

COVERSHEET

Ministers	Hon Dr David Clark Hon Aupito William Sio	Portfolio	Commerce and Consumer Affairs Courts
Title of Cabinet paper	Motor Vehicle Traders Scheme Fee and Levy Review 2021: Release of Discussion Document	Date to be published	17 January 2022

List of documents that have been proactively released

Date	Title	Author
November 2021	Motor Vehicle Traders Scheme Fee and Levy Review 2021: Release of Discussion Document	Office of the Minister of Commerce and Consumer Affairs
10 November 2021	Motor Vehicle Traders Scheme Fee and Levy Review 2021: Release of Discussion Document DEV-21-MIN-0227	Cabinet Office
November 2021	Discussion Document : Reviews of Motor Vehicle Traders Register Fees and Motor Vehicle Disputes Tribunal Levy	MBIE

Information redacted

YES / NO

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

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Office of the Minister for Courts

Cabinet Economic Development Committee

Motor Vehicle Traders Scheme Fee and Levy Review 2021: Release of Discussion Document

Proposal

- 1 This paper seeks Cabinet's approval to release the *Reviews of Motor Vehicle Traders Register Fees and Motor Vehicle Disputes Tribunal Levy* discussion document (provided in **Appendix One**) to allow for public consultation on the proposed adjustments to the fees and levy.

Relation to government priorities

- 2 The adjustments to the existing fees and levy are routine operational matters that require Cabinet approval.

Executive Summary

- 3 The level at which Government fees and levies are set is routinely reviewed and adjusted by agencies to minimise the amount of under- or over-recovery that is occurring. The fee and levy levels proposed in the attached discussion document were arrived at through a review by the Ministry of Business Innovation and Employment (MBIE) and the Ministry of Justice (MoJ) of Motor Vehicle Traders Register (MVTR) and Motor Vehicle Disputes Tribunal (Tribunal) costs in relation to current fees and levy levels. The current levels have been reviewed regularly, but not adjusted since 2003. Fees and the levy are paid once annually per trader (for those that meet the minimum vehicle sales or import levels), irrespective of the number of cars they sell or import.
- 4 The increases to fees or levies proposed in the discussion document are necessary to:
 - 4.1 better ensure that third parties (users) are paying fully for the costs of these services given the benefits they receive from a well-regulated environment; and
 - 4.2 sustainably fund the services that are being provided.
- 5 MBIE and MoJ seek to publicly consult on the discussion document to obtain feedback from stakeholders on the proposed adjustments to fees and the levy, particularly as these will be occurring together creating a larger cumulative impact. Consultation will support analysis of which options are

preferred by stakeholders and why (where options are given) and the ways that the proposals may impact their operations.

- 6 Following feedback on the discussion document, officials will provide advice on the appropriate levels for the fees and levy in order to:
 - 6.1 recover the annual costs of running the MVTR and Tribunal; and
 - 6.2 recover the existing deficit in the MVTR memorandum account.
- 7 We propose that the adjustments to the fees and levy be implemented from 1 August 2022.

Background

- 8 The MVTR and the Tribunal perform important roles in New Zealand's economic environment. These roles are described below:
 - 8.1 MBIE delivers MVTR services. It is responsible for keeping the motor vehicle marketplace free from unregistered, non-compliant and banned traders. The MVTR is overseen by the Registrar of Motor Vehicle Traders who:
 - 8.1.1 must establish and maintain a register of motor vehicle traders;
 - 8.1.2 can carry out, or authorise a person to carry out, inspections and compliance activities in relation to the relevant provisions of the Act; and
 - 8.1.3 can cancel registrations under circumstances described in the Act including where payment for registration has been dishonoured, the trader has ceased to carry on the business of motor vehicle trading and where false information has been provided for the registration.
 - 8.2 The Tribunal, which is managed by MoJ, aims to provide a level playing field to deal with disputes between parties if one party believes there is a breach of the *Consumer Guarantees Act 1993*, the *Fair Trading Act 1986* and/or the *Motor Vehicle Sales Act 2003*. The Tribunal is overseen by an adjudicator and an assessor who assess and make determinations on applications or claims to the Tribunal.
- 9 Due to the fee paying nature of the MVTR services, the *Motor Vehicle Traders Register* memorandum account in Vote Business, Science and Innovation was established in 2003 to manage the level of revenue collected against expenditure each financial year¹. The MVTR fees under review in the discussion document relate to recovering costs from the *Commerce and*

¹ Memorandum accounts are accounts held on the balance sheet and used by many New Zealand public sector agencies who provide services funded from fees. The aim of a memorandum account is to ensure that the accumulated balance over the longer term is always trending towards nil. It provides a mechanism to forecast and plan for when adjustment to fees is required. This ensures that persistent surpluses or deficits are not incurred.

Consumer Affairs: Registration and Provision of Statutory Information
appropriation within Vote Business, Science and Innovation.

The cost of running the MVTR and Tribunal has changed over time

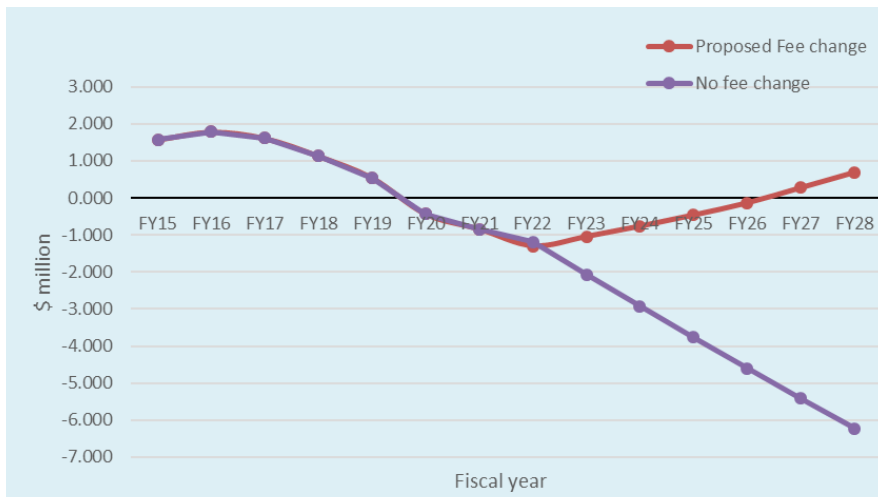
- 10 There are a range of factors that have led to the need to propose adjustments to the fees and levy.

The Motor Vehicle Traders Register

- 11 The MVTR was established on 15 December 2003 by the *Motor Vehicle Sales Act 2003* (the Act). The purpose of the Act is to promote and protect the interests of consumers in relation to motor vehicle sales. It also aims to ensure that persons who are unregistered, disqualified, banned or have a history of non-compliance do not operate as motor vehicle traders. Consumers who transact through a registered motor vehicle trader have access to accurate information about vehicles that are for sale through consumer information notices, required to be displayed by law. They can also access the Tribunal, managed by MoJ, for a determination if disputes occur.
- 12 Motor vehicle traders have been supportive of the Motor Vehicle Traders Registrar's efforts to increase compliance activity to deal with non-compliant individuals and companies. In particular, online vehicle sales have changed the market, requiring increased scrutiny. MBIE has increased this activity in 2019/20 with good results.²
- 13 The cost of achieving the current levels of monitoring and investigation of the motor vehicle trade has been met through the surplus from the memorandum account. However, the memorandum account has now reached a deficit position of \$0.845 million at 30 June 2021 and is forecast to increase to \$1.297 million deficit by 30 June 2022 if fees are not adjusted. Graph 1 below compares the impact on the memorandum account balance of not changing fees with the impact of revenue generated from the proposed fee options.

