

25 May 2023

J. A. Harris  
fyi-request-22010-00caa31f@requests.fyi.org.nz

Our ref: OIA 103076

Tēnā koe J. A. Harris

**Official Information Act request: Section 78B of the Summary Proceedings Act 1957**

Thank you for your email of 6 March 2023, requesting, under the Official Information Act 1982 (the Act), information regarding applications to dispute that a fine has been filed in court under section 78B of the Summary Proceedings Act 1957 (78B applications).

Specifically, you requested:

*Please provide information on the number of Section 78B applications (application received since 1 Jan 2018 to date. In particular, please include the following data points so analysis can be undertaken, and conclusions drawn.*

- *reason for 78B application*
- *result of 78B application*
- *indicate whether (and the number of multiple 78Bs) made for the same matter prosecuting or enforcing authority to as much detail as possible (e.g. a particular Police region or function) number of 78B applications which proceeded to collection number of 78B applications which proceeded to defended hearing and outcome of (e.g. number guilty/not guilty after defended hearing) number of 78B applications which proceeded to defended hearing but were withdrawn by the prosecuting authority number of 78B applications which proceeded to defended hearing but were tossed out by the court*

*Please provide data on the time or person-hours and costs incurred/required/used to process these 78B applications.*

*Please provide information on any and all internal processes, policies, guidelines, or other documents followed or referred to by MOJ staff or Court staff (including registrars, judges, clerks etc) in considering a 78B application.*

*Please provide information on any general advice or feedback given by MOJ or Courts to prosecuting authorities around 78B applications.*

*Please provide information on any efforts or initiatives undertaken within MOJ or Courts, or in partnership with prosecuting agencies, to reduce or manage the number of 78B applications or improve the agencies processes in order to avoid 78B applications.*

Your request has been referred to me for response, as it falls within my responsibilities as Group Manager for National Service Delivery and is being managed in accordance with the provisions of the Act.

On 14 March 2023, the Ministry of Justice (the Ministry) contacted you to clarify your request. As part of this clarification, the Ministry requested that you provide a clearer explanation or alternative wording for the part of your request regarding the outcomes of 78B applications where the application was defended, withdrawn by the prosecuting authority, or were dismissed by the court.

Further, the Ministry requested confirmation from you as to whether our interpretation that your request regarding the number of 78B applications that proceed to collection, was for the number of applications that are unsuccessful and remain with the court collections unit, or, to please specify what you are requesting if our interpretation was incorrect.

Finally, we separated the last paragraph of your request and asked for your confirmation that we had interpreted the remainder of your request correctly. This is as follows:

- number of 78B applications which proceeded to a defended hearing and the outcome of the hearing
- number of 78B applications which proceeded to defended hearing but were withdrawn by the prosecuting authority
- number of 78B applications which proceeded to defended hearing but were dismissed by the court

On the 14 March 2023, you responded to the Ministry and confirmed that our interpretations as above, were correct and that you were happy to proceed. In line with s15A(1)(a) of the Act, your clarified request, becomes a new request for the purposes of the Act and therefore resets the statutory timeframe for responding.

On 3 April 2023, the Ministry contacted you to advise that the timeframe for responding to your request would need to be extended, under section 15A of the Act, as there was a significant amount of information within scope that needed to be consulted on and prepared for release.

In response to your request, please refer to Table 1. Table 1 contains the number of 78B applications received between January 2018 and February 2023 by calendar year, reason of application, and result of application. Please note that this information has been drawn from our operational database and may be subject to change as the latest information is entered or recorded.

Under section 18(f) of the Act, I am refusing the following part of your request, on the grounds that the information would require substantial collation and research:

- number of 78B applications which proceeded to defended hearing and outcome of (e.g., number guilty/not guilty after defended hearing)
- number of 78B applications which proceeded to defended hearing but were withdrawn by the prosecuting authority
- number of 78b applications which proceeded to defended hearing but were dismissed by the court

Please refer to Table 2 for the average number of full-time equivalent (FTE) persons allocated to the processing of 78B applications by calendar year, between 1 January 2018 and 20 March 2023. Please note, that the Ministry is unable to break down this cost further as the costs of processing 78B applications are not recorded separately. Therefore, I am refusing this part of your request under section 18(e) of the Act, on the grounds that the information does not exist or cannot be found.

