers, motor vehicle traders, private security personnel, real estate agents, and second-hand dealers and pawn-brokers.

As introduced, some of these amendments could allow licensing, registration, disqualification, or other consequences to apply where a person had contravened a civil liability provision, even if the court had not imposed a pecuniary penalty.

We recommend amending these provisions so that the consequences would apply only where a pecuniary penalty order had been made for the relevant contravention. This would avoid unintentionally expanding the circumstances in which these consequences apply.

Legal defence to support proactive scam disruption

Clause 33 of the bill would insert new section 48U into the Fair Trading Act. New section 48U would introduce a conditional defence (sometimes known as a "safe harbour") to protect online service providers from civil liability when they act in good faith to proactively disrupt scam activity. The defence is intended to encourage timely action to reduce harm to consumers from scams, while providing for conditions designed to ensure that the defence is used appropriately and civil liberties are protected.

The defence would be available where an online service provider has reasonable grounds to believe that an activity is a scam. In addition, the disruption must be reasonably proportionate, taken in good faith, commenced within a specified time frame, and promptly reversed if practicable and if the provider no longer has reasonable grounds to believe the activity is a scam.

Role of information from third parties in meeting the reasonable grounds condition

Submitters on the bill questioned what the “reasonable grounds” test in new section 48U would look like in practice. They asked whether information provided by third parties could satisfy the test in place of an online service provider’s assessment. In its submission, the Telecommunications Forum highlighted the telecommunication sector’s reliance on information provided by specialist third parties for efficient identification of scams.

We recommend inserting section 48U(5) to make it clear that an online service provider may rely on a third party’s assessment of whether there are reasonable grounds for believing an activity is a scam, as long as the provider is satisfied that the third party has appropriate expertise, and has no reason to doubt the accuracy of the assessment.

Streamlining product safety settings

The bill aims to streamline the Act’s legislative framework for product safety requirements. This is intended to help ensure that product safety requirements can be kept up to date.

Clauses 9 and 10 of the bill as introduced would insert new section 29A, enabling regulations to authorise the chief executive to set technical product safety requirements by issuing product safety notices. Regulations made by Order in Council would determine which products are subject to product safety notices. This is intended to improve flexibility and timeliness in updating references to technical standards as they change, and to keep settings aligned internationally to facilitate trade.

We discuss below some amendments we propose to these provisions.

Minister should be responsible for issuing product safety notices

We acknowledge concerns from some submitters about accountability for product safety notices. This is an aspect of the reforms to product safety we believe can be improved. We therefore recommend amending clauses 9 and 10 of the bill, section 29 and new section 29A, to require notices to be made by the responsible Minister, rather than by the chief executive.

Consultation required before issuing product safety notices

We agree that the bill could provide greater assurance that product safety notices will be informed by appropriate consultation. We therefore recommend inserting section 29A(5A) and (5B) to require the Minister to consult those who would be substantially affected before issuing a product safety notice. This would be consistent with the consultation requirement for product safety regulations in existing section 29(3) of the Fair Trading Act.

Requirements relating to verification of compliance

We have identified one further opportunity for improving the Fair Trading Act's provisions for product safety standards. Section 29 of the Act could more clearly facilitate the use of requirements on suppliers to have or share information verifying that a regulated product complies with technical safety requirements.

Existing regulations and unsafe goods notices already include requirements to certify compliance, and responsible suppliers usually hold this information. Requirements of this kind can be desirable to ensure enforcement is effective, such as at the border, or where technical standards require expensive testing, or where the supplier has a choice of complying with multiple standards.

We therefore recommend amending clause 9 to clarify that regulations, and notices authorised by regulations, may prescribe how compliance with safety requirements must be demonstrated or verified, including requirements to hold or provide information.

New Zealand Labour Party differing view

Economic freedom means more than the freedom of powerful firms to act—it also means consumers can participate in markets with confidence, genuine choice, and protection from exploitation.

Labour supports bigger financial penalties under the Fair Trading Act, but we do not agree with the Government's removal of criminal offences from the tools available to ensure consumers are protected. Higher civil penalties may be easier to enforce, but the Government has not established that they will deter anti-competitive conduct or consumer exploitation.

Labour supports stronger powers to disrupt online scams. We also welcome the committee adopting Labour's position that product safety notices should remain the responsibility of the Minister, rather than being delegated to the chief executive. Consumer protection works when power and responsibility sit together: businesses must be accountable for how they trade, regulators must be capable of enforcing the rules, and Ministers must remain answerable for the powers Parliament gives them.

Appendix

Committee process

The Fair Trading Amendment Bill was referred to this committee on 27 May 2026.

We called for submissions on the bill with a closing date of 16 July 2026. We received and considered submissions from 64 interested groups and individuals. We heard oral evidence from 10 submitters. We wish to acknowledge the efforts of all submitters and thank them for their engagement.

Advice on the bill was provided by the Ministry of Business, Innovation and Employment. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Ryan Hamilton (Chairperson)

Dan Bidois

Hon Barbara Edmonds

Francisco Hernandez

Nancy Lu

Hon Dr Deborah Russell

Tom Rutherford

Todd Stephenson

Rawiri Waititi

Dr David Wilson

Hon Dr Megan Woods

Arena Williams participated in our consideration of this bill.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Cameron Brewer

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Fair Trading Amendment Act **2026**.

2 Commencement

- (1) This Act comes into force 6 months after Royal assent, with some exceptions. 5
- (2) The following provisions come into force on the day after Royal assent:
 - (aaa) **section 4(1A):**
 - (a) **section 4(2)(d):**
 - (b) **section 8:**
 - (ba) **section 8A:** 10
 - (c) **section 9:**
 - (d) **section 10:**
 - (da) **section 10A:**
 - (db) **section 10B:**
 - (dc) **section 10C:** 15
 - (dd) **section 10D:**
 - (e) **section 13:**
 - (ea) **section 13A:**
 - (eb) **section 15A:**
 - (ec) **section 20A:** 20

- (ed) **section 29A:**
- (ee) **section 30(1AAA):**
- (f) **section 33:**
- (g) **section 35** (for the purposes of **clauses 4 and 5 of Schedule 1AA**):
- (h) **sections 46 and 47.**

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3 Principal Act

This Act amends the Fair Trading Act 1986.

Part 1 Amendments to principal Act

4 Section 2 amended (Interpretation) 10

- (1) In section 2(1), insert in their appropriate alphabetical order:

civil liability order has the meaning set out in **section 41A**

civil liability provision means any provision referred to in **section 41B**

involved in a contravention has the meaning set out in **section 46N**

product safety notice means a notice made under **section 29A**

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resupply, in relation to goods,—

- (a) means the supply of goods by a person who acquired them for the purpose of supplying them to another person; and

- (b) includes the supply—

- (i) of the goods in an altered form or condition to that in which the person acquired them; and

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- (ii) of other goods in which the goods have been incorporated

tier 1 civil liability provision means any provision referred to in **section 41B(1)**

tier 2 civil liability provision means any provision referred to in **section 41B(2)**

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- (1A) In section 2(1), insert in its appropriate alphabetical order:

product safety notice means a notice made under **section 29A**

- (2) In section 2(1), repeal the definitions of the following terms:

- (a) **infringement fee:**
- (b) **infringement notice:**
- (c) **infringement offence:**
- (d) **official standard.**

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- (3) Repeal section 2(3)(e).

5 Section 5D amended (No contracting out: exception for parties in trade)

- (1) In section 5D(1)(b), replace “section 43” with “**section 41F, 41J, or 43**”.
- (2) Replace section 5D(5)(a) with:
 - (a) prevents the Commission from bringing proceedings against a party to the agreement referred to in subsection (1) for—
 - (i) an offence under this Act; or
 - (ii) a contravention, or involvement in a contravention, of a civil liability provision (including in relation to any of sections 12A, 13, or 14(1)):

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6 Section 12B amended (Court must have regard to certain matters)

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In section 12B(2) replace “section 44” with “**section 43A**”.

7 Section 19 amended (Bait advertising)

Repeal section 19(3).

8 Section 27 amended (Consumer information standards)

- (1) Replace the heading to section 27 with “**Regulations relating to consumer information**”.

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- (2) Replace section 27(1) and (1A) with:

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations in respect of goods or services of any description or any class or classes of goods or services, for all or any of the following purposes:

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- (a) requiring the disclosure of information relating to the kind, grade, quantity, origin, performance, care, composition, contents, design, construction, use, price, finish, packaging, promotion, or supply of the goods or services:

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- (b) specifying how that information must be obtained or verified before it is disclosed:

- (c) specifying the form and manner in which that information must be disclosed on or in relation to—

- (i) the supply or possible supply of the goods or services; or

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- (ii) the resupply or possible resupply of the goods or services; or

- (iii) the promotion by any means of 1 or more of the matters described in **subparagraphs (i) and (ii)**.

- (3) Repeal section 27(2).

