Ministry for Primary Industries
Manatū Ahu Matua

Supplementary Analysis Report: Offence and penalty provisions to support enhanced protection for on-board camera footage

Purpose	Supplementary analysis produced to support the introduction of the Fisheries Amendment Bill.
Agency responsible	Ministry for Primary Industries
Proposing Ministers	Minister for Oceans and Fisheries
Date finalised	4 March 2025

Cabinet has agreed to amend the Fisheries Act 1996 to insert new offence and penalty provisions that relate to the use and sharing of on-board camera footage. The addition of these provisions supports the proposal to enhance protection for on-board cameras footage.

Summary: Problem definition and options

What is the policy problem or opportunity?
Cabinet has agreed to a suite of amendments to the Fisheries Act 1996 (the Act), including to provide enhanced protection for on-board camera footage. The key features of this proposal are to exempt on-board camera footage from the Official Information Act 1982 (OIA), and to add disclosure grounds to the Fisheries Act for when the Ministry for Primary Industries (MPI) may give out footage to third parties. On-board camera footage poses significant privacy and commercial sensitivity concerns for fishers. The policy intent of these changes is to support certainty that on-board camera footage is held securely and is only used for limited, specific purposes. Analysis of the substantive proposal is covered in the main Regulatory Impact Statement.

Cabinet also agreed to add offence and penalty provisions as part of this proposal. They agreed that the offences would be aimed at deterring third party recipients of footage from using, storing, or on-sharing footage inappropriately.

Attaching offence and penalty provisions will ensure that the new provisions that enhance protection for on-board camera footage are enforceable. This supports MPI's VADE compliance model (Voluntary, Assisted, Directed, Enforced); without this regulatory intervention, MPI would not be able to take enforcement action in instances of deliberate non-compliance.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

As offence and penalty provisions were added at a late stage in the policy development process, they were not covered in the substantive Regulatory Impact Analysis.

What is the policy objective?
Attaching offences and penalties ensures that the new provisions that enhance protection for on-board camera footage are enforceable, and would allow MPI to take enforcement action in instances of wilful non-compliance. This will incentivise compliance and help ensure that camera footage is held securely, and that it is only used for appropriate, intended purposes.

These offence provisions should be justifiable, appropriate, and proportionate. Their alignment within the existing offences and penalties regime of the Fisheries Act 1996, and with the broader compliance and enforcement regulatory environment should also be considered.

What consultation has been undertaken?
As these provisions were added at a late stage during the policy development process, there has been very limited external consultation. The provisions have been tested at a high level with the Seafood Industry Sub-Forum (a group of commercial fishing industry representatives convened to inform the direction of the Bill), who were generally supportive of the addition of offence and penalty provisions. The public, treaty partners, and other stakeholders will have an opportunity to provide feedback on this proposal during Select committee.

We have consulted the Ministry of Justice on the drafting and design of the provisions.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?
Yes

Summary: Chosen option

Costs

The main costs will fall on third parties who MPI shares camera footage with, and who intentionally undertake noncompliant behaviour – for example, parties who share the footage with other third parties, or who do not comply with any conditions that MPI puts on the use of footage. These costs are both monetised ($50,000 maximum penalty upon conviction of an offence) and non-monetised (there are other impacts of being convicted of a criminal offence, such as social stigma, work prospects in New Zealand, and the ability to travel overseas).

These impacts are considered low-medium as they are enforcement consequences; only persons that knowingly break the law will be subject to these consequences. It is also considered low-medium because evidence to date shows that third parties that MPI has shared footage with have been compliant with sought behaviours, so we do not expect a large volume of offending.

Benefits

The key beneficiaries are commercial fishers, primarily those subject to the on-board cameras programme.

The main benefits are enhanced protections for on-board cameras footage, which are mainly non-monetised (increased certainty that on-board camera footage is held securely and is only used for limited, specific purposes).
MPI and fisheries stakeholders will also benefit as this change supports integrity in the fisheries management system.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

The impacts are considered low-medium as evidence to date shows that third parties that MPI has shared footage with have been compliant with MPI's conditions.

Balance of benefits and costs

We consider that the overall benefits outweigh the costs. Attaching offence and penalty provisions will create stronger compliance incentives and will allow MPI to take enforcement action against non-compliant parties. The offence and penalty provisions are in line with the overall intent of the core policy proposal, which is to enhance protections for on-board camera footage.

