



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Fuel Industry Bill: Further Policy decisions and approval for introduction	Date to be published	1 July 2020

List of documents that have been proactively released

Date	Title	Author
24 June 2020	Fuel Industry Bill: Further policy decisions and approval for introduction	Office of the Minister of Energy and Resources
29 June 2020	Fuel Industry Bill: Further policy decisions and approval for introduction CAB-20-MIN-0308.01	Cabinet Office
24 June 2020	Annex to Regulatory Impact Statement – Government response to Commerce Commission Retail Fuel Sector Market Study.	MBIE

Information redacted

YES / NO

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Some information has been withheld for the following reasons:

- Constitutional conventions



Cabinet Economic Development Committee

Minute of Decision

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Fuel Industry Bill: Further Policy Decisions and Approval for Introduction

Portfolio Energy and Resources

On 24 June 2020, the Cabinet Economic Development Committee (DEV):

Background

- 1 **noted** that the Fuel Industry Bill (the Bill) will promote competition in fuel markets for the long term benefit of consumers, by providing for:
 - 1.1 a regime requiring fuel suppliers to publicly post the prices at which they will sell to wholesale customers at storage terminals;
 - 1.2 a regime governing contractual terms between wholesale suppliers and their wholesale customers (excluding commercial customers such as Fonterra);
 - 1.3 requirements for display of information relating to the price of fuel at retail fuel sites;
 - 1.4 requirements for fuel industry participants to collect and disclose certain information to enable monitoring of the fuel market and to ensure enough information is available to assess whether the purpose of the Act is being met;
 - 1.5 mediation and arbitration procedures for disputes in relation to the terminal gate pricing and wholesale contract provisions;
 - 1.6 enforcement powers for the Commerce Commission, and civil pecuniary penalties based on those in the Commerce Act 1986;
- 2 **noted** that during the drafting of the Bill, a number of issues have arisen that require additional policy approvals or changes to current policy approvals;

Policy proposals

- 3 **agreed** that as part of the terminal gate pricing regime, wholesale suppliers must provide notice if forecast supply at a terminal is not sufficient to meet forecast demand in a prescribed time period and if the prescribed minimum has already been supplied in the prescribed time period;

- 4 4.1 **noted** that on 12 February 2020, DEV agreed that the Bill prescribe, in regulations, a list of terms that are likely to have an anti-competitive effect [DEV-20-MIN-0008, paragraph 11.6.1];
- 4.2 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 4.1 above; and instead
- 4.1 **agreed** that a list of terms that are likely to have an anti-competitive effect be prescribed in the Bill;
- 5 5.1 **noted** that on 12 February 2020, DEV agreed that the wholesale contractual terms regime come into effect, for existing contracts, on a date appointed by Order in Council, and no later than 24 months after the date of Royal Assent [DEV-20-MIN-0008, paragraph 13.2];
- 5.2 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 5.1 above; and instead
- 5.1 **agreed** that the timeframe for implementation of provisions relating to termination of contracts once they have reached a prescribed maximum duration be the same for new and existing contracts, and that this timeframe be set on a date appointed by Order in Council and no later than 12 months after the date the Bill receives Royal Assent;
- 6 **agreed** that the Commerce Commission be able to provide a notice for corrective action requiring a person who has not complied with a consumer information requirement to remedy the compliance or ensure that non-compliance is not continued or repeated;
- 7 **agreed** to provide for civil pecuniary penalties for breaches of the requirement to comply with a notice for corrective action of \$10,000 for an individual and \$30,000 in any other case;
- 8 8.1 **noted** that on 12 February 2020, DEV agreed to include in the Bill provisions relating to information disclosure [DEV-20-MIN-0008, paragraph 21];
- 8.2 **agreed to recommend** that Cabinet rescind the decisions referred to in paragraph 8.1 above; and instead
- 8.1 **agreed** that the purposes of information disclosure be to enable monitoring of the performance of engine fuel markets and to ensure that sufficient information is readily available for the Ministry of Business, Innovation and Employment and the Commerce Commission to assess whether the purpose of the Act is being met;
- 9 9.1 **noted** that on 12 February 2020, DEV agreed to release a draft of the Bill for the purposes of targeted consultation with key stakeholders;
- 9.2 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 9.1 above;

Financial implications

- 10 **noted** that on 12 February 2020, Cabinet noted that further consideration will be given to how best to fund the ongoing costs of implementing this regulatory regime;

11 Constitutional conventions

Legislative implications

- 12 **noted** that the Fuel Industry Bill holds a category 2 priority (to be passed in 2020) on the 2020 Legislation Programme;
- 13 **approved** the Fuel Industry Bill for introduction [PCO 22620/6.0], subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 14 **agreed** that the Bill be introduced on 29 June 2020;
- 15 **agreed** that the government propose that the Bill be:
- 15.1 referred to the Transport and Infrastructure Committee for consideration;
- 15.2 enacted by July 2020.

Janine Harvey
Committee Secretary

Present:

Hon Kelvin Davis
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon David Parker
Hon Nanaia Mahuta
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Kris Faafoi
Hon Shane Jones
Hon Willie Jackson
Hon James Shaw
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Energy and Resources