As part of the Ministry's internal processes, we do maintain some training resources, policies, and guidelines for staff relating to processing and decision making for 78B applications. However, this is considered judicial information, and therefore, this part of your request is refused under section 18 (g)(i) of the Act as the information requested is not held by the Ministry and I have no grounds for believing it is held by another agency or Minister.

We have interpreted the following part of your request as a request for information held by the Ministry on wider initiatives and feedback provided to prosecuting authorities since 2018, rather than a request for feedback or information on specific applications:

- *Please provide information on any general advice or feedback given by MOJ or Courts to prosecuting authorities around 78B applications.*
- *Please provide information on any efforts or initiatives undertaken within MOJ or Courts, or in partnership with prosecuting agencies, to reduce or manage the number of 78B applications or improve the agencies processes in order to avoid 78B applications.*

In response, I can advise that the Ministry has not undertaken any work in these areas. Therefore, I am refusing this part of your request under section 18(e) of the Act on the grounds that the information does not exist.

If you require any further information, please contact Media & Social Media Manager Joe Locke at [media@justice.govt.nz](mailto:media@justice.govt.nz)

Please note that this response, with your personal details removed, may be published on the Ministry website at: [justice.govt.nz/about/official-information-act-requests/oia-responses/](https://justice.govt.nz/about/official-information-act-requests/oia-responses/)

If you are not satisfied with this response, you have the right to make a complaint to the Office of the Ombudsman under section 28(3) of the Act. The Office of the Ombudsman may be contacted by email to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or by phone on 0800 802 602.

Nāku noa, nā



Tracey Baguley  
**Group Manager, National Service Delivery**

**Table 1: Number of 78B applications received between January 2018 and February 2023 by calendar year, broken down by reason for application, and result of application**

Reason for 78B application	Application outcome	2018	2019	2020	2021	2022	2023
<b>The applicant complied with the instructions given by the Issuing Authority and let the Issuing Authority know they had complied</b>	Granted - Hearing	0	0	0	1	0	0
	Granted - Rehearing	0	0	0	0	1	0
	Granted - Reissue Reminder Notice	448	318	212	227	130	13
	Granted - Withdrawn	49	52	56	126	136	20
	Pending Consent	0	1	1	2	12	18
	Refused	387	408	329	319	425	73
<b>The applicant asked for a hearing prior to the infringement being filed with the court, but did not get a response</b>	Granted - Hearing	5	12	4	3	3	0
	Granted - Other	0	0	1	0	0	0
	Granted - Rehearing	5	2	3	3	5	0
	Granted - Reissue Reminder Notice	41	81	69	48	42	3
	Granted - Withdrawn	21	17	6	16	24	5
	Pending Consent	0	0	0	0	1	0
	Refused	178	201	161	170	136	26
<b>The Issuing Authority requested for the fine to be withdrawn</b>	Granted - Withdrawn	3,365	4,631	4,742	3,840	3,635	599
	Refused	1	3	19	4	4	0
<b>The applicant's identity was mistaken</b>	Granted - Hearing	0	1	5	0	1	0
	Granted - Reissue Hearing Notice	0	0	3	0	0	0
	Granted - Reissue Reminder Notice	1,274	1,557	972	638	557	45
	Granted - Withdrawn	327	358	341	387	650	104
	Pending Consent	0	1	3	7	63	25
	Refused	2,500	2,378	1,831	943	1,394	107
<b>The applicant asked the Issuing Authority for more information about the infringement but was not provided it</b>	Granted - Hearing	0	1	0	0	0	0
	Granted - Rehearing	0	1	0	0	0	0
	Granted - Reissue Reminder Notice	32	67	63	56	37	5
	Granted - Withdrawn	26	19	77	27	14	3
	Pending Consent	0	0	0	0	3	4
	Refused	117	197	106	94	138	23