² Indicatively, between 1 July 2019 and 30 June 2020 the Registrar received 647 notifications about possible unregistered traders. In the same period there were only three cases where it was determined that no offence had been committed. There were a total of 131 cases that were issued with warnings and 16 Court convictions from 31 referred for prosecution.

Graph 1: Motor Vehicle Traders Register memorandum account 2013/14 – 2027/28



- 14 The discussion document proposes a set of three options for increasing the fees paid once a year by motor vehicle traders to support full cost recovery and to recover the deficit from previous years. The options are:
 - 14.1 single fee (status quo) – one single fee across all transaction types (application for registration and registration renewal) and users (individual traders and companies);
 - 14.2 differential – two different fees on the basis of different fees for each of the transaction types of applications for registration and renewals. Fees reflect a different level of work across these activities i.e. registration renewals are confirming details already held rather than entering new information. The fee for each transaction type is the same between users (individual traders and companies); and
 - 14.3 tiered – four different fees on the basis of both different user and transaction types. Fees reflect that there is less work to register new applications and renew registrations for individual traders compared with companies where there are multiple directors’ details to process (on average two directors).

- 15 If no adjustments are made to the MVTR fees and no Crown funding was made available, the MVTR would need to significantly reduce the level of monitoring and enforcement it undertakes. This could undermine the effectiveness of the MVTR and potentially lead to more avoidant and non-compliant behaviour. Planned ICT improvements would not be able to occur resulting in risks of reduced cyber security and privacy security. The memorandum account deficit would also continue to grow meaning a larger increase in fees for future traders to recover the deficit.

- 16 MBIE is unable to meet the cost of the register from outside of the appropriation.

The Motor Vehicle Disputes Tribunal

- 17 Motor vehicle traders are currently charged a \$110.43 levy per trader to recover costs for the Tribunal as a club good³. The Tribunal also charges fees to the traders or consumers who access the Tribunal (approximately 450 applications per annum) to support cost-recovery in addition to the levy.
- 18 The levy was implemented in 2003. Since then, the Tribunal has been subject to cost pressures from increases in staffing to meet higher transaction volumes, technology changes resulting in increased hearing volumes and other general inflationary cost increases. Recent deficits in the Tribunal have been funded from MoJ's baselines. The proposed change in levy is an increase of \$99.57 to a total of \$210.00.

If it was decided that no adjustments would be made to the Tribunal levy and no Crown funding was made available, the cost would need to continue to be met through MoJ baselines. This would mean that MoJ would not have sufficient baseline funding to enable increases or improvements to the Tribunal service to support increased volumes or service quality demands and baseline funding used for Tribunal would not be available to support and operate other MoJ tribunal services.

Analysis

- 19 The full set of proposed fees and levy are provided for in **Appendix Two** and includes the number of transactions, unit cost per transaction, current fee and the proposed change in the fee or levy.

Changes to existing fees or levies

- 20 The discussion document outlines the features of the MVTR and Tribunal and the changes to costs that have led to the proposed fees changes.
- 21 The discussion document includes three options for how the MVTR fees can be structured in order to distribute the cost of the register across users differently, while ensuring costs of running the MVTR are fully recovered and recovery of the memorandum account deficit occurs over a period of five years.
- 22 Two of the three options propose a change from the current single fee across all transactions and users to a different application and renewal fee and/or individual traders' and companies' fees. Options can be assessed using the following criteria:
 - 22.1 the fairness of how costs (and therefore fees) are distributed between motor vehicle traders;

³ Government collects levies charged to a particular group to help fund a service like the Tribunal so that the cost of that function is spread across the whole group, whether or not individual members of the group access the service.

- 22.2 how easy fees are for motor vehicle traders to navigate; and
- 22.3 how easy fees will be for MBIE to implement.
- 23 Through the release of the discussion document we will be able to understand what impact, if any, the adjustments will have on the trading activities that are carried out through the MVTR as well as the impact of an increase in the Tribunal levy.
- 24 We recognise that COVID-19 means that, for some businesses and individuals, revenue has decreased and their ability to meet increasing fixed costs is more difficult.
- 25 However, the motor vehicle sector is performing strongly, with motor vehicle and parts retail trade increasing in both sales volume and value from 2019 to 2021⁴. New Zealand's motor vehicle fleet has historically grown year on year, with a vehicle fleet of 4.4 million vehicles in 2019⁵. The number of registered traders is stable with 3,060 registered traders in June 2020 and 3,104 in 2021 (a less than 2 per cent increase).
- 26 Additionally, the proposed fees will not be implemented until 1 August 2022, giving motor vehicle traders time to adjust their operations to manage the changes.

Financial Implications

- 27 No financial implications arise from the proposal to release the attached discussion document. Any financial implications arising out of the proposals in the discussion document will be addressed when policy decisions and fee and levy setting decisions are sought from Cabinet next year.

Legislative Implications

- 28 There are no legislative changes arising out of the release of the discussion document. Following feedback on the discussion document, officials will provide advice to Cabinet on the appropriate levels for the fees and levy, which will require amendments to regulations.

Impact Analysis

Regulatory Impact Statement

- 29 The Regulatory Impact Analysis panel at the Ministry of Business, Innovation and Employment has reviewed and confirmed that the discussion document can substitute for an interim Regulatory Impact Statement. It will lead to effective consultation and support the eventual development of a quality Regulatory Impact Statement. That Regulatory Impact Statement should

⁴ Stats NZ, *Retail Trade Industry Data: March 2021 quarter*. (2021).
https://statisticsnz.shinyapps.io/retail_trade_dashboard/

⁵ Ministry of Transport. *RD023 Vehicle fleet composition by region*. (2021).
<https://www.transport.govt.nz/statistics-and-insights/fleet-statistics/sheet/vehicle-fleet>

include a full multi-criteria analysis and domestic and/or international comparators.

Climate Implications of Policy Assessment

- 30 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as there is no direct emissions impact.

Population Implications

- 31 The discussion document has no population implications.

Human Rights

- 32 The discussion document has no human rights implications.

Consultation

- 33 The Treasury has been consulted on and supports this paper. The Department of Prime Minister and Cabinet has been informed.

Communications

- 34 MBIE will publish the discussion document on their website when it is released next year and MoJ will link to MBIE's website. MBIE will also send the discussion document to targeted industry groups and registered traders.

Proactive Release

- 35 This paper will be proactively released within 30 business days of decisions being confirmed by Cabinet.

Recommendations

The Minister of Commerce and Consumer Affairs and Minister for Courts recommend that the Committee:

- 1 **note** that the services provided by the statutory register administered by MBIE and the Tribunal administered by MoJ are important for the effective functioning and regulation of motor vehicle trade activities in the New Zealand economy;
- 2 **note** that the memorandum account for the Motor Vehicle Traders Register is operating with a deficit;
- 3 **note** that MoJ is funding the deficit resulting from under-recovery for the Motor Vehicle Disputes Tribunal levy from its baselines;
- 4 **note** that the Motor Vehicle Traders Register fees and Motor Vehicle Disputes Tribunal levy have not been adjusted since December 2003;

I N C O N F I D E N C E

- 5 **note** that the discussion document consults on the proposed adjustments to fees for the Motor Vehicle Traders Register and the levy for Motor Vehicle Disputes Tribunal;
- 6 **approve** the release of the discussion document *Reviews of Motor Vehicle Register Fees and Motor Vehicle Disputes Tribunal Levy*, subject to any minor or technical changes that the Minister of Commerce and Consumer Affairs may approve prior to publication; and
- 7 **note** that there will be public consultation with stakeholders over a period of approximately six weeks in January and February 2022.