Implementation

These provisions will be implemented through the Fisheries Amendment Bill. The Bill is proposed to take effect in mid-2026. All provisions relating to enhanced protections for on-board camera footage, including the offence and penalty provisions, will come into effect upon commencement of the Bill.

MPI will be responsible for ongoing operation and enforcement of the offence provisions. We expect that implementation will occur within existing resources and baselines.

Requests for camera footage will be carefully vetted and managed to ensure the appropriate response (e.g., refusal or disclosure of footage) is provided in line with the new provisions. Where footage is released MPI will monitor and check use of the footage to ensure compliance to conditions relating to the use and storage of footage; and that third parties who receive footage abide by conditions not to on-share the footage to other parties.

Monitoring, evaluation, and review

MPI is best placed to collect information and monitor whether the offences and penalties regime is working. MPI is currently developing a monitoring and evaluation framework to support implementation of the Fisheries Amendment Bill. Review of the efficacy of the offence and penalty provisions can be included in this framework.

Limitations and Constraints on Analysis

Cabinet decisions on offence and penalty provisions as part of the proposal to enhance protections for on-board camera footage were made prior to the impact analysis. The Minister for Oceans and Fisheries additionally directed several specific elements of the offence. These decisions have limited the scope of options considered in this SAR.

No public consultation has been undertaken on the offences and penalties provisions due to the late stage of the provisions being added into the Bill. This has limited the quality and breadth of evidence.

There is limited quantitative data to undertake a cost benefit analysis on the proposed amendments.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the chosen option.

Responsible Director signature:

s9(2)(a)

Lisa Collins
Acting Director Primary Sector Policy
4/03/2026

Quality Assurance Statement	
Reviewing Agency: Ministry for Primary Industries	**QA rating:** Partially meets
Panel Comment: The MPI Regulatory Impact Analysis Panel (RIAP) has reviewed the Supplementary Analysis Report '*Offence and penalty provisions to support enhanced protection for on-board cameras footage*' produced by the Ministry for Primary Industries. The review team considers that the SAR **partially meets** the QA criteria, due to the lack of consultation to inform the analysis of options considered.	

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The on-board cameras programme

1. The Fisheries (Electronic Monitoring on Vessels) Regulations 2017 require certain commercial fishing vessels to install and operate on-board video cameras to record fishing and fishing-related activities, and to provide all footage to the Ministry for Primary Industries (MPI). As of June 2025, programme implementation is complete, with cameras having been installed on 220 commercial fishing vessels and covering around 85% of the total inshore fisheries catch.

2. On-board cameras provide independently verifiable catch data, incentivise fisher compliance with self-reporting requirements, and support Fisheries New Zealand (FNZ) to take enforcement action. Cameras also provide information on the impacts of fishing on protected marine species and how well mitigation measures are working to reduce those impacts. Overall, on-board cameras are a valuable tool that support sustainable and responsive fisheries management.

3. On-board cameras also reflect a unique regulatory context where government-owned cameras are required to be installed in private workplaces (commercial fishing vessels) for monitoring, verification, and enforcement purposes. As cameras capture all activity within their set field of view, footage captured may often include personal as well as commercially sensitive information.

The Official Information Act

4. Camera footage is official information that is currently subject to the Official Information Act 1982 (the OIA).

5. The commercial fishing industry and commercial fishers have raised concerns around the potential for camera footage to be released through the OIA since the inception of the cameras programme. Concerns relate to:
   a) the privacy interests of individual fishers;
   b) the commercial sensitivity of, for example, specific fishing locations, specific fishing techniques, and the design of fishing and processing equipment;
   c) criticism by the media and public due to the release of footage that shows legally compliant activity (for example, the incidental capture of a protected species, or fish under the minimum landing size being returned to sea), and the potential commercial impact on individual fishing companies and/or personal impact on individual fishers resulting from this; and
   d) the potential impact on New Zealand's international reputation from the release of footage showing legal activity.

6. MPI is concerned that the possibility for camera footage to be requested and released under the OIA could negatively impact fishers' ongoing acceptance of to the on-board cameras programme. This could affect compliance with on-board camera

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

requirements and lower the overall efficacy of the cameras programme.

Substantive decisions on enhancing protections for on-board camera footage have been made

7. In July 2025, Cabinet agreed to enhance protections for on-board camera footage by exempting camera footage from the OIA. Cabinet also agreed to add disclosure grounds to the Fisheries Act to clarify when MPI may give out footage to certain third parties – for example, for enforcement or fisheries research purposes. The purpose of the OIA exemption and disclosure provisions is to provide confidence and clarity for fishers as to how on-board footage will be used by MPI, and to address fisher concerns noted in paras 5.