8A Section 28 amended (Compliance with consumer information standards)

- (1) Replace the heading to section 28 with “**Compliance with regulations relating to consumer information**”.
- (2) Replace section 28(1) and (2) with:
 - (1) If regulations made under section 27 prescribe requirements in respect of goods or services, a person must not supply, offer to supply, or advertise to supply those goods or services unless the person complies with the regulations. 5
 - (3) In section 28(3), delete “or subsection (2)”.
 - (4) After section 28(4), insert:
 - (5) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements). 10

9 Section 29 amended (Product safety standards)

- (1) Replace the heading to section 29 with “**Regulations relating to product safety**”.
- (2) Replace section 29(1) and (2) with: 15
 - (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations in respect of goods of any description or any class or classes of goods, for all or any of the following purposes:
 - (a) ~~prescribing, for the purpose of preventing or reducing the risk of injury to any person, 1 or more product safety standards relating to all or any of the following matters:~~ by prescribing requirements relating to— 20
 - (i) the performance, composition, contents, manufacture, processing, design, construction, finish, or packaging of ~~any goods or any class or classes of the~~ goods:
 - (ii) the testing of ~~any goods, or any class or classes of the~~ goods, during or after manufacture or processing: 25
 - (iii) the form and content of markings, warnings, or instructions to accompany ~~any goods or any class or classes of the~~ goods:
 - (aa) requiring suppliers to hold, in accordance with any specified requirements, evidence to show compliance with regulations made under **paragraph (a)** (for example, a certification or document containing specified information): 30
 - (ab) requiring suppliers to ensure that the evidence referred to in **paragraph (aa)**—
 - (i) accompanies the goods: 35
 - (ii) is provided to specified persons:
 - (b) ~~authorising the chief executive Minister to prescribe, by product safety notice, any of the matters in **paragraphs (a), (aa), or (ab)**~~

(provided that the regulations specify the goods, or class or classes of goods, to which the product safety notice will relate).

- (2) ~~The Minister must, before making a recommendation for regulations under **subsection (1)(b)**, be satisfied that the subject matter is appropriate to be dealt with in a product safety notice rather than being dealt with in the regulation itself.~~

10 New section 29A inserted (~~Chief executive Minister~~ may make product safety notice)

After section 29, insert:

29A ~~Chief executive Minister~~ may make product safety notice

- (1) ~~The chief executive Minister~~ may make a product safety notice for the purpose of regulations made under **section 29(1)(b)**.

- (2) A regulation that provides for a product safety notice may provide for any requirements in relation to the notice or its creation.

- (3) A reference to anything being done under regulations made under this Act includes anything done under a product safety notice.

- (4) A product safety notice has effect only to the extent that a regulation refers to it.

- (5) A breach of a product safety notice is a breach of the regulation that provides for the notice.

(5A) ~~The Minister must not make a notice under **subsection (1) unless—~~**

- (a) ~~the Minister has consulted the persons or representatives of the persons that the Minister considers will be substantially affected by the proposed notice, and those persons have had the opportunity to comment to the Minister; and~~

- (b) ~~the Minister has considered those comments.~~

(5B) ~~A failure to comply with **subsection (5A) does not affect the validity of any notice made under this section, except where there has been a complete failure to consult.~~**

- (6) If a regulation provides for a product safety notice,—

- (a) a product safety notice made under the regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

- (b) the regulation must contain a statement to that effect.

10A Section 30 amended (Compliance with product safety standards)

- (1) Replace the heading to section 30 with “**Compliance with regulations relating to product safety**”.

- (2) Replace section 30(1) and (2) with:

(1) If regulations made under section 29 prescribe requirements in respect of goods, a person must not supply, offer to supply, or advertise to supply those goods unless the person complies with the regulations.

(3) In section 30(3), delete “or subsection (2)”.

(4) After section 30(4), insert:

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(5) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

10B Section 31 amended (Unsafe goods)

In section 31(3)(b), replace “a product safety standard has not been prescribed pursuant to” with “regulations have not been made under”.

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10C Section 31A amended (Voluntary product recall)

In section 31A(1)(a)(iii), replace “a product safety standard” with “regulations made under section 29”.

10D Section 32 amended (Compulsory product recall)

In section 32(1)(a), replace “a product safety standard prescribed” with “regulations made under section 29”.

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11 Section 33C amended (Powers of product safety officers)

After section 33C(6), insert:

(7) No person may resist, obstruct, or delay any product safety officer exercising a power under this section.

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12 Section 33D amended (Suspension of supply notices)

After section 33D(5), insert:

(6) No person may resist, obstruct, or delay any product safety officer exercising a power under this section.

13 Section 35 amended (Safety standards in respect of services)

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(1) Replace the heading to section 35 with “Regulations relating to safety of services”.

(2) In section 35(1), replace “a services safety standard or 2 or more services safety standards” with “requirements”.

(3) Repeal section 35(2).

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13A Section 36 replaced (Compliance with services safety standards)

Replace section 36 with:

36	<u>Compliance with regulations relating to safety of services</u>	
	<u>If regulations made under section 35 prescribe requirements in respect of services, a person must not supply, offer to supply, or advertise to supply those services unless the person complies with the regulations.</u>	
14	Sections 37 to 39 and cross-heading replaced	5
	Replace sections 37 to 39 and the cross-heading above section 37 with:	
	Subpart 1—Jurisdiction	
37	Jurisdiction of High Court	
(1)	The High Court may hear and determine the following matters:	
(a)	applications for orders, or for a court to exercise any other power, under any provision of this Part:	10
(b)	appeals arising from any proceeding in the District Court under this Part.	
(2)	<i>See also</i> section 100A of the Commerce Act 1986, under which the Commission may state a case for the opinion of the High Court on any question of law arising in any matter before it under this Act.	15
	Compare: 2025 No 14 s 92	
38	Jurisdiction of District Court	
	The District Court may hear and determine the following matters:	
(a)	proceedings for offences under section 40 :	
(b)	applications for orders, or for a court to exercise any other power, under any of the provisions of this Part (other than sections 41C and 41F) if—	20
(i)	the amount claimed does not exceed \$350,000; or	
(ii)	no amount is claimed; or	
(iii)	the occasion for the making of the order or the exercise of the power arises in the course of civil proceedings properly before the court; or	25
(iv)	the parties consent, under section 81 of the District Court Act 2016, to the District Court having jurisdiction to hear and determine the application.	30
	Compare: 2025 No 14 s 93	
39	Jurisdiction of Disputes Tribunal	
(1)	The Disputes Tribunal established under section 4 of the Disputes Tribunal Act 1988 may hear and determine applications for orders to pay compensation under sections 41J and 41K , or for orders under section 43, if the amount claimed does not exceed \$60,000.	35

- (2) An order of the Disputes Tribunal under this Act must not—
- (a) require a person to pay an amount exceeding \$60,000; or
 - (b) declare a person not liable to another person for an amount exceeding \$60,000.
- (3) An order of the Tribunal that exceeds any restriction specified in **subsection (2)** is entirely of no effect.
- Compare: 2025 No 14 s 94

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15 Sections 40 and 40A and cross-heading replaced

Replace sections 40 and 40A and the cross-heading above section 40 with:

Subpart 2—Offences		10
40	Contraventions of certain provisions an offence	
(1)	A person who contravenes any of the following provisions commits an offence and is liable on conviction to the fine described in section 40A(1) :	
(a)	section 21(a) or (b) (demanding or accepting payment without intending to supply as ordered):	15
(b)	section 21C (prohibition on asserting right to payment in respect of unsolicited goods or unsolicited services):	
(c)	section 24 (pyramid selling schemes):	
(d)	section 30 (compliance with product safety standards <u>regulations relating to product safety</u>):	20
(e)	section 31 (unsafe goods):	
(f)	section 32 (compulsory product recall):	
(g)	section 33D(4) (suspension of supply notices):	
(h)	section 36 (compliance with services safety standards <u>regulations relating to safety of services</u>).	25
(2)	A person who contravenes section 46E commits an offence and is liable on conviction to the fine set out in section 40A(2) .	
(3)	A person who contravenes any of the following provisions commits an offence and is liable on conviction to the fine set out in section 40A(3) :	
(a)	section 33C(7) (powers of product safety officers):	30
(b)	section 33D(6) (suspension of supply notices):	
(c)	section 36RA (directions to leave premises or not enter premises):	
(d)	section 47(5) (power to search):	
(e)	section 47G (commission may require person to supply information or documents or give evidence):	35
(f)	section 47L(8) (powers of authorised employees).	

- (4) If a person is convicted, whether in the same or separate proceedings, of 2 or more offences in respect of contraventions of the same provisions of this Act, and those contraventions are of the same or a substantially similar nature, and occurred at or about the same time, the aggregate amount of any fines imposed on that person in respect of those convictions must not exceed the amount of the maximum fine that may be imposed in respect of a conviction for a single offence. 5

40A Maximum fines for offence provisions

- (1) The maximum amount of a fine for a contravention of a provision referred to in **section 40(1)** is the greatest of— 10
- (a) the consideration for the transaction that constituted the contravention (if any); and
 - (b) if it can be readily ascertained, 3 times the amount of the gain made, or the loss avoided, by the person who contravened the provision; and
 - (c) \$1 million in the case of a contravention by an individual, or \$5 million in any other case. 15
- (2) The maximum amount of a fine for a contravention of a provision referred to in **section 40(2)** is \$200,000.
- (3) The maximum amount of a fine for a contravention of a provision referred to in **section 40(3)** is— 20
- (a) \$60,000, in the case of a contravention by an individual; and
 - (b) \$200,000, in any other case.

