



AIDE MEMOIRE

Proposed next steps for strengthening the regulatory system for self-contained vehicles

Date:	10 December 2020	Priority:	High
Security classification:	In Confidence	Tracking number:	2021-1738

Information for Minister(s)
Hon Stuart Nash Minister of Tourism
Hon Peeni Henare Associate Minister of Tourism

Contact for telephone discussion (if required)				
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Danielle McKenzie	Policy Manager, Tourism Policy	04 896 5113	Privacy of natural persons	✓
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The following departments/agencies have been consulted
Department of Internal Affairs, Department of Conservation, Ministry of Transport, New Zealand Transport Agency.

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



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Purpose

This paper provides you with the proposed timeframes and work officials will undertake in early 2021 with regards to strengthening the regulatory system for self-contained vehicles.

We recommend that you discuss your feedback on the proposed next steps with officials at your next meeting on 14 December 2020.

We also recommend you engage with the Minister of Local Government and Minister of Conservation on your intentions to strengthen the regulatory system for self-contained vehicles. We intend to provide a paper seeking policy decisions from Ministers in early February 2021.

Danielle McKenzie
Policy Manager, Tourism Policy

Labour, Science and Enterprise, MBIE

10 / 12 / 2020

Decisions made to date

1. On 19 November 2020 you received an aide memoire responding to your request for information on options to address touring vans that are not self-contained, and for restricting leased or rental vehicles that have sleeping facilities (*aide memoire 2021-1432 refers*).
2. On 24 November 2020, we then provided you with a briefing which set out how Government supports the management of freedom camping in New Zealand (*briefing 2021-1265 refers*). This briefing discussed the current regime for the Self-Contained Vehicle Standard (SCVS) and options for enhancing it (both regulatory and non-regulatory). This briefing also set out some of the proposed long-term work to reform the Freedom Camping Act 2011 (FCA).
3. We subsequently provided you with further advice on the options available to restrict the hire, lease, sale and purchase of vehicles used for freedom camping for the 2021/22 summer season on 30 November 2020, which you discussed with officials on 2 December 2020 (*briefing 2021-1524 refers*). At that meeting you agreed to progress work on strengthening the regulatory system for self-contained vehicles by making the SCVS compulsory for self-contained vehicles, while noting that you may still seek to restrict the hire, lease, sale and purchase of vehicles used for freedom camping that are not certified self-contained.

4. This paper updates you on the options we have identified to introduce a regulatory system for self-contained vehicles, including strengthening the SCVS. It also provides you with an overview of the decisions we will be seeking from you, and the Ministers of Local Government and Conservation, in February 2021.
5. Regardless of what regulatory approach we take, we will need to consider what aspects of the SCVS need to be strengthened, options for tracking and tracing vehicles and certifiers, and options to strengthen enforcement.

Discussion

The proposed mechanism

6. We consider there are three approaches you could take to strengthen the regulatory system for self-contained vehicles. These are:
 - a. **Make the existing SCVS compulsory.** This could be done through new or existing legislation. The disadvantage of this approach is that it may not capture the full range of vehicles that we would want to see self-contained, and it assumes that the current standard is fit for purpose. Future changes to the SCVS may be difficult to make, as the process to review and agree to new standards is independent of Government.
 - b. **Revise the SCVS, then legislate to make the new standard compulsory.** This may capture a wider range of vehicles, and strengthen the standard. However, any review of the SCVS is likely to be lengthy and may take one to two years. Any review of the standard is also independent of Government, and would need to take into account the full range of views on the matter. This may not result in the changes you desire.
 - c. **Enact legislation that sets the rules (recommended approach).** This would involve taking elements from the SCVS and placing them into regulations underneath the primary legislation. We consider this to be the best approach as it provides greater control over the range of vehicles in scope, as well as the standards we want them to meet. It also provides greater flexibility should future amendments be required. This would make the current standard redundant.
7. To implement change, you could either amend existing legislation or introduce new legislation. Our initial view is that it may be more appropriate to use the FCA, as it would place any new changes within an existing regulatory system which local councils, industry and community stakeholders are familiar with. In addition, it is likely to be faster to amend existing legislation. This approach, however, would need to be tested with the Ministers responsible for the FCA (Minister of Local Government and Minister of Conservation).
8. The recommended approach will not ban people from sleeping in vehicles that are not certified self-contained. However, it would enable councils to ban it from occurring in certain places. This, coupled with an effective tracking and tracing system, and appropriate enforcement mechanisms, would likely address the core of the problem.

Scope of regulatory mechanism

9. In our February paper, we will include options for the scope of the regulations, from making the SCVS compulsory for all vehicles engaged in freedom camping, to empowering councils to make decisions on where and how freedom camping can take place.