8. Only camera footage itself (moving and still images) would be exempt from the OIA. Information derived from the footage – such as aggregate data (i.e. statistics on the incidental capture of protected species), or written summaries of what the footage captures – would continue to be subject to the OIA. This supports ongoing transparency and public access to information.

9. Regulatory Impact Analysis on this main policy proposal is covered in the substantive RIS.

What is the policy problem or opportunity?

10. As part of disclosure grounds proposed to be added to the Fisheries Act:
    a) MPI may place conditions relating to the use and storage of footage which third parties must comply with; and
    b) third parties who receive footage from MPI generally must not share the footage with other parties.

11. To strengthen these provisions and ensure that they are enforceable, there was the opportunity to attach offence and penalty provisions onto the MPI ability to place conditions on footage, and onto the provision to not share footage.

12. If offence and penalties provisions are not added, Fisheries New Zealand would not be able to take enforcement action against non-complaint behaviours. Fisheries New Zealand's compliance strategy operates under the VADE (Voluntary, Assisted, Directed, Enforced) compliance model. This model is designed to ensure that compliance responses are proportionate to the behaviour and seriousness of the offence.

13. "Enforced" compliance is used in cases where entities or individuals deliberately choose to break the law, and in these cases, the full extent of the law is applied and cases are formally investigated with a view to prosecute. Without criminal offence and penalty provisions, the "enforced" response would not be possible.

14. Cabinet agreed in principle to insert such offence and penalty provisions, noting that further consultation would occur between the Ministry for Primary Industries and Ministry for Justice during the drafting of the Bill, and delegating final decisions on the drafting of the provisions to the Minister for Oceans and Fisheries.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

What objectives are sought in relation to the policy problem?

15. The objective is to insert offence and penalty provisions that support the substantive policy proposal to enhance protections for on-board cameras footage. The offence and penalty provisions are intended to deter people who handle on-board camera footage from using, storing, or sharing footage inappropriately. This will support confidence and clarity for fishers as to how on-board footage will be used by MPI.

16. The offence and penalty provisions should also be justifiable, appropriate, and proportionate. Our key considerations that informed this analysis were:
    a) Whether the offences and penalty provisions provide an incentive for compliant behaviour;
    b) Whether the provisions are proportionate to the seriousness of the offence being committed;
    c) Whether the provisions are transparent and simple to understand for parties who may be liable;
    d) How the provisions fit within the existing offences and penalties framework of the Fisheries Act 1996; and
    e) How the provisions compare against other offences and penalty provisions in comparable regulatory areas.

17. These criteria were informed through discussions with Fisheries New Zealand Compliance, the Ministry of Justice, and the Legislation and Design Advisory Committee Guidelines on creating criminal offences. These criteria informed our analysis and justification for specific elements of the provisions. *(paragraph 25 onwards refers)*

What consultation had been undertaken?

18. No public consultation has been undertaken on the offences and penalties provisions due to the late stage of the provisions being added. Public engagement on the offences and penalties provisions will be available during select committee.

19. The provisions have been tested at a high level with the Seafood Industry Sub-Forum (a group of commercial fishing industry representatives convened to inform the direction of the Amendment Bill). The Sub-Forum generally supports the addition of the provisions. The Sub-Forum and wider commercial fishing industry, Treaty Partners, and other stakeholders will have the opportunity to comment on the specifics of the provisions during Select Committee.

20. We have consulted the Ministry of Justice on the design of the provisions through the Offence and Penalty Vetting process. Key Ministry of Justice feedback is highlighted throughout Section 2.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

Section 2: Assessing the option chosen to address the policy problem

What scope was the chosen option considered within and what options were considered by Cabinet?

21. The scope of the offence and penalty provisions is limited to and guided by decisions already made by the Minister for Oceans and Fisheries and Cabinet as to what amendments will be made to enhance protection for camera footage.