Authorised for lodgement

Hon Dr David Clark
Minister of Commerce and Consumer Affairs

Hon Aupito William Sio
Minister for Courts

Appendix One

[Discussion document]

Appendix Two

Table 1 - Summarises the change in the fees and the levy separately

Options by fee type and levy		\$ (excluding GST)			
Category	Transactions	Current fee/levy	Proposed fee/levy	Change	% Change
Motor Vehicle Traders Register fee					
Current single fee approach					
Individual trader	482		758.00	352.67	87%
Company	2,718		758.00	352.67	87%
OR Activity differential approach					
Application - Individual trader & Company	949		756.00	350.67	87%
Renewal - Individual trader & Company	2,251	405.33	760.00	354.67	88%
OR Tiered by user approach					
Application - Individual trader	235		432.00	26.67	7%
Application - Company	714		863.00	457.67	113%
Renewal - Individual trader	247		401.00	(4.33)	(1%)
Renewal - Company	2,004		802.00	396.67	98%
Motor Vehicle Disputes Tribunal levy					
Tribunal levy	482	110.43	210.00	99.57	90%

Table 2 - Summarises the change in the total charges paid by applicants and existing registered traders

Total paid (MVTR fee & Tribunal levy)		\$ (excluding GST)			
Category	Transactions	Current fee & levy	Proposed fee & levy	Change	% Change
Current single fee approach					
Individual trader	482		968.00	452.24	88%
Company	2,718		968.00	452.24	88%
OR Activity differential approach					
Application - Individual trader & Company	949		966.00	450.24	87%
Renewal - Individual trader & Company	2,251	515.76	970.00	454.24	88%
OR Tiered by user approach					
Application - Individual trader	235		642.00	126.24	24%
Application - Company	714		1,073.00	557.24	108%
Renewal - Individual trader	247		611.00	95.24	18%
Renewal - Company	2,004		1,012.00	496.24	96%



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



Discussion Document

**Reviews of Motor Vehicle Traders Register Fees and
Motor Vehicle Disputes Tribunal Levy**

January 2022

How to have your say

Submissions process

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Justice (MoJ) are seeking written submissions on:

- proposed changes to fees for joining the Motor Vehicle Traders Register (MVTR)
- proposed changes to the funding of the Motor Vehicle Disputes Tribunal (the Tribunal) and the associated levy on the Motor Vehicle Traders Register applications and annual renewals.

This consultation paper includes some questions you may like to respond to in your submission. The questions are listed in the boxes throughout this document and listed in full in section 2 of this document (Summary of Questions). Your submission does not need to answer all or any of these questions. Where possible, please include evidence to support your views, for example, references to facts and figures, or relevant examples.

You can answer questions about either or both of the MVTR fees and Tribunal levy in your submission. MBIE is receiving your submission on behalf of both agencies and will pass your feedback about the Tribunal on to MoJ for its consideration.

All fees and levies proposed are GST exclusive.

The discussion document in relation to these matters will be available on MBIE's website at:

<https://www.mbie.govt.nz/have-your-say/>

Please send your written submission on the proposals and questions raised in this document by **5.00pm on 25 February 2022**. Please include your name, or the name of your organisation, and contact details. You can make your submission by:

- attaching your submission as a Microsoft Word or PDF attachment and sending to motorvehicletraders@mbie.govt.nz; or
- mailing your submission to:

Motor Vehicle Traders
Ministry of Business, Innovation, and Employment
PO Box 1473
Wellington 6140
New Zealand

Please direct any questions that you may have in relation to the submission process to: motorvehicletraders@mbie.govt.nz

Next steps and implementation

Once we have considered the submissions we will develop final proposals. If these proposals are approved they will form the basis of revised regulations under the various pieces of legislation that regulate the fees and levies considered in this document. Please see the *Purpose of this document* section for a proposed timeline of key milestones.

Use of information

The information provided in the submissions will be used to inform MBIE's and MoJ's proposed option, and advice to Ministers. We may contact submitters directly if we require clarification of any matters in submissions.

Except for material that may be defamatory, MBIE and MoJ may post PDF copies of submissions received to MBIE and MoJ's websites at www.mbie.govt.nz and www.justice.govt.nz. By making a submission, we will consider that you have agreed to us posting your submission on the MBIE and MoJ websites, unless you clearly specify otherwise in your submission.

Release of information

Submissions are subject to the *Official Information Act 1982*. Please tell us as part of your submission if you have any objection to the release of any information in the submission, which parts you consider should be withheld, and include your reasons for withholding the information. MBIE will consider any objections you note and consult with you when responding to requests under the *Official Information Act 1982*.

Please indicate on the front of your submission if it contains confidential information and mark the text accordingly. If you wish to make a submission which includes confidential information, please send us a separate version excluding the relevant information for publication on our website.

Private information

The *Privacy Act 2020* establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE as part of your submission will only be used to help inform the development of policy advice in relation to this review. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that we may publish.

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Purpose of this document

To develop this document, the Ministry of Business, Innovation and Employment (MBIE) and Ministry of Justice (MoJ) reviewed the current costs of services delivered by the Motor Vehicle Traders Register (MVTR) and the Motor Vehicle Disputes Tribunal (Tribunal), and the fees and levy charged to fund them.

This document outlines the proposed changes in fees and the levy, the issues and options that have been considered and key questions to help us understand the options and their impacts from your perspective.

- MBIE is seeking your views on proposed adjustments to fees for the MVTR services.
- MoJ is seeking your views on the proposed adjustment to the levy on registered motor vehicle traders to fund the Tribunal.

Your feedback on the proposals in this document will be used to help Ministers to make final decisions for the regulations for MVTR fees and Tribunal levy.

The objectives of the review of the current cost structure are to ensure that:

- the MVTR is funded sustainably while ensuring users meet an appropriate portion of the cost given the benefit they receive, and
- MoJ can resource the Tribunal functions they are expected to deliver under the *Motor Vehicle Sales Act 2003*.

All proposed fees and levies are stated as GST exclusive.

We welcome your written submissions on the proposals included in this document. Once we have considered your submissions, we will provide advice to the Ministers who will take final proposals to Cabinet for consideration.

Proposed timeline for reviews

Due date	Action
17 January 2022	Release of discussion document
25 February 2022	Deadline for submissions to MBIE
March 2022	Report to relevant Ministers on submissions and final proposals for changes to fees and levies
May 2022	Seek approval from Cabinet for proposed changes
May 2022	Governor-General makes Order in Council to make the Regulations that set the fees and levies
1 August 2022	Fees and levy implemented

Guidance considered in these reviews

These reviews take into account existing guidance on setting charges, including The Treasury's [Guidelines for Setting Charges in the Public Sector](#) and the Office of the Auditor General's [Good Practice Guide: Charging fees for public sector good and services](#). The principles set out in these documents are reflected in the options for adjusting fees and levies, where relevant.

How to use this document

The remainder of this document is structured in seven sections as outlined below. We have included questions for your consideration throughout the document and a summary of all the

questions is provided in section 2 ([Summary of Questions](#)). We welcome any other relevant comment or information that you wish to provide.