40AB Defences

General defences

- (1) It is a defence to a prosecution for an offence under **section 40** if the defendant proves— 25
- (a) that the contravention was due to a reasonable mistake; or
 - (b) that the contravention was due to reasonable reliance on information supplied by another person; or
 - (c) that— 30
 - (i) the contravention was due to the act or default of another person, or to an accident or to some other cause beyond the defendant's control; and
 - (ii) the defendant took reasonable precautions and exercised due diligence to avoid the contravention. 35
- (2) For the purposes of **subsection (1)(b) and (c)**, another person does not include—
- (a) an employee or an agent of the defendant; or

- (b) if the defendant is not an individual, a director, employee, or agent of the defendant.

Specific defences

- (3) In relation to a prosecution for an offence under **section 40** for a contravention of section 21C(1), it is a defence if the defendant proves that the defendant reasonably believed that there was a right to payment or other consideration. 5
- (4) It is a defence to a prosecution for an offence under **section 40** in relation to a contravention that was committed by the publication of an advertisement, if the defendant proves—
 - (a) that the defendant's business is publishing or arranging for the publication of advertisements; and 10
 - (b) that the defendant—
 - (i) received the advertisement, or the information contained in the advertisement, in the ordinary course of that business; and
 - (ii) did not know (and had no reason to suspect) that the publication of the advertisement or the publication of the advertisement containing that information, as the case may be, would constitute a contravention of any provision of this Act. 15
- (5) In relation to a prosecution for an offence under **section 40** for a contravention of section 36RA, it is a defence if the defendant proves that— 20
 - (a) the person who gave the direction under section 36RA(2) or (3), or with whose actual or apparent authority it was given, no longer resided at the premises at the time of the contravening conduct; or
 - (b) the contravening conduct was with the permission (given after the direction under section 36RA(2) or (3) but before the conduct) of someone who— 25
 - (i) resided at the premises; or
 - (ii) was acting with the actual or apparent authority of someone residing at the premises.
- (6) In this section, a **mistake** does not include a mistake of law or a mistake in the interpretation of any enactment or of any document. 30

Compare: 1986 No 121 s 44

40AC Defendant must identify other person

- (1) A person (A) is not, without the leave of the court, entitled to rely on either of the following unless A has complied with **subsection (2)**: 35
 - (a) the defence provided by **section 40AB(1)(b)** that the contravention was due to reasonable reliance on information supplied by another person:

- (b) the defence provided by **section 40AB(1)(c)** that the contravention was due to the act or default of another person.
- (2) A must, not later than 7 days before the date on which the hearing of the proceeding commences, serve on the other party to the proceeding a written notice identifying the person who supplied the information, or whose act or default caused the contravention. 5
- Compare: 2013 No 69 s 504

15A Section 40B amended (Infringement offence, etc, defined)

In section 40B, definition of **infringement offence**, paragraph (b), replace “consumer information standards” with “regulations relating to consumer information”. 10

16 Sections 40B to 41 repealed

Repeal sections 40B to 41.

17 New subpart 3 of Part 5 inserted

After section 41, insert: 15

Subpart 3—Civil liability

Overview of civil liability

41A Overview of civil liability

- (1) The following orders (**civil liability orders**) are available (unless otherwise provided) under this subpart: 20
- (a) a declaration of contravention:
 - (b) a pecuniary penalty order (on application by the Commission only):
 - (c) a compensatory order:
 - (d) an injunction:
 - (e) an order to disclose information or publish an advertisement under section 42: 25
 - (f) other civil liability orders under section 43.
- (2) This section is a guide only to the general scheme and effect of this subpart.
- Compare: 2013 No 69 s 484

41B What are civil liability provisions 30

- (1) The following provisions are **tier 1 civil liability provisions**:
- (a) section 7 (unconscionable conduct):
 - (b) section 10 (misleading conduct in relation to goods):
 - (c) section 11 (misleading conduct in relation to services):

(d)	section 12 (misleading conduct in relation to employment):	
(e)	section 12A (unsubstantiated representations):	
(f)	section 13 (false or misleading representations):	
(g)	section 14(1) (false representations and other misleading conduct in relation to land):	5
(h)	section 16 (certain conduct in relation to trade marks prohibited):	
(i)	section 17 (offering gifts and prizes):	
(j)	section 19 (bait advertising):	
(k)	section 20 (referral selling):	
(l)	section 21(c) (demanding or accepting payment without intending to supply as ordered):	10
(m)	section 22 (misleading representations about certain business activities):	
(n)	section 26A (unfair contract terms in standard form consumer contracts):	
(o)	section 26B (unfair contract terms in standard form trade contracts):	
(p)	section 31A (voluntary product recall).	15
(2)	The following provisions are tier 2 civil liability provisions :	
(a)	section 21A(2) (liability of recipient of unsolicited goods):	
(b)	section 28 (compliance with consumer information standards <u>regulations relating to consumer information</u>):	
(c)	section 28A(4) (regulations relating to disclosure by fund-raisers making requests for charitable purposes):	20
(d)	section 28B(2) or (3) (disclosure of trader status on Internet):	
(e)	section 36C (disclosure requirements relating to layby sale agreement):	
(f)	section 36D (further disclosure if requested by consumer):	
(g)	section 36F (cancellation of layby sale agreement by consumer):	25
(h)	section 36G (cancellation of layby sale agreement by supplier):	
(i)	section 36H (effect of cancellation of layby sale agreement):	
(j)	section 36L (disclosure requirements relating to uninvited direct sale agreements):	
(k)	section 36M (cancellation of uninvited direct sale agreement by consumer):	30
(l)	section 36O (effect of cancellation of uninvited direct sale agreement):	
(m)	section 36P (supplier's obligations on cancellation of uninvited direct sale agreement):	
(n)	section 36Q (consumer's obligations on cancellation of uninvited direct sale agreement):	35

- (o) section 36U (disclosure requirements relating to extended warranty agreements):
- (p) section 36V (cancellation of extended warranty agreement):
- (q) section 36WB (gift card expiry date must be not less than 3 years):
- (r) section 36WC (expiry date must appear prominently on gift card): 5
- (s) section 36ZB (notice to participants):
- (t) section 36ZD (vendor bids):
- (u) section 36ZF (account and payment of proceeds).

Compare: 2013 No 69 s 485

Declarations of contravention and pecuniary penalty orders 10

41C When High Court may make declarations of contravention

- (1) The High Court may, on the application of the Commission or any other person, make a declaration of contravention if it is satisfied that a person has—
 - (a) contravened a civil liability provision; or
 - (b) been involved in a contravention of a civil liability provision. 15
- (2) The court may also make a declaration of contravention under **section 41F(2)(b)**.

Compare: 2013 No 69 s 486

41D Purpose and effect of declarations of contravention

- (1) The purpose of a declaration of contravention is to enable an applicant for a compensatory order or other civil liability order under section 43 to rely on the declaration of contravention in the proceedings for that order, and not be required to prove the contravention or involvement in the contravention. 20
- (2) Accordingly, a declaration of contravention is conclusive evidence of the matters that must be stated in it under **section 41E**. 25

Compare: 2013 No 69 s 487

41E What declarations of contravention must state

A declaration of contravention must state the following:

- (a) the civil liability provision to which the contravention or involvement in the contravention relates; and 30
- (b) the person who engaged in the contravention or was involved in the contravention; and
- (c) the conduct that constituted the contravention or the involvement in the contravention and, if a transaction constituted the contravention, the transaction. 35

Compare: 2013 No 69 s 488

41F When High Court may make pecuniary penalty orders

- (1) The Commission may apply for a pecuniary penalty order against a person under this Act.
- (2) If the Commission applies for a pecuniary penalty order against a person under this Act, the High Court—
 - (a) must determine whether the person has contravened, or been involved in a contravention of, a civil liability provision; and
 - (b) must make a declaration of contravention if it is satisfied that the person has contravened, or been involved in a contravention of, a civil liability provision; and
 - (c) may order the person to pay to the Crown a pecuniary penalty that the court considers appropriate if it is satisfied that the person has contravened, or been involved in a contravention of, a civil liability provision.
- (3) ~~However, a pecuniary penalty order may not be made for a contravention, or involvement in a contravention, of section 9.~~

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Compare: 2013 No 69 s 489

41G Maximum amount of pecuniary penalty

- (1) The maximum amount of a pecuniary penalty for a contravention, or involvement in a contravention, of a tier 1 civil liability provision is the greatest of—
 - (a) the consideration for the transaction that constituted the contravention (if any); and
 - (b) if it can be readily ascertained, 3 times the amount of the gain made, or the loss avoided, by the person who contravened the civil liability provision; and
 - (c) \$1 million in the case of a contravention, or involvement in a contravention, by an individual, or \$5 million in any other case.
- (2) The maximum amount of a pecuniary penalty for a contravention, or involvement in a contravention, of a tier 2 civil liability provision is—
 - (a) \$60,000 in the case of a contravention, or involvement in a contravention, by an individual; or
 - (b) \$200,000 in any other case.

