



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Motor Vehicle Sales Amendment Regulations 2022 and Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022	Date to be published	25 July 2022

List of documents that have been proactively released

Date	Title	Author
June 2022	Motor Vehicle Sales Amendment Regulations 2022 and Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022	Office of the Minister of Commerce and Consumer Affairs
9 June 2022	Motor Vehicle Sales Amendment Regulations 2022 and Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022 LEG-22-MIN-0098 Minute	Cabinet Office

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
Cabinet Legislation Committee

Motor Vehicle Sales Amendment Regulations 2022 and Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the *Motor Vehicle Sales Amendment Regulations 2022* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022*.

Policy

- 2 The *Motor Vehicle Sales Act 2003* (the Act) governs motor vehicle trading in New Zealand through the administration of the Motor Vehicle Traders Register (MVTR) Regime (the Regime). The Regime's purpose is to protect motor vehicle consumers and regulate the marketplace. The Ministry of Business, Innovation and Employment (MBIE) is responsible for the administration of the Regime.
- 3 The Act requires a fee to be charged to traders who apply for registration, or for annual renewal of their registration. Fees fully recover the cost of the administration and regulatory activities undertaken by the Registrar, including education, monitoring and enforcement.
- 4 The Ministry of Justice (MoJ) administers the Motor Vehicle Disputes Tribunal (the Tribunal). The Tribunal manages disputes between consumers and motor vehicle traders. Motor vehicle traders are charged a levy prescribed in the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Regulations 2003*, which allows the Tribunal to partially recover administration costs. The levy reflects the cost-of-service delivery. Other costs are recovered through Crown funding that MoJ receives to support all the tribunals it administers.
- 5 The levy is collected in the same transaction as MVTR fees. MBIE collects the levy and passes this to MoJ.

Cabinet approved a policy change to adjust fee and levy amounts

- 6 In 2021, MBIE and MoJ undertook a review of the MVTR fees and Tribunal levy. MVTR fees and the Tribunal levy have been reviewed but not adjusted since they were both introduced in 2003.

- 7 On 16 November 2021, Cabinet approved release of a discussion document for public consultation on options to adjust the MVTR fees [CAB-21-MIN-0467 refers] in response to officials' advice that an adjustment was necessary to:
- 7.1 better ensure that traders are paying fully for the costs of the Regime's services given the benefits they receive from a well-regulated environment;
 - 7.2 sustainably fund the services provided, where registration volumes have decreased since 2016/17¹ with costs recouped by MBIE; and
 - 7.3 meet new cost pressures which would improve services and the integrity of the Regime.
- 8 Cabinet also agreed to consult on a proposed increase to the Tribunal levy to ensure sustainable funding. An adjustment is required to recover an increase in cost pressures due to staffing increases (to meet higher transaction volumes), technology changes resulting in increased hearing volumes, and other general inflationary cost increases. The adjustment will also maintain access to justice for consumers involved in a dispute.
- 9 On 11 April 2022, Cabinet approved adjustments to the amount paid by registered traders to fully recover the costs of administering the MVTR, and to increase the Tribunal levy [CAB-22-MIN-0117].

Amending the cost recovery model for MVTR fees

- 10 Since their introduction in 2003, MVTR fees have been charged to users as a single, flat fee for registration and renewal of \$456.00 (including GST). There is no differentiation on the basis of the different transaction types, or the types of registered motor vehicle trader. I previously advised Cabinet that this does not reflect a variation in the costs of administering the MVTR and officials consulted on options to adjust the structure [CAB-22-MIN-0117].
- 11 Cabinet approved a change in the MVTR fee structure from a single, flat fee for both transactions, to a tiered fee. As well as increasing the amount charged, amending the *Motor Vehicle Sales Amendment Regulations 2003* will provide for a tiered fee structure to ensure that fee amounts are allocated fairly on the basis of administrative effort, splitting out fee categories based on:
- 11.1 a registration application in comparison to a renewal application (transaction type); and
 - 11.2 a company in comparison to an individual trader for both registration and renewal (user type).