Section	Content
Overview	
Section 1	Summary of proposed changes to Motor Traders Register fees and the Motor Vehicle Disputes Tribunal levy
Section 2	Summary of questions
Motor Vehicle Traders Register	
Section 3	Overview of the Motor Vehicle Traders Register and its funding
Section 4	Proposed options for the Motor Vehicle Traders Register fees
Motor Vehicle Disputes Tribunal (Te Rōpū Take Tautohenga Ā Waka)	
Section 5	Overview of the Motor Vehicle Disputes Tribunal and its funding
Section 6	Review of the Motor Vehicle Disputes Tribunal costs and proposed levy change

Information on how to make a submission is provided at the beginning of this document (see [How to have your say](#)).

Submissions on the questions in this paper are due by 5.00pm on 25 February 2022.

Section 1 – Summary of proposed changes to Motor Traders Register fees and the Motor Vehicle Disputes Tribunal levy

The Motor Vehicle Traders Register and Motor Vehicle Disputes Tribunal perform an important role

The Registrar of Motor Vehicle Traders (the Registrar) plays a key role in promoting and protecting the interests of consumers in relation to motor vehicle sales. The Registrar makes decisions to accept or refuse applications for registration, cancels registrations and bans traders in accordance with the provisions of the *Motor Vehicle Sales Act 2003* (the Act) and administers and maintains the MVTR.

The Registrar is also responsible for regulatory compliance activities in respect to the offences detailed in sections 95-119 of the Act. These include offences relating to banned persons, investigating odometer tampering, and motor vehicle traders who are trading illegally. Complaints about problems with a vehicle purchased are either referred to the Commerce Commission or the Tribunal.

The Tribunal, administered by MoJ, provides an accessible and level playing field to deal with disputes for motor vehicle traders and consumers who have purchased a vehicle from a registered trader (or a trader that meets the criteria for registration, but is not registered). The Tribunal is for circumstances where one party believes there is a breach of either the *Consumers Guarantees Act 1993* or the *Fair Trading Act 1986*. The Tribunal can require a trader to provide a refund, pay repair costs or other costs or void a contract.

Fees and levies need to be reviewed

MBIE charges a range of fees for the services it delivers, including those for the MVTR. When Government sets fees, it should do so at a rate that is no more than the amount necessary to recover costs. The *Motor Vehicle Sales Act* gives the Registrar the power to charge fees for applications for registration (section 31(2)(b)) and renewals (section 39(1A)(b)). When it was established, the decision was made to recover expenditure fully from the users of those services – motor vehicle traders.

However, because costs can change, it is important that fees are regularly reviewed to check that they are covering costs and not resulting in over-recovery or under-recovery of costs. Then the necessary fee adjustments can be made.

At times, Government also collects levies which are payable by a specific group to pay for a specific good or service, such as the Motor Vehicle Disputes Tribunal levy (Tribunal levy) established in the *Motor Vehicle Sales Act* (section 143). The recovery of the cost is spread across all traders, regardless of whether the individual members of the traders group used the good or service or not.

While the MVTR fees and Tribunal levy have been regularly reviewed, they have not changed since 2003 when the Act came into force. At the time the Act was put in place, projections were made about the number of registrations expected in each year and the fees and levy were set on this basis. Until 2016/17 revenue received from MVTR fees funded the annual expenditure.

Adjustments are now required because, over time, the costs of running the Tribunal and MVTR have risen and the levy and fee are not adequately covering the costs of these services. Some costs increases relate to general increases in staffing costs, etc while others are as a result of service improvements (such as enhanced monitoring and compliance activity).

If MBIE and MoJ do not increase fees, there is a risk that:

- there will need to be a significant reduction in monitoring and enforcement activity. This may allow an increase in unregistered traders in the market creating an unfair environment;
- ICT upgrades that are needed to the MVTR will not be able to occur, creating risk around cybersecurity and privacy;
- the memorandum account deficit will continue to grow; and
- the Ministry of Justice will need to continue to meet the costs from its baselines. This would mean that MoJ would not have sufficient baseline funding to enable increases or improvements to the Tribunal service to support increased volumes or service quality demands. Baseline funding used for the Tribunal would also not be available to support and operate other MoJ tribunal services.

This current fees and levy review takes into account where expenditure has changed over time and where investments will continue to improve services. The MVTR fees and Tribunal levy must not be set too low to under-recover costs. A further review will occur in three to five years' time and adjustments made as needed.

How will this affect businesses?

This document proposes adjustments to existing fees and the levy as a result of the increased costs and prior year deficits. These are the first adjustments in the 18 year life of the MVTR and Tribunal. Fees and the levy are paid once annually per registered trader regardless of how many vehicles they sell or import.

MBIE and MoJ recognise that COVID-19 has presented a range of challenges to businesses in New Zealand, including in some cases decreased revenue in the face of continued or increased fixed costs, such as Government fees and levies. There is also a small risk that the new fees and levy levels might discourage people who meet the requirements of a motor vehicle trader from applying to register or renew their registration. However, the fees will allow for increased capacity for the Registrar to follow up on people who should be registered, which will improve the integrity of the system overall.

Motor vehicle retail trade in New Zealand is one of the areas that has experienced growth in spite of COVID-19, with both volumes and values of motor vehicle and parts sales increasing in 2019, 2020 and 2021¹. In addition the new fees and levy would not be implemented until **1 August 2022**, giving motor vehicle traders time to adjust their operations to meet the new fees and levy.

MBIE (for the management of the MVTR) and MoJ (for the Tribunal), have continued to improve their systems to create efficiencies to be able to maintain the level of services they provide.

How will this affect consumers?

The protections provided by the Act are important for consumers to be able to have an accessible way to seek justice in cases where they feel that a breach of their rights has occurred. Motor vehicle traders may see the increase in fees and levy as a reason to raise their prices, which would affect consumers. However, between 2020 and 2021, the industry has

¹ Stats NZ, *Retail Trade Industry Data: March 2021 Quarter*. (2021)
https://statisticsnz.shinyapps.io/retail_trade_dashboard/

already enjoyed an increase in the sale price average of a vehicle of \$3,000 for small cars and of \$6,000 for large cars².

There are three options provided for how the costs of the MVTR could be recovered for you to comment on. The tables below summarise the proposed changes in fees and the levy, all paid once annually per registered trader. All fees are GST exclusive.

Table 1: Proposed MVTR fees options

Fee type	Current fee	Option 1 - Single fee		Option 2 - Differential		Option 3 - Tiered	
		Proposed fee	Change	Proposed fee	Change	Proposed fee	Change
Applications							
Individual traders	405.33	758.00	352.67	756.00	350.67	432.00	26.67
Companies	405.33	758.00	352.67	756.00	350.67	863.00	457.67
Renewals							
Individual traders	405.33	758.00	352.67	760.00	354.67	401.00	(4.33)
Companies	405.33	758.00	352.67	760.00	354.67	802.00	396.67

Table 2: Proposed Tribunal levy

Levy type	Current levy	Unit cost	Proposed levy	Change
Motor Vehicle Disputes Tribunal levy	110.43	215.77	210.00	99.57

Table 3: Proposed MVTR fee options - including the Tribunal levy

Fee type	Current fee & levy	Option 1 - Single fee		Option 2 - Differential		Option 3 - Tiered	
		Proposed total fee & levy	Change	Proposed total fee & levy	Change	Proposed total fee & levy	Change
Applications							
Individual traders	515.76	968.00	452.24	966.00	450.24	642.00	126.24
Companies	515.76	968.00	452.24	966.00	450.24	1,073.00	557.24
Renewals							
Individual traders	515.76	968.00	452.24	970.00	454.24	611.00	95.24
Companies	515.76	968.00	452.24	970.00	454.24	1,012.00	496.24

² RNZ, *New car prices remain firm after Covid supply-chain supply issues ease.* (2021)

<https://www.rnz.co.nz/news/national/437091/new-car-prices-remain-firm-after-covid-supply-chain-supply-issues-ease>

Section 2 – Summary of questions

This table summarises all of the questions asked throughout this document.