22. Cabinet has agreed to provide greater protections for on-board camera footage as follows:

Amend the Fisheries Act 1996 (the Act) to provide:

a) *that fishing vessel on-board camera footage (camera footage) is not subject to the Official Information Act 1982 (OIA) and that is irrespective of which public service agency, Minister of the Crown in their official capacity, or organisation holds it;*

b) *the Ministry for Primary Industries (MPI) Director-General with discretionary decision-making power to give out camera footage to third parties for any of the following purposes;*
   i. maintenance of the law (for example, prosecutions);
   ii. to other government departments and government organisations to support the carrying out of Crown functions;
   iii. to conduct fisheries research commissioned or approved by MPI; and
   iv. to individuals and body corporates such as vessel operators, permit holders, or fishing companies where the footage pertains to their own operations;

c) *that, in exercising their power in (b) above, the MPI Director-General must consider whether there are any privacy or commercial sensitivity reasons for not giving out the camera footage;*

d) *that camera footage given out by the MPI Director-General may be subject to conditions relating to use and storage that the Director-General considers appropriate;*

e) *that third parties under (b)(ii) and (b)(iii) must not share camera footage provided to them under this provision;*

f) *for offence provisions for failure to comply with;*
   i. any conditions imposed by the MPI Director-General under (d); and
   ii. the requirement not to share camera footage under (e); and

g) *for a penalty of a fine not exceeding $50,000 for the offences under (f).*

23. The following elements of the offence and penalty provisions were specifically requested by the Minister for Oceans and Fisheries:

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

a) A specific, separate offence and penalty provision attached to the requirement to not share footage; and
b) That the maximum penalty should be $50,000 (MPI had originally suggested a maximum penalty of $10,000). Further analysis of appropriate maximum penalties is provided below.

24. Our design of the offence and penalty provisions was constrained and informed by the above factors – therefore, no substantive "other option" has been considered. Beyond this, the "agree in principle" agreement from Cabinet to inserting offence and penalties provisions gave us some flexibility to design specific elements of the provisions. Therefore, the "options" we examined related to specific elements of the offence (for example, should a mental element be required, who should the offences apply to).

Details of the proposed offences and penalties

25. Details of the offences and penalties are described in the below table. The information in this table is the core information that the Ministry of Justice encourages agencies to consider as part of the offence and penalty policy process, to support the design of appropriate and coherent provisions. Where various options were considered, analysis of and justification for the preferred option is provided in the section following the table.

Table 1: Core details of the proposed offences and penalties	
Construction of the offence – what conduct is the proposal intended to address?	**Action or conduct that will be prohibited** **Offence 1 (conditions on footage use):** Third parties who receive camera footage must comply with any conditions that MPI chooses to impose on the use and storage of a camera recording. This offence targets instances of non-compliance with MPI conditions. **Offence 2 (non-disclosure of footage):** Third parties who receive camera footage are prohibited from disclosing the footage further. This offence targets disclosures of camera footage. **Mental element required to be established by prosecution** It is intended that for both offences, the prosecution will need to prove the mental culpability of the defendant – i.e., that the defendant intended to commit the offence. **Defences available after proof of other elements** Section 241 of the Fisheries Act will apply to both offences. This provides a defence if the defendant proves that: (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 **Maximum penalty** $50,000 for each offence. We are not proposing imprisonment.
What harm is caused by the conduct?	Non-compliance with conditions that MPI imposes on the use and storage of footage, the release of footage, or both, could: • negatively impact fishers' trust and buy-in with the on-board cameras programme, affecting compliance with on-board camera requirements and lowering the overall efficacy of the programme; • jeopardise the privacy and commercially sensitive information of fishers – for example, fishing gear and practices, fishing locations; and • personal or reputational to harm individual fishers, fishing companies, and to the New Zealand commercial fishing industry as whole due to the