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Compare: 2013 No 69 s 490

41H Considerations for court in determining pecuniary penalty

In determining an appropriate pecuniary penalty, the court must have regard to all relevant matters, including—

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- (a) the purpose stated in section 1A; and
- (b) the nature and extent of the contravention or involvement in the contravention; and

- (c) the nature and extent of any loss or damage suffered by any person, or gains made or losses avoided by the person in contravention or who was involved in the contravention, because of the contravention or involvement in the contravention; and
- (d) whether a person has paid an amount of compensation, reparation, or restitution, or taken other steps to avoid or mitigate any actual or potential adverse effects of the contravention; and 5
- (e) the circumstances in which the contravention, or involvement in the contravention, took place; and
- (f) whether the person in contravention, or who was involved in the contravention, has previously been found by the court in proceedings under this Act, or any other enactment, to have engaged in any similar conduct; and 10
- (g) the relationship of the parties to the transaction constituting the contravention. 15

Compare: 2013 No 69 s 492

41I Court must order that recovery from pecuniary penalty be applied to Commission's actual costs

If the court orders that a person pay a pecuniary penalty, the court must also order that the penalty must be applied first to pay the Commission's actual costs in bringing the proceedings. 20

Compare: 2013 No 69 s 493

Compensatory orders

41J When court or Disputes Tribunal may make compensatory orders

- (1) The court or the Disputes Tribunal may, in proceedings under this ~~subpart~~ Part or on application by the Commission or any other person, make a compensatory order if the court or the Disputes Tribunal is satisfied that— 25
 - (a) there is a contravention of ~~a civil liability provision or a provision referred to in~~ **section 40** a provision of Parts 1 to 4A; and
 - (b) a person (the **aggrieved person**) has suffered, or is likely to suffer, loss or damage because of the contravention; and 30
 - (c) in the case of the District Court or the Disputes Tribunal, the amount of compensation is within the jurisdiction of the District Court or Disputes Tribunal (as the case requires) to order.
- (2) The court or the Disputes Tribunal may make a compensatory order whether or not the aggrieved person is a party to the proceedings. 35
- (3) If the court or the Disputes Tribunal makes a compensatory order under this section, the same loss or damage cannot be the subject of an order of reparation under the Sentencing Act 2002.

- (4) If the court orders reparation to be paid under the Sentencing Act 2002 following conviction of a person for a contravention of a provision referred to in **section 40**, the court or Disputes Tribunal may not make a compensatory order under this section in respect of the same loss or damage that is the subject of that order of reparation.

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Compare: 2013 No 69 s 494; 2015 No 70 s 97(2), (3)

41K Terms of compensatory orders

- (1) If **section 41J** applies, the court or the Disputes Tribunal may make any order it thinks just to compensate an aggrieved person in whole or in part for the loss or damage, or to prevent or reduce the loss or damage, referred to in that section.

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- (2) An order under this section may include an order to direct a relevant person to pay to the aggrieved person the amount of the loss or damage (in whole or in part).

- (3) **Subsection (2)** does not limit **subsection (1)**.

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- (4) In this section, **relevant person** means a party to the proceedings who is—

(a) ~~any a~~ person in contravention; or

(b) ~~any a~~ person who—

(i) has aided, abetted, counselled, or procured the contravention; or

(ii) has induced, whether by threats or promises or otherwise, the contravention; or

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(iii) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or

(iv) has conspired with others to effect the contravention.

Compare: 2013 No 69 s 495

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Injunctions

41L Court may grant injunctions

- (1) The court may, on the application of the Commission or any other person, grant an injunction restraining a person from engaging in conduct that constitutes or would constitute any of the following:

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(a) ~~a contravention of a civil liability provision or a provision referred to in **section 40**~~ a provision of Parts 1 to 4 or section 36WB or 36WC:

(b) any attempt to contravene such a provision:

(c) aiding, abetting, counselling, or procuring any other person to contravene such a provision:

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(d) inducing, or attempting to induce, any other person, whether by threats, promises or otherwise, to contravene such a provision:

(e)	being in any way directly or indirectly, knowingly concerned in, or party to, the contravention by any other person of such a provision:	
(f)	conspiring with any other person to contravene such a provision.	
(2)	The court may at any time rescind or vary an injunction granted under this section.	5
	Compare: 1986 No 121 s 41(1), (2)	
41M	When court may grant injunctions	
(1)	The court may grant an injunction restraining a person from engaging in conduct of a particular kind if—	
(a)	it is satisfied that the person has engaged in conduct of that kind; or	10
(b)	it appears to the court that, if an injunction is not granted, it is likely that the person will engage in conduct of that kind.	
(2)	The court may grant an interim injunction restraining a person from engaging in conduct of a particular kind if in its opinion it is desirable to do so.	
(3)	Subsections (1)(a) and (2) apply whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind.	15
(4)	Subsections (1)(b) and (2) apply whether or not—	
(a)	the person has previously engaged in conduct of that kind; or	
(b)	there is an imminent danger of substantial damage to any other person if that person engages in conduct of that kind.	20
	Compare: 1986 No 121 s 41(3), (4); 2025 No 14 s 81	
41N	Commission’s undertaking as to damages not required	
(1)	If the Commission applies to the court for the grant of an interim injunction under this subpart, the court must not, as a condition of granting an interim injunction, require the Commission to give an undertaking as to damages.	25
(2)	In determining the Commission’s application for the grant of an interim injunction, the court must not take into account that the Commission is not required to give an undertaking as to damages.	
	Compare: 1986 No 121 s 41(5), (6); 2025 No 14 s 83	30
	<i>Other orders</i>	

18 Section 42 amended (Order to disclose information or publish advertisement)

In section 42(2), replace “under any of sections 40, 40A, 41, or 43” with “under **section 40** or this subpart”.

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19 Section 43 amended (Other orders)

- (1) In the heading to section 43, after “**Other**”, insert “**civil liability**”.
- (2) Repeal section 43(3)(e) to (h).

20 Sections 43A and 43B replaced

Replace sections 43A and 43B with:

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Defences for person in contravention of civil liability provisions

43A General defences for person in contravention

- (1) In any proceeding under this subpart against a person (A) for a contravention of a civil liability provision, it is a defence if A proves that—
 - (a) A’s contravention was due to reasonable reliance on information supplied by another person; or
 - (b) both of the following apply:
 - (i) A’s contravention was due to the act or default of another person, or to an accident or to some other cause beyond A’s control; and
 - (ii) A took reasonable precautions and exercised due diligence to avoid the contravention.
- (2) For the purposes of **subsection (1)(a) and (b)**, **another person** does not include a director, an employee, or an agent of A.
- (3) **Subsection (1)(b)** does not apply to a contravention of section 10, 11, 12, 13, 14, 16, or 22 (but see the defence in **section 43B**).

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Compare: 2013 No 69 s 499

43B Reasonable mistake defence

- (1) In any proceeding under this subpart against a person (A) for a contravention of a civil liability provision, it is a defence if A proves that—
 - (a) A’s contravention was due to a reasonable mistake; and
 - (b) the contravention was remedied (to the extent that it could be remedied) as soon as practicable after the contravention was discovered by A or brought to A’s notice; and
 - (c) A has compensated or offered to compensate any person who has suffered loss or damage by that contravention.
- (2) In this section, a **mistake** does not include a mistake of law or a mistake in the interpretation of any enactment or of any document.

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43B Disclosure defence for person in contravention

In any proceeding under this subpart against a person (A) for a contravention of section 10, 11, 12, 13, 14, 16 or 22 because of a statement that is false or misleading or that is likely to mislead, it is a defence if A proves that A—

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- (a) ~~made all inquiries (if any) that were reasonable in the circumstances; and~~
- (b) ~~after doing so, believed on reasonable grounds that the statement was not false or misleading.~~

~~Compare: 2013 No 69 s 500~~

43C Additional defences for person in contravention of section 19

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- (1) This section applies to any proceeding under this subpart against a person (A) for a contravention of section 19 because of a failure to offer goods or services to a person (the **customer**) in accordance with section 19(2).

- (2) It is a defence if A proves that—

- (a) A offered to supply, or to procure another person to supply, goods or services of the kind advertised to the customer, within a reasonable time, in a reasonable quantity, and at the advertised price; and

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- (b) if the offer was accepted by the customer, A supplied, or procured another person to supply, the goods or services in accordance with the offer.

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- (3) It is a defence if A proves that—

- (a) A offered to supply, or to procure another person to supply, within a reasonable time,—

- (i) goods or services equivalent to the goods or services that were advertised to the customer (the **original goods or services**); and

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- (ii) in a reasonable quantity and at the price at which the original goods or services were advertised; and

- (b) if the offer was accepted by the customer, A supplied, or procured another person to supply, the equivalent goods or services in accordance with the offer.

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~~Compare: 1986 No 121 s 19(3)~~

43D Additional defence for person in contravention of section 28

- (1) This section applies to any proceeding under this subpart against a person (A) for a contravention of section 28 because of a failure to comply with ~~a consumer information standard~~ regulations relating to consumer information.