¹ This decline in volumes combined with an increase in the Registrar's enforcement activity have resulted in a forecast deficit position of \$1.297 million by 30 June 2022 in the Motor Vehicle Traders Register Memorandum Account (Memorandum Account) in Vote Business, Science and Innovation [CAB-22-MIN-0117].

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- 12 This change in charging model would not have an impact on the ease of navigation and simplicity for traders of the regime. They would continue to be charged in one transaction annually on application or renewal of registration.
- 13 A departure from the flat fee structure requires some IT changes to the MVTR system. Officials do not anticipate any significant implementation risks associated with these IT changes as, subject to Cabinet's decision, they will be in place before the amendments come into effect from 1 August 2022.
- 14 There is no change to the partial cost recovery structure of the Tribunal. The levy will continue to partially fund the cost of the Tribunal alongside a \$50.00 fee paid on lodgement of a Tribunal application,² and Crown funding for tribunals. However, subject to Cabinet approval, the levy Tribunal levy amount will be adjusted.

Amending fee and levy amounts to be GST exclusive

- 15 The MVTR fees and the Tribunal levy are currently expressed as GST inclusive in the *Motor Vehicle Sales Regulations 2003* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Regulations 2003*.
- 16 The fee and levy amounts, that were part of the review and consultation process and approved by Cabinet on 11 April 2022, were expressed as GST exclusive.
- 17 There are other fees that were not consulted on as part of the review and changes to those were therefore not approved by Cabinet. However, because Cabinet authorised me to make minor amendments during the drafting process, in accordance with drafting best practice, I have approved amending these additional fees to be expressed as GST exclusive amounts. This will bring these fees in-line with other regulations that prescribe fees and levies.

Increasing the fee and levy amounts for traders

- 18 Table 1 below outlines the changes to MVTR fees and the Tribunal levy approved by Cabinet. The table reflects the new tiered fee structure and the increased total amount for each new fee category.
- 19 Cabinet agreed to set the MVTR fees to recover the MVTR Memorandum Account deficit over a period of five years (at \$0.259 million per year).
- 20 Cabinet approved an adjustment of the registration and renewal fee from \$405.33 (GST exclusive)³ to the respective new fee category amounts in Table 1 below (namely \$432.00, \$863.00, \$401.00 and \$802.00).
- 21 Cabinet approved an increase in the levy amount that accompanies each fee payment from \$112.89 (GST exclusive)⁴ to \$210.00 (GST exclusive). All users

² This fee was outside the scope of the fees review, as it is set at standard rates across tribunal services.

³ The GST inclusive amount is \$456.00 because the *Motor Vehicle Sales Regulations 2003* express the fee amount as inclusive of 12.5 per cent GST.

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will continue to be charged the same levy amount when paying a registration or renewal fee.

- 22 MBIE communications express the current combined flat fee and levy as a total payment and for that reason the new total fee and levy amounts are shown as total amounts in Table 1 below.

Table 1 –Current and new MVTR fees and Tribunal levy (excluding GST) agreed by Cabinet [CAB-22-MIN-0117]

Fee category	New fee	New levy	Current total fee and levy	New total fee and levy	Percentage change
Registration – individual	\$432.00	\$210.00	\$518.22	\$642.00	24%
Registration – company	\$863.00	\$210.00	\$518.22	\$1,073.00	107%
Renewal – individual	\$401.00	\$210.00	\$518.22	\$611.00	18%
Renewal - company	\$802.00	\$210.00	\$518.22	\$1,012.00	95%

- 23 With these amendments, registered traders will experience an increase in total payment (for the MVTR fee and Tribunal levy together) of between 18 per cent and 107 per cent (see Table 1).
- 24 These increases have been assessed against the costs of administering the Regime, and the principles of cost recovery. Officials consider that the increase in charges is proportionate, given the length of time since the fees and levy were introduced, and the ongoing growth in the motor vehicle sales market.

Timing and 28-day rule

- 25 Pending Cabinet agreement, the amendments will come into effect from 1 August 2022.

⁴ \$127.00 (GST inclusive) as expressed in the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Regulations 2003*.