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

	release of footage that shows legal behaviour, but which may be perceived as unsavoury or harmful - for example, the incidental capture of a protected marine species.
Who is harmed by the conduct?	• Individual commercial fishers who work on a vessel that is required to have a camera and are captured in the footage; • Fishing companies, fishing permit holders, vessels owners and operators, whose fishing operations are undertaken on a vessel that is required to have a camera; and • The New Zealand commercial fishing industry as a whole.
What group(s) of people stand to be affected by the proposal by partaking in the conduct? How many do you expect would need to change their behaviour to avoid partaking in the conduct?	**Offence 1 (conditions on footage use):** will apply to government entities, research organisations, "fisheries-related entities" (i.e. vessel operators, permit holders, or fishing companies)[1] where footage relates to their own operations, and entities involved in maintenance of the law. **Offence 2 (non-sharing of footage)** will apply to government entities and research organisations. We have excluded "fisheries-related entities" and compliance entities from this strict non-sharing offence; we consider it inappropriate for the absolute non-sharing provision to apply in enforcement and prosecution contexts (e.g., where the sharing of evidence is required by law) or to fishing entities where footage may be their own personal information (either about an individual fisher, or about a fishing entity's business), as this may conflict with information sharing principles in the Privacy Act 2020. We do not expect that any of these parties would need to significantly change their behaviour to avoid partaking in such conduct. Under the status quo, when MPI releases camera footage to third parties, it is generally with the explicit expectation that footage should be kept confidential and handled as sensitive data. Usually, these conditions would be managed through contracts (i.e. between MPI and a researcher), memorandums of understanding or other forms of written agreements (i.e. between MPI and another government agency, or between Fisheries Compliance and another compliance agency, such as the Police). Otherwise, MPI may manage sensitive information by undertaking "non-direct" disclosures – for example, by inviting fishers or vessel owners to come into MPI offices in person to view footage, but not physically transferring the actual footage to them.
What non-regulatory options (if any) currently exist to discourage the conduct?	As above, MPI currently manages the use and dissemination of cameras footage through: • Written agreements with parties with whom footage is shared that set out conditions of use and confidentiality expectations; • "Non-direct" disclosure of footage, such as by inviting parties into MPI offices to view footage in-person; and, • Releasing guidelines to the public about how MPI releases and manages sensitive data, including camera footage. All of these options will continue to be available following the introduction of the offences and penalties provisions, and will support compliant behaviours.
What other existing offence and penalty settings (eg within the same or comparable regulatory areas) have been examined as part of the	Fisheries Act 1996 • The Fisheries Act sets out a range of criminal and civil offences, the majority of which are strict liability. There are a tiered range of fines ranging from $5,000 to $500,000. • The "most comparable" existing offence provision relates to the unlawful release of certain sensitive information for which every person convicted is liable to a fine not exceeding $5,000. This offence does not apply broadly to all information collected under the Act, only to a very specific sub-class information (information collected by a Fisheries Dispute Commissioner in

[1] Individual fishers captured in camera footage will continue to be able to request camera footage of themselves via the Privacy Act 2020. They are not included in the scope of this provision.

2yaetxvqax 2026-03-31 16:42:36

Proactively Released

development process?	the course of a dispute investigation, which may be socially or commercially sensitive). <u>National Animal Identification and Tracing Act 2012 (NAIT Act)</u> • Similar to the substantive proposal to exempt on-board camera footage form the OIA, the NAIT Act exempts information collected under the NAIT system from the OIA (s 51 refers). NAIT collects information about farmers, cattle, and cattle movements across the country. This information is personally and commercially sensitive. • Every person that knowingly shares commercially sensitive or personal information collected by the NAIT system is subject to fine not exceeding $100,000 (individual) or $200,000 (body corporate) fine, or a 6-month prison term. • Furthermore, there is a specific nondisclosure offence for authorised NAIT officials who share any information, subject to a fine not exceeding $100,000 (individual) or $200,000 (body corporate), or a 6-month prison term. <u>Fisheries (Electronic Monitoring on Vessels) Regulations 2017</u> • These regulations require that certain commercial fishing vessels must install and operate on-board cameras to monitor their fishing activity. The penalty for fishers contravening these regulations – for example, purposefully covering up an on-board camera to hide fishing activity, unplugging the camera etc – is $100,000. <u>Climate Change Response Act 2012</u> • This Act includes a $15,000 maximum penalty and/or 6-month term imprisonment for any person acting in their capacity under this Act (Crown employee) who knowingly shares sensitive information (for example, information provided to the Ministry for the Environment by participants in the Emissions Trading Scheme). <u>Privacy Act 2020</u> • Offences under this Act relating to the mishandling of data (e.g. a person who impersonates someone in order to gain access to their data, a person who misleads the Privacy Commissioner, etc) have a fine not exceeding $10,000. <u>Official Informaiton Act 1982 (OIA)</u> • There are no offences and penalty provisions in the OIA.