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- (2) It is a defence if A proves—

- (a) that the goods to which the proceedings relate were acquired by A—

- (i) for the purpose of resupply; and

- (ii) from a person (not being an agent of a person outside New Zealand) who carried on in New Zealand the business of supplying those goods; and

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- (b) that ~~A did not know, and could not reasonably have ascertained,~~

	(i) did not know, and could not reasonably have ascertained, that the goods did not comply with the consumer information standard regulations or that A had not complied with that standard the regulations in relation to the goods (as the case may be); or (ii) that A relied in good faith on a representation by the person from whom A acquired the goods that a consumer information standard had not been prescribed for regulations relating to consumer information had not been made in respect of those goods.	5
	Compare: 1986 No 121 s 44(5)	
43E	Additional defence where contravention involves publication of advertisement	10
(1)	This section applies to any proceeding under this subpart against a person (A) for a contravention of a civil liability provision that was committed by the publication of an advertisement.	
(2)	It is a defence if A proves—	15
(a)	that A's business is publishing or arranging for the publication of advertisements; and	
(b)	that A—	
(i)	received the advertisement, or the information contained in the advertisement, in the ordinary course of that business; and	20
(ii)	did not know (and had no reason to suspect) that the publication of the advertisement or the publication of the advertisement containing that information, as the case may be, would constitute a contravention of any provision of this Act.	
	Compare: 1986 No 121 s 44(4)	25
43F	Conduct still contravenes even if defence is available	
	In this Act, conduct must still be treated as contravening a civil liability provision even if the conduct does not lead to any liability under this subpart because of the availability of a defence.	
	Compare: 2013 No 69 s 502	30
<i>Defences for person involved in contravention of civil liability provisions</i>		
43G	General defences for person involved in contravention	
(1)	This section applies if—	
(a)	a person (A) contravenes a civil liability provision; and	
(b)	another person (B) is involved in the contravention.	35
(2)	In any proceeding under this subpart against B for involvement in the contravention of a civil liability provision, it is a defence if B proves that—	

- (a) B's involvement in the contravention was due to reasonable reliance on information supplied by another person; or
- (b) B took all reasonable steps to ensure that A complied with the provision.
- (3) For the purposes of **subsection (2)(a)**, **another person** does not include a director, an employee, or an agent of B.
- (4) To avoid doubt, this section applies to an involvement in the contravention of any civil liability provision, including sections 10, 11, 12, 13, 14, 16, and 22.

Compare: 2013 No 69 s 503

Miscellaneous provisions relating to defences

43H Defendant must identify other person

- (1) A person (A) is not, without the leave of the court, entitled to rely on any of the following unless A has complied with **subsection (2)**:
 - (a) the defence provided by **section 43A(1)(a) or 43G(2)(a)** that the contravention or involvement in the contravention was due to reasonable reliance on information supplied by another person:
 - (b) the defence provided by **section 43A(1)(b)** that the contravention was due to the act or default of another person:
 - (c) the defence provided by **section 43D(2)**, that the goods were acquired by A for the purpose of resupply from a person who carried on in New Zealand the business of supplying those goods.
- (2) A must, not later than 7 days before the date on which the hearing of the proceeding commences, serve on the other party to the proceeding a written notice identifying the person who supplied the information, or whose act or default caused the contravention, or who supplied the goods (as the case requires).

Compare: 2013 No 69 s 504

Relationship between proceedings and orders

43I More than 1 civil liability remedy may be given for same conduct

The court may grant a civil liability remedy of one kind against a person even though the court has granted another civil liability remedy of a different kind against the person for the same conduct.

Example

The court may make a compensatory order and a pecuniary penalty order for the same conduct.

Compare: 2025 No 14 s 86

43J Only 1 pecuniary penalty order may be imposed for same conduct

If conduct by a person constitutes a contravention, or an involvement in the contravention, of 2 or more provisions,—

(a)	a proceeding may be brought against that person for the contravention or involvement in the contravention of any 1 or more of the provisions; but	
(b)	no person is liable to more than 1 pecuniary penalty order for the same conduct.	
	Compare: 2025 No 14 s 87	5
43K	Limit on pecuniary penalty for multiple contraventions of same or substantially similar nature	
(1)	This section applies if—	
(a)	the court finds, whether in the same or separate proceedings, that a person is liable to pay a pecuniary penalty in respect of 2 or more contraventions of the same civil liability provision; and	10
(b)	those contraventions are of the same or a substantially similar nature and occurred at or about the same time.	
(2)	The total amount of any pecuniary penalty imposed on the person in respect of those contraventions must not exceed the amount of the maximum pecuniary penalty that may be imposed in respect of a single contravention.	15
	Compare: 2025 No 14 s 74	
43L	No pecuniary penalty and fine for same conduct	
(1)	A person cannot be ordered to pay a pecuniary penalty and be liable for a fine under this Act or any other Act for the same conduct.	20
(2)	A person that has, in respect of certain conduct, paid an amount in lieu of a pecuniary penalty under section 46A(1)(b) of the Financial Markets Authority Act 2011—	
(a)	is not liable for a fine under this Act for the same conduct; and	
(b)	cannot be ordered to pay a pecuniary penalty under this Act for the same conduct.	25
(3)	In relation to compensatory orders and orders of reparation made under the Sentencing Act 2002, <i>see</i> section 41J(3) and (4) .	
	Compare: 1986 No 121 s 48Q; 2025 No 14 s 88	
	<i>Limit on proceedings</i>	30
43M	Limit on proceedings	
(1)	A proceeding under this subpart may be commenced within 3 years after the conduct giving rise to the contravention, or involvement in the contravention, was discovered or ought reasonably to have been discovered.	
(2)	However, no proceeding under this subpart may be commenced 10 years or more after the conduct giving rise to the contravention or involvement in the contravention occurred.	35

- (3) In this section, a **proceeding** includes an application for an order under section 43.

Compare: 2025 No 14 s 85

General

43N Rules of civil procedure and civil standard of proof apply to civil liability 5

A proceeding under this subpart is a civil proceeding and the usual rules of court and rules of evidence and procedure for civil proceedings apply (including the standard of proof).

Compare: 2013 No 69 s 509

20A Section 44 amended (Defences) 10

Replace section 44(5)(b) with:

- (b) that the defendant did not know, and could not with reasonable diligence have ascertained, that the goods did not comply with the regulations relating to consumer information or that the defendant had not complied with those regulations in relation to the goods, as the case may be, or that the defendant relied in good faith on a representation by the person from whom the defendant acquired the goods that regulations relating to consumer information had not been prescribed for those goods. 15

21 Sections 44 to 46 repealed

Repeal sections 44 to 46. 20

22 New subpart 4 heading in Part 5 inserted

In Part 5, before the cross-heading above section 46A, insert:

Subpart 4—Other remedies

23 Section 46C amended (Management banning orders)

- (1) Replace section 46C(1)(a) with: 25

- (a) has, on at least 2 separate occasions within a 10-year period, done ~~either all or both~~ any of the following: 25
- (i) committed an offence against **section 40**;
 - (ii) been a director of, or concerned in the management of, an incorporated or unincorporated body when it committed an offence against **section 40**; ~~or~~; 30
 - (iii) contravened, or been involved in a contravention of, a civil liability provision, which has resulted in a pecuniary penalty order being made against them under this Act:
 - (iv) been a director of, or concerned in the management of, an incorporated or unincorporated body when it contravened, or was 35

	<u>involved in a contravention of, a civil liability provision, which has resulted in a pecuniary penalty order being made against them under this Act; or</u>	
(2)	After section 46C(1)(a), insert:	
	(b) has had a pecuniary penalty order made against them under this Act; or	5
(3)	In section 46C(2), replace “section 40(1) or (1A)” with “ section 40 , or will continue to contravene or be involved in contraventions of civil liability provisions”.	
24	Section 46E replaced (Offence to breach management banning order)	
	Replace section 46E with:	10
46E	Management banning order to be complied with	
	Any person against whom a management banning order is made must comply with the terms of the order.	
25	New subpart 5 of Part 5 inserted	
	After section 46M, insert:	15
	Subpart 5—Miscellaneous	
	<i>Accessories and attribution of liability</i>	
46N	Involvement in contraventions	
(1)	In this Act, a person is involved in a contravention if the person—	
	(a) has aided, abetted, counselled, or procured the contravention; or	20
	(b) has induced, whether by threats or promises or otherwise, the contravention; or	
	(c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or	
	(d) has conspired with others to effect the contravention.	25
(2)	Subsection (1) does not apply to proceedings for offences (but <i>see</i> Part 4 of the Crimes Act 1961, which relates to parties to the commission of offences). Compare: 2013 No 69 s 533	
46O	State of mind of directors, employees, or agents attributed to body corporate or other principal	30
(1)	If, in a proceeding under this Part in respect of any conduct engaged in by a body corporate, being conduct in relation to which any provision of this Act applies, it is necessary to establish the state of mind of the body corporate, it is sufficient to show that a director, employee, or agent of the body corporate,	

acting within the scope of their actual or apparent authority, had that state of mind.