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<b>The applicant was given more time to ask for a hearing</b>	Granted - Reissue Reminder Notice	1	0	2	1	4	0
	Granted - Withdrawn	0	1	1	2	0	0
	Pending Consent	0	0	0	0	1	0
	Refused	11	6	6	6	5	1
<b>The applicant did not receive a reminder notice</b>	Granted - Hearing	0	0	0	3	1	1
	Granted - Reissue Hearing Notice	3	0	0	0	0	0
	Granted - Reissue Reminder Notice	1,685	1,768	1,497	1,321	1,382	116
	Granted - Withdrawn	118	94	80	103	105	19
	Pending Consent	1	3	3	0	14	8
	Refused	2,288	2,218	1,685	2,028	1,970	226
<b>The applicant did not receive a Notice of Hearing</b>	Granted - Other	1	1	0	0	1	0
	Granted - Rehearing	2	2	0	0	0	0
	Granted - Reissue Hearing Notice	0	1	0	0	1	0
	Refused	2	11	10	4	6	0
<b>Another type of procedural error occurred in the process of the fine being sent to court</b>	Granted - Hearing	1	0	0	0	0	0
	Granted - Other	0	0	0	0	0	1
	Granted - Rehearing	2	5	1	0	1	0
	Granted - Reissue Reminder Notice	229	352	272	255	271	11
	Granted - Withdrawn	142	104	112	125	173	24
	Pending Consent	1	1	0	0	9	2
	Refused	505	467	482	385	611	44
<b>The applicant paid the Issuing Authority on time</b>	Granted - Reissue Reminder Notice	145	146	129	74	99	14
	Granted - Withdrawn	62	39	41	41	56	16
	Pending Consent	1	0	0	1	2	4
	Refused	505	555	419	349	490	50
<b>Total</b>		<b>14,481</b>	<b>16,080</b>	<b>13,744</b>	<b>11,609</b>	<b>12,613</b>	<b>1,610</b>

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**Notes for Table 1:**

- This data counts all applications' outcomes under section 78B of the Summary Proceedings Act 1957 from 1 January 2018 to 28 February 2023, with the exception where the issuing authority has requested the application to be withdrawn.
- The year recorded is when the outcome of the application is lodged.
- The 2023 calendar year only includes the months of January and February, due to the availability of the recorded data in March 2023.
- Statistics are based on the Courts Case Management System as of 28 March 2023. Please note the data has been drawn from our operational database and may be subject to change as new data is entered or recoded.
- The application outcome "Granted – Withdrawn" indicates that the prosecuting authority has requested to withdraw the fine from court in response to the 78B application.
- The application outcome "Granted – Reissue Reminder Notice" is used when a Registrar grants a 78B application. This removes the infringement from court and instructs the issuing authority to reissue the reminder notice.
- The application outcome "Refused" is used when a Registrar declines a 78B application.
- Any of the other application outcomes are only used when a hearing is directed by a Judge as the result of a s106F application to review a deputy registrar's decision.
- 'Pending Consent' is when the application is sent to the prosecuting authority (PA) for their consent or opposition. If no response is received from the PA within 28 days, the deputy registrar will assess the application and make a decision.

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**Table 2: Average number of full-time equivalent (FTE) persons allocated to the processing of 78B applications by calendar year, between 1 January 2018 and 28 February 2023**

Calendar year	Average number of FTE persons
2018	2.22
2019	3
2020	2.07
2021	2.11
2022	2.6
2023*	3.19

**Notes for Table 2:**

- One FTE person is an equivalent to one full-time worker (40-hour work week), which can vary dependent on the volume of applications received.
- The 2023 calendar year only includes the months of January and February, due to the availability of the recorded data in March 2023.

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