Questions for submitters:	
General questions	
1	What is the overall impact of the MVTR fees and Tribunal levy at their <u>current</u> levels on your business?
2	What would the overall impact of the <u>proposed</u> adjusted fee and levy levels be on your business?
3	Are there any particular adjustments to the proposed fees that you think should be reconsidered? If yes, which fees and why?
4	Do you think the reasons for adjustments to the fees and levy are clear and understandable? If not, why not?
Motor Vehicle Traders Register	
5	Do you agree with the criteria used to assess the options for changes in MVTR fees? Why/why not?
6	What is your view on creating a different fee for a MVTR registration and a renewal of a registration?
7	What is your view on creating a different fee for individual traders and companies across all fees?
8	There are three options outlined for changes in fees for the MVTR. Which option would you prefer and for what reasons?
9	Are there any other options that should be considered? Why?
10	What is your view on the period over which the memorandum account deficit is recovered? Should it be shorter or longer?
11	Do you have any concerns about the memorandum account deficit recovery? If so, what are they?
12	What is your view of the activities and services (e.g. an IT upgrade and increased monitoring and enforcement) that are proposed to be funded by the fee increases (i.e. will they benefit your business and/or the sector)?
Motor Vehicle Disputes Tribunal	
13	What impact would the proposed Tribunal levy adjustment have on your business?

Motor Vehicle Traders Register fees

Section 3 – Overview of the Motor Vehicle Traders Register and its funding

The purpose of the Act is to promote and protect the interests of consumers in relation to motor vehicle sales. When purchasing a vehicle from a registered motor vehicle trader, consumers are able to see accurate information about the vehicle through the display of a Consumer Information Notice (CIN). Consumers can also access the Tribunal for a determination if issues occur.

The Act sets out the criteria for who must register as a motor vehicle trader on the MVTR. All persons selling more than six vehicles or importing more than three vehicles a year are required to register. The MVTR holds essential information about registered traders and their businesses. The online register can be searched for free by the public for registered traders and banned traders.

Motor vehicle trade in New Zealand

There are approximately 3,200 registration applications and renewals to the MVTR each year. Approximately 2,700 of these are from companies and the rest are individual traders.

The level of unregistered traders is difficult to determine. Some traders may not be trading or importing enough vehicles to qualify to register. Of those that do meet the criteria, but who are not registered, MBIE identifies approximately 600 possible unregistered traders per year. This indicates a level of potential non-compliance that warrants further regulatory action.

Objectives of the Motor Vehicle Traders Register

In delivering the MVTR services, MBIE has two main objectives:

- to work with New Zealand businesses to protect consumers, build market confidence, promote a level playing field for business and support trade, and
- to maintain confidence in the register through a focus on integrity and taking enforcement action where this is appropriate and necessary.

The functions of the MVTR contribute to protecting New Zealand consumers by building confidence and keeping the marketplace free from traders who do not comply with the law. Well-functioning and trusted markets are essential to an efficient and transparent New Zealand business environment that in turn helps grow New Zealand for all.³

In managing the MVTR, the Registrar aims for its services to be customer-focused and fair with a consistent regulatory approach focussed on excellence and supported by quality management systems. Their approach to compliance is risk and evidence-based, with a preference to educate first wherever possible.

Improvements to monitoring and compliance

Over the past two years, the Registrar's analysis has identified significant levels of potential unregistered trading. Some people may be undertaking the business of motor vehicle trading in direct competition with registered traders but without fulfilling the statutory requirements of the Act. This means that motor vehicle traders are disadvantaged by competing against traders who may have lower standards of quality and service.

³ MBIE's purpose is to Grow New Zealand for All - Hīkina Whakatutuki.

In response, the Registrar identified the need to increase market surveillance and compliance activities. Table 4 below summarises the types of compliance activity undertaken and the results of that activity. This illustrates that many of the notifications received by the Registrar resulted in an assessment that an offence had been committed.

Table 4 – Summary of compliance activity⁴

Compliance activity	Financial year	
	2018/19	2019/20
Registrar wrote to possible unregistered traders	608	647
Registered as a result of correspondence	38	45
Files referred for investigation	441	275
Achieved compliance	62	17
Accepted response and registration not required	127	93
Warning issued, with ongoing monitoring for compliance	96	131
No offence committed	4	3
Investigations referred for the consideration of prosecution	66	31
Prosecutions results	35 Court convictions ⁵	16 Court convictions ⁶

In addition to the increased compliance activity, MBIE needs:

1. **IT upgrades** – to replace the current registration platform and information technology (IT) systems to protect against growing cybersecurity threats and maintain appropriate levels of information security and
2. **service improvements** - to improve service delivery. Areas of focus for improvement include: public search functions, online processing of applications and the streamlining of registration, payment and statutory declaration processes.

These changes to increase compliance activity and modernise the registry would help to maintain the effectiveness and credibility of the Motor Vehicle Traders (MVT) scheme and better meet trader and consumer expectations.

Motor Vehicle Traders Register expenditure and revenue

The cost of the MVTR is fully funded by third parties (users) on a user pays basis for the services provided. In this way, those that benefit from the registry functions and enforcement activities contribute to the funding of these functions. The MVTR budget covers registration services, compliance activity and consumer education programmes.

The MVTR operates a memorandum account for providing its services. Memorandum accounts are accounts held on the balance sheet and used by many New Zealand public sector agencies to record the revenue and expenditure associated with providing services to third parties that are fully cost-recovered. The MVTR revenue and expenditure for financial years 2017/18 to 2021/22 is shown in table 5 below.

⁴ 2019/20 compliance activity was affected by MBIE's ability to regulate during COVID-19 lockdowns from March 2020.

⁵ The total fines in 2018/19 in respect of all sentencings was \$238,500, with the average sentence being over \$6,800.

⁶ The total fines in 2019/20 in respect of all sentencings was \$79,925, with the average sentence being over \$4,995.