- (2) If, in a proceeding under this Part in respect of any conduct engaged in by a person other than a body corporate, being conduct in relation to which any provision of this Act applies, it is necessary to establish the state of mind of the person, it is sufficient to show that an employee or agent of the person, acting within the scope of their actual or apparent authority, had that state of mind. 5

- (3) In this Act, **state of mind**, in relation to a person, includes the knowledge, intention, opinion, belief, or purpose of the person and the person's reasons for that intention, opinion, belief, or purpose. 10

Compare: 2013 No 69 s 535

46P Conduct of directors, employees, or agents attributed to body corporate or other principal

- (1) Conduct engaged in on behalf of a body corporate by any of the following must be treated, for the purposes of this Part, as having been engaged in also by the body corporate: 15

- (a) a director, employee, or agent of the body corporate, acting within the scope of their actual or apparent authority:
- (b) any other person at the direction or with the consent or agreement (whether express or implied) of a director, employee, or agent of the body corporate, given within the scope of the actual or apparent authority of the director, employee, or agent. 20

- (2) Conduct engaged in on behalf of a person other than a body corporate (A) by any of the following must be treated, for the purposes of this Part, as having been engaged in also by A: 25

- (a) an employee or agent of A acting within the scope of their actual or apparent authority:
- (b) any other person at the direction or with the consent or agreement (whether express or implied) either of A or of an employee or agent of A, given within the scope of the actual or apparent authority of the employee or agent. 30

Compare: 2013 No 69 s 536

26 Section 47 amended (Power to search)

- (1) In section 47(2), after “a contravention”, insert “(or involvement in a contravention)” in each place. 35
- (2) In section 47(4), after “a contravention”, insert “(or involvement in a contravention)” in each place.
- (3) After section 47(4), insert:

- (5) No person may resist, obstruct, or delay any authorised person acting in reliance on a warrant issued under this section.
- 27 Section 47F repealed (Offence to resist, obstruct, or delay)**
Repeal section 47F.
- 28 Section 47G amended (Commission may require person to supply information or documents or give evidence)** 5
- (1) In section 47G(4), replace “section 47J” with “this section”.
(2) After section 47G(5), insert:
- (5A) No person may,—
- (a) without reasonable excuse, refuse or fail to comply with a notice issued under this section; or 10
- (b) in purported compliance with the notice, supply information, or supply a document, knowing it to be false or misleading.
- 29 Section 47J repealed (Offence to contravene section 47G)**
Repeal section 47J. 15
- 29A Section 47K amended (Commission may authorise employees for monitoring and enforcement purposes)**
- (1) Replace section 47K(1)(a) and (b) with:
- (a) regulations relating to consumer information:
- (b) regulations relating to product safety: 20
- (2) Replace section 47K(1)(c) with:
- (c) regulations relating to safety of services.
- 30 Section 47L amended (Powers of authorised employees)**
- (1AAA) In section 47L, replace “consumer information standards, product safety standards, unsafe goods notices, suspension of supply notices, or services safety standards” with “regulations relating to consumer information, regulations relating to product safety, unsafe goods notices, suspension of supply notices, or regulations relating to safety of services” in each place. 25
- (1) Repeal section 47L(3)(g).
(2) After section 47L(7), insert: 30
- (8) No person may resist, obstruct, or delay any authorised employee exercising a power referred to in this section.
- 31 Section 48P amended (Proceedings relating to financial products or financial services)**
In section 48P(1)(a), delete “or criminal”. 35

- 32 Section 48Q repealed (No pecuniary penalty and fine for same conduct involving financial products or financial services)**
Repeal section 48Q.
- 33 New section 48U inserted (Defence against civil liability for action taken by online service providers to disrupt scams)** 5
After section 48T, insert:
- 48U Defence against civil liability for action taken by online service providers to disrupt scams**
- (1) This section applies if— 10
- (a) a person uses an online service to carry out an activity; and
 - (b) the provider of the online service has reasonable grounds to believe that the activity is a scam.
- (2) The provider of the online service is not liable in civil proceedings for any action that they take to disrupt the activity if they prove that the action— 15
- (a) was reasonably proportionate to the nature and scale of the activity; and
 - (b) was taken in good faith; and
 - (c) was taken or, in the case of ongoing action, begun— 20
 - (i) while the provider had reasonable grounds to believe that the activity was a scam; and
 - (ii) within 28 days of the provider first having those grounds; and
 - (d) was promptly reversed if—
 - (i) the provider ceased to have reasonable grounds to believe that the activity was a scam; and
 - (ii) it was reasonably practicable to reverse the action.
- (3) This section does not affect any other right or defence available to the provider in respect of the action (for example, protection under section 24 of the Harmful Digital Communications Act 2015 or the creation, exercise, or taking advantage of any contractual indemnity, immunity, or other term of use). 25
- (4) In this section,— 30
- digital platform** means an Internet-based system that facilitates transactions, content sharing, or other interactions between users of the system (for example, an online marketplace or a social media channel)
- online service** means—
- (a) a telecommunications service, as defined in section 5 of the Telecommunications Act 2001; or 35
 - (b) a website hosting service; or
 - (c) a digital platform; or

- (d) an Internet domain name registration service
- scam** means a scheme to deceive or threaten a person for the purpose of obtaining a financial or other benefit, such as money or personal information, from that person or a person associated with that person
- use** of an Internet domain name registration service includes use by the registrant of a domain name registered by the service
- website hosting service** means the provision of access to a server or other infrastructure for the purpose of enabling—
- (a) users of the service to store their websites on the server or infrastructure; and
- (b) others to access ~~the those~~ websites ~~from it~~.
- (5) In this section, the provider of an online service **has reasonable grounds to believe** that an activity is a scam if—
- (a) the provider believes on reasonable grounds that the activity is a scam; or
- (b) another person has notified the provider that there are reasonable grounds to believe that the activity is a scam and the provider—
- (i) believes on reasonable grounds that that person has appropriate expertise in, and processes for, identifying scams; and
- (ii) has no reason to doubt the accuracy or continued accuracy of the notification.

34 Section 51 amended (Application of Act to goods that are, or may be, exported to China)

Replace section 51(1)(c) with:

- (c) sections 10 and 13 are tier 1 civil liability provisions and, as such, a contravention (or involvement in a contravention) of either section may—
- (i) attract 1 or more of the civil liability orders referred to in **section 41A**; and
- (ii) result in a warrant being issued in New Zealand under section 47(2) to search a place in New Zealand if the contravention (or involvement in a contravention) relates to goods that are, or may be, exported from New Zealand for supply to China.

35 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Part 2

Related amendments to other legislation

Subpart 1—Amendments to Acts

Auctioneers Act 2013

- 36 Principal Act** 5
Sections 37 to 39 amend the Auctioneers Act 2013.
- 37 New section 4A inserted (Transitional, savings, and related provisions)**
 After section 4, insert:
- 4A Transitional, savings, and related provisions** 10
 The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.
- 38 Section 6 amended (Disqualification from registration)**
- (1) In section 6(1)(f)(i), delete “or subpart 4 of Part 4A”.
- (2) After section 6(1)(f), insert:
- (fa) a person who has ~~contravened, or been involved in a contravention of,~~ had a pecuniary penalty order made against them for a contravention, or involvement in a contravention, of any of sections 7, 10, 11, 12, 12A, 13, 14(1), 16, 17, 19, 20, 21(c), 21A(2), 22, 26A, 26B, 36ZB, 36ZD, and 36ZF of the Fair Trading Act 1986 within the preceding 5 years; or 15
- (3) In section 6(2)(c)(i), delete “or subpart 4 of Part 4A”. 20
- (4) After section 6(2)(c), insert:
- (ca) the company has ~~contravened, or been involved in a contravention of,~~ had a pecuniary penalty order made against it for a contravention, or involvement in a contravention, of any of sections 7, 10, 11, 12, 12A, 13, 14(1), 16, 17, 19, 20, 21(c), 21A(2), 22, 26A, 26B, 36ZB, 36ZD, and 36ZF of the Fair Trading Act 1986 within the preceding 5 years; or 25
- 39 New Schedule 1AA inserted**
 Insert the **Schedule 1AA** set out in **Schedule 2** of this Act as the first schedule to appear after the last section of the principal Act.
- Consumer Guarantees Act 1993* 30
- 40 Principal Act**
- Section 41** amends the Consumer Guarantees Act 1993.

41 Section 43 amended (No contracting out except for business transactions)

In section 43(4), replace “commits an offence against section 13(i)” with “contravenes section 13(i)”.

*Credit Contracts and Consumer Finance Act 2003***42 Principal Act** 5

Section 43 amends the Credit Contracts and Consumer Finance Act 2003.

43 Section 135 amended (No contracting out)

In section 135(2), replace “commits an offence against section 13(i)” with “contravenes section 13(i)”.

Customer and Product Data Act 2025 10**44 Principal Act**

Section 45 amends the Customer and Product Data Act 2025.

45 Section 143 amended (No contracting out)

(1) In section 143(2), replace “commits an offence against section 13(i)” with “contravenes section 13(i)”.