Proactively Released

Analysis and justification for specific elements of the provisions

26. Where various options were considered, analysis of and justification for the preferred option is provided below.

2yaetxvqax 2026-03-31 16:42:36

Mental element (proof of intent)

27. MPI recommends that these offences require a mental element (proof of intent). This means that the prosecution needs to demonstrate that the defendant acted knowingly or intentionally to share footage to other parties, or knowingly contravened and conditions on use. We consider this is appropriate as:
    a) *The harshest sanctions should target the "worst-case"* actions. This approach puts the strongest sanction (criminal liability and $50,000 maximum penalty) on the worst-case scenario types of behaviour (intentional wrongdoing).

    b) *Targeting unintentional offending may negatively impact legitimate uses of camera data.* The ability for MPI to share on-board camera footage in appropriate situations is important to deliver functions in relation to the sustainable utilisation of fisheries resources. The use of improved data streams (including camera footage) to enable more responsive approaches to managing New Zealand's fisheries and support sector productivity while ensuring sustainability is part of the core policy intent of the Fisheries Amendment Bill. If criminal offence and penalty provisions apply to unintentional or accidental sharing, this may discourage legitimate uses of footage, and would be a harsh and inflexible sanction. This could negatively impact MPI's ability to use camera data to deliver fisheries management functions.

    c) *There would still be consequences for unintentional or accidental offending, which will provide appropriate compliance incentives.* An example of unintentional or accidental offending could include an MPI employee sharing camera footage with someone thinking they were "doing the right thing" (i.e. in good faith), without realising they were sharing footage in a manner that contravened the law.

    As the Bill imposes statutory obligations of confidence on footage and compliance with MPI conditions, persons that unintentionally offended would still be breaking the law. Even if they were not found criminally liable, consequences could involve breaking employment obligations (leading to internal investigations, and potentially termination of employment in worst-case scenarios), breach of contractual obligations (for example, contravening research contracts with MPI), professional and reputational harm, and loss of trust from a range of stakeholders (for example, fishers, Ministers, the public).

28. This approach is consistent with advice from the Ministry of Justice and the LDAC guidelines. A criminal offence should include a mental element unless there are compelling policy reasons for the prosecution to not prove a mental element.

Maximum penalty level

29. MPI initially recommended that these offences should have a $10,000 maximum penalty. We recommended this fee because:
    a) It aligned with the maximum fee for offences under the Privacy Act that relate to the mishandling of data; and

2yaetxvqax 2026-03-31 16:42:36

Proactively Released

b) It aligned with one of the existing penalty tiers in the Fisheries Act ($5,000, $10,000, $100,000, $250,000, or $500,000).

30. The Minister for Oceans and Fisheries subsequently requested that this maximum fee be increased to $50,000.

31. After further consideration, MPI considers that $50,000 is acceptable. In reaching this conclusion, we considered the following factors:

a) *Proportionality to potential harm caused by non-compliant conduct;* As noted in the above table, the sharing or misuse of cameras data has the potential to lead to a range of harm on individual commercial fishers and on the New Zealand commercial fishing industry as a whole, including:

i. jeopardising the privacy and commercially sensitive information of fishers – for example, fishing gear and practices, fishing locations;

ii. negatively impacting fishers' trust and acceptance of the on-board cameras programme, affecting compliance with on-board camera requirements and lowering the overall efficacy of the programme; and

iii. causing personal or reputational to harm individual fishers, fishing companies, and to the New Zealand commercial fishing industry as whole due to the release of footage that shows legal behaviour, but which may be perceived as unsavoury or harmful - for example, the incidental capture of a protected marine species.

b) *Equivalence to penalties that fisheries face under the electronic monitoring regulations;* The penalty for fishers who contravene the Fisheries (Electronic Monitoring on Vessels) Regulations 2017 is $100,000. Offences include, for example, purposefully covering the lens or unplugging an on-board camera, to hide fishing activity.

We consider it fair that the penalty for parties that misuse or share sensitive camera footage (i.e., the protection for fishers who follow the rules and provide camera data to MPI) should be closer to the penalty that fishers may face for non-compliance with providing such data.

c) *Ranges of fines for comparable offences;* There is a diverse range of penalties across other pieces of legislation for comparable offences (i.e. offences that relate to the sharing or mishandling of private and/or commercially sensitive data that is collected by the Crown). Comparable Acts that have a range is between $5,000 - $200,000, with the National Animal Identification and Tracing Act (NAIT Act) being at the highest end of the spectrum.

Similar to the substantive proposal to exempt on-board camera footage from the OIA, the NAIT Act exempts information collected through the NAIT system from the OIA (s 51 refers). The NAIT Act allows MPI to collect and share personally and commercially sensitive information from the primary sector under limited legislated circumstances. Every person that knowingly shares commercially sensitive or personal information collected by the NAIT system is subject to fine not exceeding $100,000 (individual) or $200,000 (body corporate) fine, or a 6-month prison term. While this is a serious penalty, it supports the collection of data that is vital for biosecurity purposes, while giving farmers confidence about how and when their data

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

may be used.