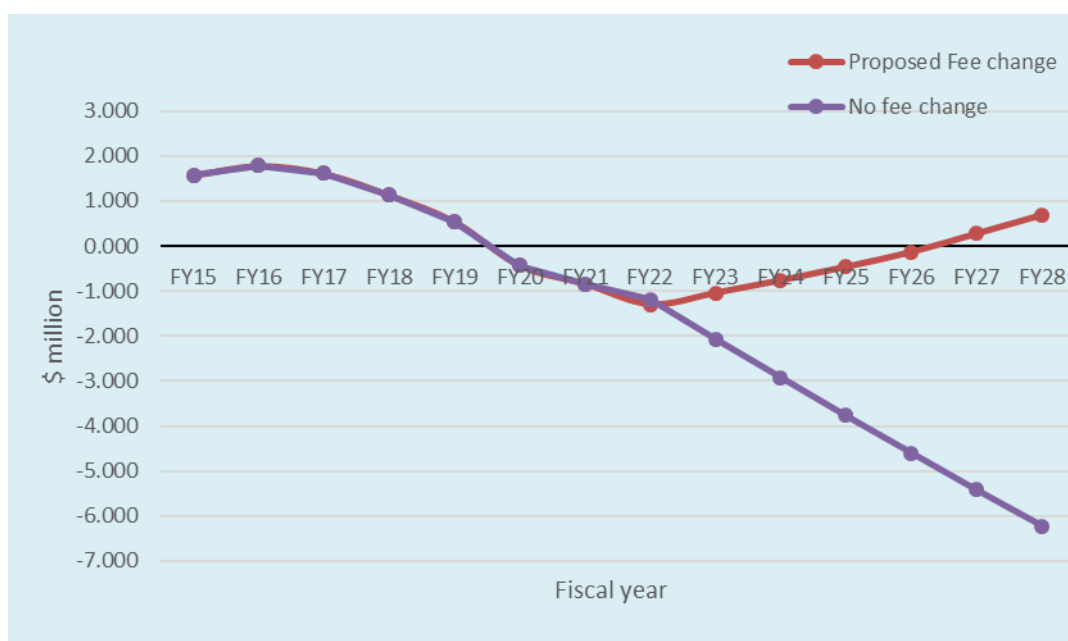
Table 5 - MVTR revenue and expenditure over a five year period⁷

Financial year/ (\$000s)	Actual	Actual	Actual	Unaudited	Forecast
	2017/18	2018/19	2019/20	Actual 2020/21	2021/22
Total Revenue	1,447	1,368	1,310	1,293	1,215
Total Expenditure	1,928	1,962	2,285	1,697	1,667
Personnel	416	252	285	137	133
Other operating	1,132	1,288	1,431	640	673
Depreciation	9	34	72	65	51
Corporate support costs	371	387	497	855	810
Surplus/ deficit	(481)	(594)	(975)	(404)	(452)
Memo account balance-opening	1,609	1,128	535	(441)	(845)
Ending balance-surplus/ (deficit)	1,128	535	(441)	(845)	(1,297)

Through the use of a memorandum account, the annual surpluses or deficits in the provision of MVTR services can be recorded and balanced over time. In this way, memorandum accounts improve the transparency of providing services, as they help show the longer run cost by reducing shorter run variation, and help agencies to avoid the need to constantly update fees.

Graph 1 below illustrates the trend of the annual surpluses or deficits for the MVTR (shown as the red line on graph 1 and in the 'ending balance' row of table 5 above) compared with the impact of no fee change and the proposed fee change (the purple line).

Graph 1- Motor Vehicle Traders Register memorandum account 2014/15 – 2027/28⁸



In 2003 when the MVTR was established, the cost of the regime was \$1.300 million per annum. From 2014/15 registration volumes began to steadily increase, peaking in 2016/17 and this additional unanticipated revenue was able to cover the general increase in cost of salaries and IT support costs. The budget increased to the current level of \$1.667 million.

⁷ 2021/22 revenue is forecast at the current fee level

⁸ Estimated renewal volumes were based on historic trends and have accounted for a drop in traders because of COVID-19. Estimates of new applicant volumes are set at conservative levels.

In 2017/18 the Registrar, with the motor vehicle sector’s support, embarked on a more proactive, targeted strategy of getting traders to be compliant with the Act. As a modern regulator, MBIE recognised the need to utilise a range of tools (from information and guidance to the use of legal action) to incentivise compliance and effectively respond to serious and significant offending in order to protect consumers and maintain public and business confidence in the Motor Vehicle Trading regime. At the same time as this increase in monitoring and compliance activity, registration volumes declined resulting in less revenue. The additional activity was able to be funded through the accumulated balance of the memorandum account, rather than a change in fees. As a result of this increased enforcement activity and flat registration volumes, the memorandum account has now moved into a deficit position and is trending downward.

Additional Expenditure

The proposed fee increases incorporate an increase of \$0.502 million. This increase will meet new cost pressures which will improve services and integrity of the motor vehicle trading regime. This budget increase is a result of resource required to develop and maintain new IT business systems that will ensure the continued functionality of the register, and to expand the MVTR enforcement programme.

Activities that will be funded from this increase include:

- **IT upgrades:** \$0.324 million for IT systems costs which reflect the investment of replacing the current MVTR in order to modernise to current IT standards, improve efficiency of registration and renewal processes and enhance cyber security systems to minimise risk of cyber-attacks. These IT systems will also simplify registration, payment and statutory declaration processes to improve online processing of applications and renewals.
- **Service improvements:** \$0.178 million for enhancement of the responsiveness to complaints, data analysis and their subsequent investigations and prosecutions to ensure consumers have access to accurate information to make informed decisions about the status of the trader they are dealing with or the vehicle being purchased. This regulatory activity will also help provide a level playing field for registered traders through the reduction of unfair competition from traders that should be registered, but are not.

Table 6 below outlines the current costs and what the proposed increase of \$0.502 million will cover to deliver the activities listed above.

Table 6: Services provided through the MVT scheme to promote and protect the interests of consumers in relation to motor vehicle sales

Service	Description	Costs \$000s (GST exclusive)			Expected benefit
		Current	Future	Increase	
Registration and renewals	Register motor vehicle traders	1,162	1,486	+324	Improved performance of IT system for registration of traders and search capability for consumers’ benefit.
	Maintain motor vehicle trader registrations				
Complaints, investigations and prosecution management	Consider matters relating to adherence to the Act	357	535	+178	Level playing field for participants trading motor vehicles. Consumers more confident that market is meeting standards of disclosure set out in the Act.
	Conduct proactive data analysis and investigations				
	Prepare information required for prosecutions				
Consumer awareness and trader education	Provision of support for consumers to understand their rights	148	148	No change	Build on and maintain current information and education activities (such as the use of

	Support of Citizens Advice Bureau as information channel				consumer information channels and 'Need to Know' newsletter to traders) to improve consumer confidence and access to redress when needed; and support trader understanding of their legal obligations and compliance.
	Education and information provided to traders on their legal obligations				
Total		1,667	2,169	+502	

Section 4 – Proposed options for the Motor Vehicle Traders Register fees

Since it was established in 2003, the costs of the MVTR remained relatively stable until 2016/17. At this time an increase in transaction volumes resulted in an increase in fixed costs and more enforcement of unregistered traders occurred with resulting cost increases associated with this work.

Subsequently volumes declined, stabilising at around 3,200 transactions per year. At this rate, the revenue from transactions is not enough to fully recover costs. The surplus that had accrued during the earlier years of the MVTR has now been fully utilised to meet the gap between costs and revenue and the current level of fees will not recover annual costs.

In addition to recovering current costs, the proposed fees include \$0.502 million for replacing the current IT systems and increased enforcement activity is reflected in the proposed fee level.

Finally, deficits incurred over the past few years need to be recouped. Once the memorandum account reaches a nil position, the fees will be reduced to ensure over-recovery of costs does not occur.

Current fee framework

The existing fee structure has a single fee paid once a year for each of the two main MVTR activities – application for registration and registration renewal. There is also no difference in fees charged between an individual trader and a company selling motor vehicles. The fee for

This discussion document explores two alternatives to the current single fee model (called 'Option 1- single fee' below). The first alternative option (called 'Option 2 – differential' below) has a different fee for registration application and registration renewal, but no difference between individual traders and companies for these transactions. The other alternative option (called 'Option 3 – tiered' below) has a different fee level for individual traders and companies, as well as different fees for a registration application and registration renewal.