(2) In the example in section 143(2), replace “commits an offence” with “contravenes section 13(i)”.

*Harmful Digital Communications Act 2015***46 Principal Act**

Section 47 amends the Harmful Digital Communications Act 2015.

47 Section 23 amended (Liability of online content host for content posted by user)

In section 23(3), after “the removal of content”, insert “, protection under **section 48U** of the Fair Trading Act 1986,”.

Immigration Advisers Licensing Act 2007 25**48 Principal Act**

Section 49 amends the Immigration Advisers Licensing Act 2007.

49 Section 16 amended (Persons subject to restriction on being licensed)

Replace section 16(a) with:

- (a) a person who—
- (i) has been convicted, whether in New Zealand or in another country, of a crime involving dishonesty, an offence resulting in a term

- of imprisonment, or an offence against the Fair Trading Act 1986 (or any equivalent law of another country); or
- (ii) ~~has contravened, or been involved in a contravention of, any civil liability provision~~ had a pecuniary penalty order made against them under the Fair Trading Act 1986 (or any equivalent law of another country); or

Lawyers and Conveyancers Act 2006

50 Principal Act

Section 51 amends the Lawyers and Conveyancers Act 2006.

51 Section 23 amended (False or misleading representations in relation to supply of legal services) 10

In section 23(2), replace “Section 45” with “**Section 46P**”.

Motor Vehicle Sales Act 2003

52 Principal Act

Sections 53 to 57 amend the Motor Vehicle Sales Act 2003. 15

53 Section 24 amended (Persons disqualified from registration: individuals)

Replace section 24(k) with:

- (k) a person who, within the preceding 5 years,—
- (i) has been convicted of an offence against any of sections 21(a) or (b), 21C, or 24 of the Fair Trading Act 1986; or
- (ii) ~~has contravened, or been involved in a contravention of,~~ had a pecuniary penalty order made against them for a contravention, or involvement in a contravention, of any of sections 17, 19, 20, 21(c), 21A(2), or 22 of the Fair Trading Act 1986; or

54 Section 68 amended (Persons banned from participating in business of motor vehicle trading) 25

Replace section 68(1)(c)(iii) with:

- (iii) is convicted of an offence against any of sections 21(a) or (b), 21C, or 24 of the Fair Trading Act 1986; or
- (iiia) ~~contravenes, or is involved in a contravention of,~~ has had a pecuniary penalty order made against them for a contravention, or involvement in a contravention, of any of sections 17, 19, 20, 21(c), 21A(2), or 22 of the Fair Trading Act 1986; or

55 Section 69 amended (Power to ban certain persons from participating in business of motor vehicle trading)

In section 69(1)(a)(i), after “convicted of a specified offence”, insert “or has ~~contravened, or been involved in a contravention of, any civil liability provision~~ had a pecuniary penalty order made against them under the Fair Trading Act 1986”. 5

56 Section 89 amended (Jurisdiction of Disputes Tribunal)

(1) In section 89(1)(b)(ii), replace “section 43(2)” with “**section 39**”.

(2) Replace section 89(2)(c)(ii) with:

- (ii) the Disputes Tribunal finds that the buyer has suffered, or is likely to suffer, loss or damage by the conduct of the motor vehicle trader that constitutes, or would constitute, conduct of the kind referred to in section 43(1) of the Fair Trading Act 1986 and the Disputes Tribunal— 10
 - (iA) makes a compensation order under **sections 41J and 41K** of that Act; or 15
 - (iB) makes an order under section 43(2) of that Act declaring the whole or any part of the contract for sale to be void.

56A Section 101 amended (Failure to display particulars about used motor vehicle offence under Fair Trading Act 1986) 20

In section 101, delete “for the purposes of section 40 of that Act”.

57 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 3** of this Act as the last Part; and
- (b) make all necessary consequential amendments. 25

Private Security Personnel and Private Investigators Act 2010

58 Principal Act

Sections 59 to 62 amend the Private Security Personnel and Private Investigators Act 2010.

59 New section 20A inserted (Transitional, savings, and related provisions) 30

After section 20, insert:

20A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

60 Section 62 amended (Grounds of disqualification for individual applicant)

(1) After section 62(e), insert:

(ea) has, within the preceding 7 years, ~~contravened or been involved in a contravention~~ had a pecuniary penalty order made against them for a contravention, or involvement in a contravention, of any of sections 10, 11, 12A, 13, 16, 19, or 21(c) of the Fair Trading Act 1986; or

(2) Replace section 62(f)(iii) with:

(iii) offence under any of sections 21(a) or (b), 24, **33C(7), 33D(6), 47(5), 47G(5A), or 47L(8)** of the Fair Trading Act 1986; or

61 Section 63 amended (Grounds of disqualification for company)

(1) Replace section 63(1)(a)(i) with:

(i) offence under any of sections 21(a) or (b), 24, **33C(7), 33D(6), 47(5), 47G(5A), or 47L(8)** of the Fair Trading Act 1986; or

(2) After section 63(1)(a), insert:

(aa) the company has, within the preceding 7 years, ~~contravened or been involved in a contravention~~ had a pecuniary penalty order made against it for a contravention, or involvement in a contravention, of any of sections 10, 11, 12, 12A, ~~13,~~ 16, 19, or 21(c) of the Fair Trading Act 1986; or

62 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in **Schedule 4** of this Act as the first schedule to appear after the last section of the principal Act.

Real Estate Agents Act 2008

63 Principal Act

Sections 64 to 66 amend the Real Estate Agents Act 2008.

64 New section 4A inserted (Transitional, savings, and related provisions)

After section 4, insert:

4A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

65 Section 37 amended (Persons prohibited from being licensed)

(1) In section 37(1)(b), replace “sections 12A, 14, 17 to 22, or 24” with “any of sections 21(a) or (b), 21C, or 24”.

(2) After section 37(1)(b), insert:

(ba) a person who has ~~contravened or been involved in a contravention~~ had a pecuniary penalty order made against them for a contravention, or involvement in a contravention, of any of sections 12A, ~~14~~ 14(1), 17, 19, 20, ~~21A(2)~~, 21(c), or 22 of the Fair Trading Act 1986 within the 5 years preceding the application for a licence:

5

66 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in **Schedule 5** of this Act as the first schedule to appear after the last section of the principal Act.

Regulatory Systems (Occupational Regulation) Amendment Act 2026

66A Principal Act

10

Sections 66B and 66C amend the *Regulatory Systems (Occupational Regulation) Amendment Act 2026*.

66B Section 21 amended (Section 37 amended (Persons prohibited from being licensed))

Repeal section 21(1).

15

66C Section 25 amended (Section 54 amended (Cancellation of licence))

In section 25, new section 54(i), replace subparagraph (ii) with:

(ii) is convicted of an offence under any of sections 21(a) or (b), 21C, or 24 of the Fair Trading Act 1986:

(ia) has had a pecuniary penalty order made against them for a contravention, or involvement in a contravention, of any of sections 12A, 14(1), 17, 19, 20, 21(c), or 22 of the Fair Trading Act 1986.

20

Secondhand Dealers and Pawnbrokers Act 2004

67 Principal Act

Sections 68 and 69 amend the *Secondhand Dealers and Pawnbrokers Act 2004*.

25

68 Section 10 amended (Issue of licence: company applicant)

After section 10(3)(a), insert:

(aa) ~~has contravened, or been involved in a contravention of, any civil liability provision~~ had a pecuniary penalty order made against it under the Fair Trading Act 1986 within the past 5 years; or

30

69 Section 22 amended (Disqualification from holding certificate)

After section 22(b), insert:

(ba) ~~has contravened, or been involved in a contravention of, any civil liability provision~~ had a pecuniary penalty order made against them under the Fair Trading Act 1986 within the past 5 years; or

Summary Proceedings Act 1957

70 Principal Act 5

Section 71 amends the Summary Proceedings Act 1957.

71 Section 2 amended (Interpretation)

In section 2(1), definition of **infringement notice**, repeal paragraph (fb).

Subpart 2—Amendments to secondary legislation

Energy Efficiency (Energy Using Products) Regulations 2002 10

72 Principal regulations

Section 73 amends the Energy Efficiency (Energy Using Products) Regulations 2002.

73 Regulation 13 amended (Offences)

Revoke regulation 13(4). 15

Real Estate Agents (Exemptions) Regulations 2017

74 Principal regulations

Section 75 amends the Real Estate Agents (Exemptions) Regulations 2017.

75 Schedule 2 amended

In Schedule 2, after clause 3(3)(b), insert: 20

(ba) ~~has contravened, or been involved in a contravention of, a civil liability provision~~ had a pecuniary penalty order made against them under the Fair Trading Act 1986 within the 5 years preceding the application for registration or a renewal of a registration; or

Real Estate Agents (Licensing) Regulations 2009 25

76 Principal regulations

Section 77 amends the Real Estate Agents (Licensing) Regulations 2009.

77 Schedule 2 amended

In Schedule 2, replace form 5 with the form set out in **Schedule 6** of this Act.

*Summary Proceedings (Orders of Reparation) Order 2011***78 Principal order**

Section 79 amends the Summary Proceedings (Orders of Reparation) Order 2011.