Given the similarities in the NAIT Act to our policy proposal, we consider that $50,000 is justifiable.

d) *Proof of intent (mental element) required;* The Ministry of Justice has advised that whilst the $50,000 maximum penalty is comparatively high, it is more justifiable in the context of an offence where proof of intent is required as opposed to a strict liability offence.

e) Offences that require proof of intent generally have higher penalties compared to offences that do not. This is as they focus not only on the action, but also the mental culpability of the offender. As our offences involve a mental element, this provides justification for the higher maximum penalty.

Conclusion on maximum penalty

32. Overall, we consider that a $50,000 maximum penalty is justifiable. Although on the higher end of the scale of comparable offences, this will provide a strong incentive to ensure footage is held securely. We also consider that the maximum penalty is proportional to the potential harm caused by non-complaint behaviours.

Criminal liability of the Crown

33. Cabinet agreed that any persons that MPI shares footage with would be liable to the proposed offence and penalty provisions. Other government agencies are one of the key parties that MPI anticipates sharing footage with. This Cabinet agreement implicitly imposes criminal liability on the Crown.

34. Subjecting the Crown itself to criminal liability is uncommon and is reserved for a narrow set of offences, where there is very strong policy justification to do so (for example, the Children's Act 2014 includes Crown liability in cases of harm committed against children by government employees). We do not think that Crown Criminal liability is justifiable or necessary for the proposed offences on sharing or misusing camera data.

35. We considered two alternatives to resolve this issue. Our key considerations were that these alternatives should still offer appropriate compliance incentives, while delivering on Cabinet agreements as to the scope of the offence and penalty provisions.

36. The first option is to place statutory obligations on the Crown and Crown employees to not share camera footage and to follow any conditions on use and storage that MPI attaches to the footage, but to not impose any associated criminal offences for breaching these conditions.

37. This is similar to the approach taken in the Official Information Act 1982 and Privacy Act 2020. Under this option, "normal" compliance incentives would apply to Crown agencies and individuals. Even if they could not be found criminally liable, the consequences of breaching statutory obligations could involve breaking terms of employment and the Public Service Code of Conduct, cause professional and reputational harm, and cause a loss of trust from key stakeholders (for example,

2yaetxvqax 2026-03-31 16:42:36

Proactively Released

fishers, Ministers, the public).

38. The second option is to impose personal liability on Crown employees. This is similar to approaches taken in the National Animal Identification and Tracing Act 2012, and Climate Change Response Act 2002. This would impose criminal liability and a maximum penalty of $50,000 on individual Crown employees – including MPI staff – who intentionally share or misuse footage.
39. Overall, we consider that the second option better aligns with the stated policy to enhance protections for on-board camera footage, and better meets Cabinet agreements as to the scope of the offences. This is consistent with our reasoning to apply the harshest sanctions to the "worst-case" actions – i.e., intentionally breaking the law – and the desire to be able to take enforcement action in these scenarios.

40. The Ministry of Justice advised that if Crown employees are to be held personally liable, protections for public servants who act in good faith and in the performance of their functions should apply. Otherwise, this poses significant risk to public servants and may discourage legitimate uses of camera footage. To mitigate this risk, the following protections will apply:
    a) Section 104 of the Public Service Act 2020, which provides public service employees are immune from liability in civil proceedings for good-faith actions or omissions when carrying out, or intending to carry out, their responsibilities, functions, duties, or powers.
    b) A new provision in the Fisheries Amendment Bill that provides criminal and civil immunity to MPI employees who share footage in good faith as per the statutory disclosure provisions. This provision replicates protections that are currently available under the OIA, but would not apply in this case given the proposed OIA exemption for camera footage.

What are the marginal costs and benefits of the chosen option?