The total fee for all categories paid by traders also includes a levy of \$110.43 which contributes to funding the Tribunal, managed by MoJ. This levy has also been reviewed and is discussed in sections 6 and 7 of this document.

Review scope

The review of the MVTR fees is intended to ensure that MBIE is recovering the annual budget⁹ of the MVTR and any forecast deficit of the memorandum account. The proposed fees are based on a costing model initially developed by consultancy firm Martin Jenkins Ltd, and has been updated to reflect the nature of the MVTR operating model. The costing model has also identified additional cost pressures, which are explained in the 'Additional Expenditure' section below.

There is also an accumulated deficit of \$1.297 million for the MVTR that should be recovered in order for the memorandum account to return to nil. This is shown in table 5 above.

Key assumptions

In order to calculate the cost of the services provided in the MVTR, MBIE conducted an analysis of expenditure type, time spent by staff on registrations and renewals, volumes of each service

⁹ Vote Business, Science and Innovation; *Commerce and Consumer Affairs: Registration and Provision of Statutory Information appropriation*

delivered. Direct and indirect costs were allocated across fee bearing services to derive a unit cost for each service or type of transaction.

We have based the assumptions about future volumes on a historical view (normalised for the effects of the global financial crisis and COVID-19) across services. While vehicle sales values and volumes have increased, trader numbers have not. In June 2020, there were 3,060 traders and in June 2021 there were 3,104 (a less than 2% increase).

On average companies have two directors. The cost of service for a company for a registration and renewals is therefore derived by doubling the cost for an individual trader, to account for the additional cost of reviewing and completing checks on each director.

Recovery of memorandum account deficit position

The MVTR memorandum account was established in 2003 to manage the annual surpluses and deficits associated with the running of the scheme. The balance of the memorandum account was steadily increasing until reaching a peak balance of \$1.780 million at 30 June 2016.

Since then, there has been a focus on increasing enforcement activities resulting in a reduction of the surplus with a deficit position of \$0.441 million reached at 30 June 2020 and a forecast deficit position at 30 June 2022 of \$1.297 million. Graph 1 above illustrates the forecast position of the memorandum account if the fees are not adjusted against the proposed fee change.

The proposed fees are being set at a level to recover the deficit of \$1.297 million over a five year period, or \$0.259 million per year. For options 2 and 3, which propose a different fee between registrations and renewals, the additional memorandum account fee component has been added to the renewal component of the fee. This is to recognise that new entrants into the MVT scheme did not benefit from the past investment that resulted in the deficit. Option 1 proposes a single fee and therefore the memorandum account recovery amount is spread across all the fee type categories evenly.

The table below provides a comparison of the three options and how the memorandum account deficit recovery has been allocated to each fee category.

Table 7: Summary of options of MVTR fees, including recovery of memorandum account deficit

Fee type	Current fee	Base fee			Plus: cost to recover memorandum account deficit			FINAL FEE with memorandum account deficit recovery		
		Option 1 - Single	Option 2 - Differential	Option 3 - Tiered	Option 1	Option 2	Option 3	Option 1	Option 2	Option 3
Applications										
Individual traders	405.33	678.00	756.00	432.00	80.00	-	-	758.00	756.00	432.00
Companies	405.33	678.00	756.00	863.00	80.00	-	-	758.00	756.00	863.00
Renewals										
Individual traders	405.33	678.00	645.00	341.00	80.00	115.00	60.00	758.00	760.00	401.00
Companies	405.33	678.00	645.00	682.00	80.00	115.00	120.00	758.00	760.00	802.00

New fee framework options

Assessment criteria

We are seeking your feedback on the option that you think is most appropriate to implement for the MVTR base fees. We propose to use the following criteria for assessing the options:

- 1) the fairness of how costs (and therefore fees) are distributed between motor vehicle traders
- 2) how easy fees are for motor vehicle traders to navigate
- 3) how easy fees will be for MBIE to implement.

A single fee for all transactions (Option 1) means no change for motor vehicle traders in the fee arrangements except for a fee increase. It is also the easiest option for MBIE to implement because it is a simple increase to the existing fee structure.

Options 2 and 3 more fairly represent the difference in costs incurred in carrying out the application and renewal transactions and the difference between individual trader registrations and company registrations. New applicants will pay slightly more than motor vehicle traders who are renewing their registrations and, for Option 3 companies will pay more because, there is usually more than one person applying for or renewing their registration.

Of Options 2 and 3, the easiest to implement for MBIE would be Option 2 because it has two different fee levels whereas Option 3 has four different fee levels.

The recovery of the memorandum account deficit is only applied to motor vehicle traders already on the register as this group is the one that has incurred the deficit, not new applicants. However, in the subsequent years following their initial application to the register, new motor vehicle traders will unavoidably contribute to the memorandum account recovery as they renew their registration. The memorandum account can be recovered over a shorter or longer period of time than the five years it is calculated over in the proposed options. MBIE considered a five year period to be long enough to spread the cost of recovery and to ensure the memorandum account is tracking back toward a zero balance.

MBIE also considered a staged approach to increasing fees over a period of time given the size of the increase. However, this would require more frequent reviews to the fees and uncertainty for traders about the levels of adjustments that may be required over time. To make the adjustments more certain and straightforward, they have been made at one time and will be implemented in August 2022.

1. *Maintain a single fee*

This option proposes to maintain the status quo current single fee structure, with no differential between individual traders and companies, and no differential between registration and renewal activities.

Table 8: Proposed MVTR fees - single fee

\$ (excluding GST)						
Fee type	Current fee	Unit cost	Base fee	Plus: cost to recover memorandum account	Final fee	Change in fee
Applications						
Individual traders	405.33	677.82	678.00	80.00	758.00	352.67
Companies	405.33		678.00	80.00	758.00	352.67
Renewals						
Individual traders	405.33	677.82	678.00	80.00	758.00	352.67
Companies	405.33		678.00	80.00	758.00	352.67

2. *Differential between activity*

This option proposes to allow for a differential between a registration application and renewal activity fee. The base fee for applications and renewals has a difference of \$111 to reflect that the level of work required for a renewal is less than an application for registration, because core information about the trader is already held in the MVTR.

An additional component is added to only the registration renewal fees to recover the deficit that has accrued in the memorandum account as a result of under-recovery of fees in the past. This component is not added to new registration applications.

Fees are set at the same rates for individual traders and companies for the two different activities.

Table 9: Proposed MVTR fees - differential between activity

Fee type	\$ (excluding GST)				Final fee	Change in fee
	Current fee	Unit cost	Base fee	Plus: cost to recover memorandum account		
Applications						
Individual traders	405.33	756.28	756.00	-	756.00	350.67
Companies	405.33		756.00	-	756.00	350.67
Renewals						
Individual traders	405.33	644.76	645.00	115.00	760.00	354.67
Companies	405.33		645.00	115.00	760.00	354.67

3. Tiered approach - Development of unit cost which is activity-based, and a differential between individual traders and companies

This option proposes to increase the fees to recover costs based on the effort of work undertaken across the categories. A tiered fee would be introduced between individual traders and companies for both registrations and renewals of registrations. This is on the basis that company registrations take more time to process than individual trader registrations, given the number of directors. Based on current data that each company has, on average, two directors.