Compliance

- 26 The *Motor Vehicle Sales Amendment Regulations 2022* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022* comply with the following:
- 26.1 the principles of the Treaty of Waitangi;
 - 26.2 the rights and freedoms contained in the *New Zealand Bill of Rights Act 1990* or the *Human Rights Act 1993*;
 - 26.3 the principles and guidelines set out in the *Privacy Act 2020*;
 - 26.4 relevant international standards and obligations;
 - 26.5 the *Legislation Guidelines* (2021 edition).

Regulations Review Committee

- 27 I do not anticipate that the Committee may draw the adjustment to MVTR fees and the Tribunal levy to the attention of the House of Representatives under Standing Order 327. While in some cases fee increases are significant, they are justified for the reasons outlined in paragraph 24 above.

Certification by Parliamentary Counsel

- 28 The draft *Motor Vehicle Sales Amendment Regulations 2022* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022* have been certified by the Parliamentary Counsel as being in order for submission to Cabinet.

Impact Analysis

- 29 The regulatory impact analysis requirements apply to the policy changes and associated regulation amendments in this paper. A Stage Two Cost Recovery Impact Statement (CRIS 2) was prepared and submitted to Cabinet when policy decisions were sought. MBIE's Regulatory Impact Analysis Review Panel assessed the CRIS 2 and considered that the information and analysis summarised met the criteria necessary for decisions by Ministers to be made on the fee proposals. [CAB-22-MIN-0117 refers].

Publicity

- 30 Subject to the approval of the *Motor Vehicle Sales Amendment Regulations 2022* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022*, the changes will be communicated to registered motor vehicle traders. A public announcement will be made on the MBIE and MoJ websites.

Proactive release

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

Consultation

- 32 Proposals to adjust MVTR fees and the Tribunal levy were prepared jointly by MBIE and the MoJ, and this paper has been developed jointly by both Ministries.
- 33 Public consultation began online on 17 January 2022, running for a period of six weeks. MBIE's consultation webpage was viewed almost 900 times over the course of the consultation period.
- 34 A total of 16 submissions were received from the public, of which 12 were from current motor vehicle traders and 3 from industry bodies⁵. A summary of consultation submissions was provided to Cabinet [CAB-22-MIN-0117 refers]. Submissions generally opposed an increase of fees. Feedback varied on the options proposed for the fee structure and the fairness of cost distribution. Some submitters suggested alternative ways to structure fees. However, submitters expressed no clear preference of a particular option for adjusting the structure of MVTR fees.
- 35 The Treasury and the Department of the Prime Minister and Cabinet have been informed of the proposals within this paper.
- 36 The Minister for Courts, Hon Aupito William Sio, has been informed of the proposals in this paper, as the Minister responsible for Tribunals.
- 37 The Office of the Auditor General's *Setting and Administering Fees and Levies for Cost Recovery: Good practice guide* (2021), and The Treasury's *Guidelines for Setting Charges in the Public Sector* (2017), have been consulted.
- 38 There are no human rights implications in the proposals that require MoJ to be consulted on compliance with the *New Zealand Bill of Rights Act 1990*.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 11 April 2022 Cabinet agreed to amend fees in the *Motor Vehicle Sales Regulations 2003* and amend the levy in the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Regulations 2003* [CAB-22-MIN-0117];
- 2 **note** that minor amendments have been made to other fee amounts (that were not part of the fees and levy review) within the *Motor Vehicle Sales Regulations 2003* and *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals*

⁵ One submitter was unspecified.

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Funding Levy) Regulations 2003, to express amounts as GST exclusive, consistent with other regulations that prescribe fees and levies;

- 3 **note** that the *Motor Vehicle Sales Amendment Regulations 2022* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022* will give effect to the decision referred to in recommendation 1 above;
- 4 **authorise** the submission to the Executive Council of the *Motor Vehicle Sales Amendment Regulations 2022* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022*; and
- 5 **note** that the *Motor Vehicle Sales Amendment Regulations 2022* and the *Motor Vehicle Sales (Motor Vehicle Disputes Tribunals Funding Levy) Amendment Regulations 2022* come into force on 1 August 2022.

Authorised for lodgement

Hon Dr David Clark
Minister of Commerce and Consumer Affairs

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