Affected groups *(identify)*	**Comment**	**Impact**	**Evidence Certainty**
Additional costs of the chosen option compared to taking no action			
Regulated groups (offenders)	Monetised impact: $50,000 maximum penalty for offending Non-monetised impact: other impacts of being convicted of criminal offence, such as social stigma, work prospects in New Zealand, the ability to travel overseas. Impact is considered low-medium as it is an enforcement consequence, and because evidence to date shows that third parties MPI has shared footage with have complied with MPI's conditions.	Low-medium	Low
Regulated groups (fisheries stakeholders)	N/A	N/A	Medium

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

Regulators	Potential additional compliance action required to investigate offences. Impact is considered low because: • evidence to date shows that third parties MPI has shared footage with have complied with sought behaviours • the new disclosure provisions are intended to limit circumstances in which MPI shares camera footage with third parties, which may limit instances of sharing footage to third parties	Low	Medium
Total monetised costs	Unknown	N/A	N/A
Non-monetised costs	Unknown	N/A	N/A
Additional benefits of the chosen option compared to taking no action			
Regulated groups (offenders)	N/A	N/A	Low
Regulated groups (fisheries stakeholders)	Non-monetised: enhanced protection for on-board camera footage, increased clarity and certainty about how footage may be used	Low-Medium	Medium
Regulators	Introduction of penalties supports the effectiveness of the objective to enhance protections for on-board camera footage. Allows MPI to pursue enforcement action against non-compliant behaviour – i.e., criminal prosecution. This option would not be available without the explicit addition of offence provisions. Impact is considered low as evidence to date shows that third parties MPI has shared footage with have complied with sought behaviours.	Low	Low
Total monetised benefits	Unknown	N/A	N/A
Non-monetised benefits	Unknown	N/A	N/A

Is the chosen option likely to address the problem, meet the policy objectives, and deliver a positive net benefit?

41. Yes. Attaching offence and penalty provisions supports the core policy intent to enhance protection for on-board camera footage by creating stronger compliance incentives and allowing MPI to take enforcement action against non-compliant parties.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

The chosen option of an offence that requires proof of intent with a $50,000 maximum penalty:

a) is proportionate to the potential harm caused by non-complaint behaviour;
b) provides an incentive for compliant behaviour; and
c) is justifiable within the existing offences and penalties regime of the Fisheries Act, and as compared against other offence and penalties settings in comparable regulatory contexts, particularly compared against the National Animal Identification and Tracing Act 2012.

Section 3: Delivering the chosen option

How will the proposal be implemented?

42. The MPI Fisheries Compliance team will be responsible for investigation and enforcement of these offences. Fisheries Compliance has been consulted on this proposal and considers it can be implemented effectively. Key parts of successful implementation will be:

a) Requests for camera footage will be carefully vetted and managed to ensure the appropriate response (e.g., refusal or disclosure of footage) is provided in line with the new provisions.
b) Keeping clear records of which third parties MPI has released footage to, and the conditions under which the footage was released. This list would essentially comprise our list of potential offenders (besides MPI employees). Where footage is released MPI will monitor and check use of the footage to ensure compliance to conditions relating to the use and storage of footage; and that third parties who receive footage abide by the condition not to share the footage to other parties.
c) Clear, written agreements with third parties MPI shares footage with will be the primary way of conveying legal obligations. Ensuring that these agreements clearly convey the conditions attached to the footage will be critical to ensure that third party recipients are aware of their obligations, and potential criminal liability for a non-compliance.
d) To ensure that MPI staff are aware of their statutory obligations, MPI should update its misconduct guidelines and Organisational Policy around handling and releasing footage/data. This will also support internal processes for dealing with employees who breach obligations, either accidently or intentionally).
e) Updating public-facing guidance on how and when MPI can release camera footage, including stipulating the new criminal penalties.
f) Internal operating procedures for how the VADE (Voluntary, Assisted, Directed, Enforced) compliance model will be applied for these new offences will need to be developed.

43. We anticipate that implementation will occur within existing resources and baselines. This is because evidence to date shows that third parties MPI has shared footage with have complied with sought behaviours, and we do not anticipate a large volume of new offences that will need to be investigated and prosecuted against.

44. Secondly, many of the above actions that will support successful implementation (vetting requests for camera footage against statutory disclosure provisions, written notices or agreements with third parties we share footage with) are already part of MPI

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

BAU, so will not require additional resources. There will be a small amount of resources needed upfront to update public-facing guidance and internal operational policies. This will also be covered under existing baselines.

45. Preparation for implementation should be underway prior to the Fisheries Amendment Bill coming into effect, which MPI expects to be mid-2026.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36

How will the proposal be monitored, evaluated, and reviewed?

46. MPI is best placed to collect information and monitor whether the offences and penalties regime is working. MPI is currently developing a monitoring and evaluation framework to support implementation of the Fisheries Amendment Bill. Review of the efficacy of the offence and penalty provisions can be included in this framework.

Proactively Released

2yaetxvqax 2026-03-31 16:42:36