The result of this approach has decreased the unit cost of the registrations and renewals for individual traders, with an offsetting increase for companies. This shift of cost reflects the additional effort to review and manage company registrations with multiple directors. When renewing a registration, much of the data held in the MVTR is being reviewed and potentially updated. The difference in applications for registration and renewals of registration reflect the different levels of work involved in the transaction.

Table 10: Proposed MVTR fees - differential between individual traders and companies and activity

Fee type	\$ (excluding GST)				Final fee	Change in fee
	Current fee	Unit cost	Base fee	Plus: cost to recover memorandum account		
Applications						
Individual traders	405.33	431.50	432.00	-	432.00	26.67
Companies	405.33	863.00	863.00	-	863.00	457.67
Renewals						
Individual traders	405.33	341.13	341.00	60.00	401.00	(4.33)
Companies	405.33	682.25	682.00	120.00	802.00	396.67

Questions for submitters:

5	Do you agree with the criteria used to assess the options for changes in MVTR fees? Why/why not?
6	What is your view on creating a different fee for a MVTR registration and a renewal of a registration?
7	What is your view on creating a different fee for individual traders and companies across all fees?
8	There are three options outlined for changes in fees for the MVTR. Which option would you prefer and for what reasons?

9	Are there any other options that should be considered? Why?
10	What is your view on the period over which the memorandum account deficit is recovered? Should it be shorter or longer?
11	Do you have any concerns about the memorandum account deficit recovery? If so, what are they?
12	What is your view of the activities and services (e.g. an IT upgrade and increased monitoring and enforcement) that are proposed to be funded by the fee increases (i.e. will they benefit your business and/or the sector)?

Motor Vehicle Disputes Tribunal (Te Rōpū Take Tautohenga Ā-Waka)

Section 5 – Overview of the Motor Vehicle Disputes Tribunal and its funding

Objective of the Motor Vehicle Disputes Tribunal

The objective of the Tribunal is to provide a level playing field to deal with disputes between parties if one party believes there is a breach of either the *Consumers Guarantees Act 1993* or the *Fair Trading Act 1986*. The disputed amounts are limited to up to \$0.100 million unless both parties have agreed in writing to a higher amount. In order to access the Tribunal, a motor vehicle trader must be a registered trader under the *Motor Vehicle Sales Act 2003*.

The Tribunal is only for people who have bought a vehicle from a registered trader – or from a trader that meets the criteria for registration, but who is not registered.

In 2010/11 there were 275 applications to the Tribunal. In 2019/20 that figure had increased to 407, with a noticeable increase in volumes since 2016. The Tribunal issued 254 decisions in 2019/20.

Motor Vehicle Disputes Tribunal expenditure and revenue

Levies are sometimes introduced by Government and charged to a specific group to meet the costs of a specific good or service. The costs of running the Tribunal are charged to registered motor vehicle traders through a levy at the time of registering on the MVTR or renewing their registration and through an application fee charged to the approximately 450 applicants to the Tribunal per year. The Tribunal benefits registered traders by providing a place to impartially settle disputes between them and consumers.

Tribunal application fees are \$50 and are paid by the applicant. Costs can be awarded against a party if:

- the claim was frivolous, vexatious or should not have been brought
- a party refuses to discuss the claim with the other party to try to settle it before the hearing or
- a party fails to appear at the hearing without good cause.

The current annual forecast of Tribunal is \$0.690 million, which covers the processing of applications and running the Tribunal. The Tribunal's costs include the following personnel roles: case managers, service managers, legal and research, administration support and Court taker as well as travel expenses, training and general MoJ overhead costs related to running the Tribunal.

Table 11: Disputes Tribunal annual expenses

Expense type	Cost \$
Personnel	397,890
Other operating	46,200
Depreciation	48,084
Corporate support costs	198,280
Total	690,454

While fees and levies are regularly reviewed by MoJ, the levy has not increased since it was implemented in 2003. Since 2003 the Tribunal has been subject to cost pressures from increases in the costs of labour and other general cost increases.

In recent years, the Tribunal has been incurring a deficit because revenue collected from the levy and application fees has been insufficient to cover the costs. There has been an increase in volumes of applications since 2016, contributing to the costs. The deficit has been funded from MoJ's baseline.

Review scope and key assumptions

The review of the Tribunal levy is aimed to recover the annual forecast of \$0.690 million¹⁰. A costing model has been developed based on volumes and the time spent by staff on Tribunal matters¹¹.

Key assumptions

The cost allocation process was derived from an analysis of expenditure type, time spent by staff on services, volumes and services delivered.

The review focused on the activity to process applications to access the services of the Tribunal, which is recovered through an application fee and the cost of running the Tribunal itself, which is considered as a levy against registered motor vehicle traders.

Volumes used in the cost allocation model are based on the three year average of the actual levies received in the 2017/18, 2018/19 and 2019/20 financial years.

Out of scope

MoJ general tribunal application fees are set at a standard rate of \$50 across all tribunals and therefore application fees for the Tribunal are not recommended for change at this time.

¹⁰ Vote Courts, *Specialist Courts, Tribunals and Other Authorities Services* departmental appropriation

¹¹ Adjudicators and Assessors fees have been excluded as they are funded through non-departmental Crown appropriations.

Section 6 – Review of the Motor Vehicle Disputes Tribunal costs and proposed levy change

It is proposed to increase the Tribunal levy to \$210.00, an increase of \$99.57. This reflects an average annual growth rate in costs of 3.4 per cent since the levy was introduced in 2003. The proposed levy does not recover any past deficits, as these have already been met by MoJ. It will ensure that, together with the filing fees received by the Tribunal, motor vehicle traders fully cover the cost of the Tribunal from 1 August 2022.

A range of factors have led to an increase in costs. When the Tribunal was established, the adjudicators required hearings to take place at the location closest to the sale of the vehicle. Any travel costs would be paid by the purchaser (generally the applicant) as they were commonly the ones living in a different location to the trader. This resulted in significant numbers of applications later being withdrawn as purchasers determined they could not risk the cost of travel with no guarantee of a successful outcome. More recently appointed adjudicators no longer insist on this to the same extent as they have been keen to improve access to justice to both applicants and other parties. The Tribunal now routinely engages parties using remote technology, which has contributed to the increased volume of hearings and decisions of the Tribunal since 2003.

The Tribunal is now responsible for more complex claims and the Registrar routinely asks the Tribunal to follow up to determine if the trader has complied with the decision of the Tribunal. Non-compliance can result in a trader being de-registered. This has led to an increase in staffing numbers. The number of case managers supporting the Tribunal has increased from two to four. The increased volume of hearings has resulted in the need for additional court staff.

While the Tribunal cannot provide the public with advice, it now works with and trains other organisations (eg Citizens Advice Bureau) on how they can help the public with any issues prior to cases coming to the Tribunal.

The Tribunal is funded through a combination of application fees and the levy. The level of applications and levy transactions have doubled since 2010, but have been steady in recent years and are expected to remain steady moving forward.

MoJ considered keeping the levy at its current levels, but discounted this option because MoJ has been for some time meeting the cost from its baselines. This is not sustainable as the Tribunal should be run as a fully cost-recovered service and is not currently collecting sufficient revenue.

Table 12: Proposed Motor Vehicle Disputes Tribunal levy

\$ (excluding GST)				
Levy type	Current levy	Unit cost	Proposed levy	Change
Motor Vehicle Disputes Tribunal levy	110.43	215.77	210.00	99.57

Question for submitters:

13 What impact would the proposed Tribunal levy adjustment have on your business?