79 Schedule amended

5

In the Schedule, item relating to the Fair Trading Act 1986, replace “Section 43(3)(f)” with “**Section 41K**”.

Subpart 3—Revocations

*Fair Trading (Infringement Offences) Regulations 2014***80 Principal regulations**

10

Section 81 amends the Fair Trading (Infringement Offences) Regulations 2014.

81 Revocation of Fair Trading (Infringement Offences) Regulations 2014

The Fair Trading (Infringement Offences) Regulations 2014 (LI 2014/229) are revoked.

15

Schedule 1

New Part 4 inserted into Schedule 1AA

s 35

	Part 4	
	Provisions relating to Fair Trading Amendment Act 2026	5
4	Interpretation	
	In this Part, 2026 Act means the Fair Trading Amendment Act 2026 .	
5	Consultation not required if material to be incorporated by reference is same as in existing regulations	
(1)	This clause applies if,—	10
(a)	after the commencement date,—	
(i)	regulations are made under section 29; or	
(ii)	a product safety notice is made under section 29A ; or	
(iii)	both of paragraphs (i) and (ii) apply; and	
(b)	the regulations or product safety notice (or both, as the case requires) incorporate material by reference; and	15
(c)	the material incorporated by reference is the same as material that was, immediately before the commencement date, incorporated by reference in regulations made under section 29.	
(2)	Clause 1 of Schedule 2 of the Legislation Act 2019 does not apply in relation to the regulations or product safety notice (or both, as the case requires).	20
(3)	In this clause, commencement date means the date on which sections 9 and 10 of the 2026 Act come into force.	
6	Availability of management banning orders	
(1)	This clause applies if an individual has done either or both of the following:	25
(a)	committed an offence against old section 40(1) or (1A):	
(b)	been a director of, or concerned in the management of, an incorporated or unincorporated body when it committed an offence against old section 40(1) or (1A).	
(2)	Each such offence must be treated as an offence for the purpose of determining whether the District Court may make a management banning order against the individual under section 46C, regardless of whether the relevant conduct would constitute an offence under this Act as amended by the 2026 Act.	30
(3)	In this clause, old , in relation to a provision of this Act, means the provision as in force immediately before the 2026 Act was enacted.	35

Schedule 2
New Schedule 1AA inserted into Auctioneers Act 2013

s 39

Schedule 1AA
Transitional, savings, and related provisions

5

s 4A

Part 1
Provisions relating to Fair Trading Amendment Act 2026

- 1 Fair Trading Act 1986 offences that are relevant to section 6**
- (1) This clause applies if a person has been convicted of an offence against section 40 of the Fair Trading Act 1986, as it read immediately before the commencement of the Fair Trading Amendment Act **2026**. **10**
- (2) The offence must be treated as an offence for the purpose of determining whether an individual is disqualified from registration under section 6 of this Act, regardless of whether the relevant conduct would constitute an offence under the Fair Trading Act 1986 as amended by the Fair Trading Amendment Act **2026**. **15**

Schedule 3**New Part 2 inserted into Schedule 1AA of Motor Vehicle Sales Act 2003****s 57****Part 2**

5

Provisions relating to Fair Trading Amendment Act 2026**2 Fair Trading Act 1986 offences that are relevant to sections 24 and 68**

- (1) This clause applies if a person has been convicted of an offence under the Fair Trading Act 1986, as it read immediately before the commencement of the Fair Trading Amendment Act **2026**. 10
- (2) The offence must be treated as an offence for the following purposes, regardless of whether the relevant conduct would constitute an offence under the Fair Trading Act 1986 as amended by the Fair Trading Amendment Act **2026**: 15
- (a) determining whether an individual is disqualified from registration under section 24 of this Act:
 - (b) determining whether a person is banned from participating in the business of motor vehicle trading under section 68 of this Act.

Schedule 4
New Schedule 1AA inserted into Private Security Personnel and
Private Investigators Act 2010

s 62

Schedule 1AA
Transitional, savings, and related provisions

5

s 20A

Part 1
Provisions relating to Fair Trading Amendment Act 2026

- 1 Fair Trading Act 1986 offences that are relevant to sections 62 and 63** 10
- (1) This clause applies if a person has been convicted of an offence under the Fair Trading Act 1986, as it read immediately before the commencement of the Fair Trading Amendment Act **2026**.
- (2) The offence must be treated as an offence for the following purposes, regardless of whether the relevant conduct would constitute an offence under the Fair Trading Act 1986 as amended by the Fair Trading Amendment Act **2026**: 15
- (a) determining whether an individual is disqualified under section 62 of this Act:
- (b) determining whether a company is disqualified under section 63 of this Act. 20

Schedule 5

New Schedule 1AA inserted into Real Estate Agents Act 2008

s 66

Schedule 1AA

Transitional, savings, and related provisions

5

s 4A

Part 1

Provisions relating to Fair Trading Amendment Act 2026

- 1 Fair Trading Act 1986 offences that are relevant to ~~section 37~~ sections 37 and 54** 10
- (1) This clause applies if a person has been convicted of an offence under the Fair Trading Act 1986, as it read immediately before the commencement of the Fair Trading Amendment Act **2026**.
- (2) The offence must be treated as an offence for the ~~purpose of determining whether a person is prohibited from being licensed under section 37 of this Act~~ following purposes, regardless of whether the relevant conduct would constitute an offence under the Fair Trading Act 1986 as amended by the Fair Trading Amendment Act **2026**: 15
- (a) determining whether a person is prohibited from being licensed under section 37 of this Act: 20
- (b) determining whether a person must have their licence cancelled under section 54 of this Act.

Schedule 6
Form 5 in Schedule 2 of Real Estate Agents (Licensing) Regulations
2009 replaced

s 77

	Form 5	5
	Declaration in support of application by individual for agent's licence, branch manager's licence, or salesperson's licence	
	<i>Section 38, Real Estate Agents Act 2008</i>	
	<i>(Important: This document must accompany your application form)</i>	
	<i>Real Estate Agents Authority</i>	10
	I, [<i>name, address</i>], am the applicant for an agent's/a branch manager's/a salesperson's* licence and I solemnly and sincerely declare that—	
	*Select one.	
1	I have attained the age of 18 years.	
2	I hold the prescribed qualifications.	
	[<i>Strike out paragraph 3 if the application and declaration relate to a salesperson's licence.</i>]	15
3	I have had 3 years' experience in real estate agency work within the 10 years preceding this application to be licensed as an agent or a branch manager.	
4	I have provided the Real Estate Agents Authority with the information necessary for it to advertise my licence application on its Internet site in the prescribed manner.	20
5	I have not been convicted, whether in New Zealand or another country, of a crime involving dishonesty (or of a crime that, if committed in New Zealand, would be a crime involving dishonesty) within the 10 years preceding this application.	25
6	I have not been convicted of an offence under section 21(a) or (b), 21C, or 24 of the Fair Trading Act 1986 within the 5 years preceding this application.	
7	I have not contravened, or been involved in a contravention of , had a pecuniary penalty order made against me for a contravention, or involvement in a contravention, of any of sections 12A, 14(1), 17, 19, 20, 21(c), 21A(2), and or 22 of the Fair Trading Act 1986 within the 5 years preceding this application.	30
8	[<i>Select the paragraph below that applies.</i>] There are no unsatisfied judgments against me in any court.	
	<i>or</i>	
	Judgments obtained against me that are still unsatisfied are on the list attached to this declaration.	35

9	My licence or certificate of approval has not been cancelled within the preceding 5 years and my licence (if applicable) is not suspended.	
10	I am not subject to an order made, or a notice given, under the law of a country, State, or territory outside New Zealand within the preceding 5 years that prohibits me from acting as an agent, a branch manager, or a salesperson (or equivalent) in that country, State, or territory.	5
11	I am not an officer of a licensee company, a chief executive officer of a licensee company, or a branch manager who has been disqualified from holding a licence or whose licence has been suspended under the Real Estate Agents Act 2008.	10
12	I am not prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993.	
13	I am not a lawyer or conveyancing practitioner who is subject to the provisions of the Lawyers and Conveyancers Act 2006.	15
14	I am not an undischarged bankrupt nor am I subject to a procedure or an order under subpart 4 of Part 5 of the Insolvency Act 2006.	
I also solemnly and sincerely declare that—		
15	There are no other circumstances that would or might make me not a fit and proper person to hold a licence.	20
16	I am the person named in the documents submitted with my application.	
17	The documents submitted with the application are complete and correct.	
I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.		
Signature of person making declaration:		25
<i>This section to be completed by the witness</i>		
Declared at [<i>place, date</i>]		
Before me: [<i>name, signature</i>]		
Name of witness: [<i>print name</i>]		
(Justice of the Peace/other person authorised to take a statutory declaration*)		30
*Select one.		
Note		
A person who provides misleading or false information in this declaration commits an offence and is liable to a significant penalty.		

Fair Trading Amendment Bill

Legislative history

13 May 2026

27 May 2026

Introduction (Bill 299–1)

First reading and referral to Finance and Expenditure Committee

Wellington, New Zealand:

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