Further legislative changes may be desirable

10. Should you wish to strengthen the regulatory system for self-contained vehicles through a more general legislative vehicle such as the FCA, you may also wish to discuss options for wider reform with the Ministers of Local Government and Conservation. This discussion could include the appetite of Ministers to move from the current permissive approach in the FCA to allow Councils to exercise more restrictive powers in defining areas where freedom camping is permitted. We have yet to discuss options for wider reform with Department of Internal Affairs and Department of Conservation officials who administer the Act on behalf of their Ministers.
11. Strengthening aspects of the FCA would enhance the overall freedom camping regime, and likely strengthen delivery of self-contained vehicles amendments. However, it may impact on timeframes.

Strengthening the regulatory system may not address some behavioural issues

12. Regardless of the changes we make to the freedom camping system, it is likely that some poor behaviour will continue to be visible at some freedom camping sites. This is because:
 - a. some people who freedom camp are day-trippers or transiting through a region
 - b. some people who freedom camp will continue to act disrespectfully even when they are in a certified self-contained vehicles
 - c. there are complex issues which present at some freedom camping sites (such as homelessness).

Compensation options

13. We note that you are open to compensating those businesses and individuals who are significantly impacted by your proposed changes. The basis for compensation will vary, depending on the options chosen. For example, empowering councils to make decisions about where and how freedom camping operates may reduce the case for compensation. On the other hand, requiring all vehicles used for freedom camping to be certified as self-contained would strengthen the argument for compensation.
14. The February policy paper will include an impact analysis for each option, which will help inform decisions about compensation.

Timeframes for change

15. The table below sets out an indicative timeframe from policy agreement to implementation, should you choose to strengthen the regulatory system through amending the FCA (see Option C, paragraph 5).

Table one: proposed timeframes for implementation

Action	Date	Notes
Legislative bid	January 2021	Cabinet Office has signalled that legislative bids must be in by 29 January 2021.
Policy paper and draft discussion document	February 2021	
Cabinet approval to consult	March 2021	
Public consultation	March to April 2021	

Final decisions and drafting instructions	June 2021	Given the significant public interest in this topic we expect submissions analysis to take three to four weeks.
Drafting process (PCO lead)	July – September 2021	This will take longer if new legislation is introduced. This includes a BORA vet, which takes a minimum of two weeks.
Cabinet Legislation Committee	October 2021	
House processes	October 2021 to May 2022	This includes Introduction, all three stages of the House and six-month Select Committee process.
Enactment	May 2022	
Regulations promulgated	June 2022	Regulations will need to be approved by Cabinet subsequent to passage of legislation, but can be prepared in parallel.

Timeframes will vary, depending on the options chosen

16. Choosing to introduce new legislation, and/or running a parallel process to review the SCVS, is likely to extend the time it takes to implement change.
17. Having a four-month Select Committee process is likely to shorten the time for implementation, but may be undesirable given the public interest on this issue.
18. Passing legislation under urgency would also shorten the time taken to enact change, however, given lead times on implementation (including allowing time for businesses and individuals to upgrade vehicles), it is unlikely to result in changes on the ground in the 2021/22 summer period. It is also likely that there would be questions about the basis for urgency, given low levels of international tourism and other initiatives in place to mitigate negative effects of freedom camping.

Update on the independent review of the Self-Contained Vehicle Standard

19. MBIE officials have cancelled plans to seek an independent review of the regulatory system for the SCVS. This is because this work is likely to result in significant overlap, and lag behind work by officials to strengthen the regulatory system for self-contained vehicles.

Next steps

20. Officials will prepare a draft legislative bid for your authorisation to Cabinet Legislation Committee in January 2021. The legislative bid will be drafted based on your feedback provided to officials. Legislative bids must be submitted by 10am on Friday 29 January 2020.
21. We will also provide a detailed policy paper and draft discussion document for consideration in early February 2021. This paper will provide discussion, and seek decisions, on:
 - a. your desired policy approach, including preferred legislative mechanism and scope of changes
 - b. the impacts of proposed changes on specific interest groups, including consideration of compensation
 - c. high-level options for tracking and tracing vehicles and certifiers
 - d. high-level options for enforcement, including penalties

- e. whether Ministers would seek any further strengthening of the FCA, should that be the legislative mechanism to strengthen the regulatory system for self-contained vehicles
- f. the draft discussion document.

22. We recommend that you meet with the Minister of Local Government and Minister of Conservation prior to receiving the February policy paper, particularly if you wish to strengthen the regulatory regime for self-contained vehicles through the FCA (both Ministers are responsible for the FCA).