



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Sustainable Biofuels Obligation: Final Policy for Regulations Sustainable Biofuels Obligation Bill: Approval for Introduction	Date to be published	9 November 2022

List of documents that have been proactively released

Date	Title	Author
October 2022	Sustainable Biofuels Obligation: Final Policy for Regulations	Office of the Minister of Energy and Resources
19 October 2022	Sustainable Biofuels Obligation: Final Policy for Regulations DEV-22-MIN-0241 Minute	Cabinet Office
October 2022	Sustainable Biofuels Obligation Bill: Approval for Introduction	Office of the Minister of Energy and Resources
19 October 2022	Sustainable Biofuels Obligation Bill: Approval for Introduction DEV-22-MIN-0242 Minute	Cabinet Office

Information redacted

NO

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Cabinet Economic Development Committee

Minute of Decision

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Sustainable Biofuels Obligation Bill: Approval for Introduction

Portfolios **Energy and Resources / Transport**

On 19 October 2022, the Cabinet Economic Development Committee:

- 1 **noted** that the Sustainable Biofuels Obligation Bill (the Bill) will:
 - 1.1 provide for an obligation requiring persons who import or refine liquid fossil fuels into New Zealand (obliged persons) to reduce their annual greenhouse gas emissions intensity of their liquid fossil fuels through the deployment of biofuels;
 - 1.2 set out emissions reduction targets which obliged persons are required to reach every year from 2023 to 2035;
 - 1.3 set out that the targets are subject to review in 2024 and 2029, and can be adjusted from 2026 onwards;
 - 1.4 provide a methodology which obliged persons can use in order to calculate their emission reduction percentages;
 - 1.5 provide flexibility measures whereby obliged persons can bank, borrow or transfer emissions reductions under their obligation;
 - 1.6 provide for the Environmental Protection Authority (EPA) to be the regulator for the Obligation and prescribes functions for the EPA to carry out this role;
 - 1.7 require obliged persons to provide annual reports to the EPA containing information on how their biofuel obligation has been met and calculated;
 - 1.8 set out penalties for obliged persons who fail to comply with administrative requirements as outlined above;
 - 1.9 set out a strict liability on obliged persons to a civil pecuniary penalty of \$800 per tonne of carbon dioxide equivalent emissions that results, or is likely to result, from a contravention of their biofuel obligation;
- 2 **noted** that, to align it with the application of the Climate Change Response Act 2002, only companies that import or refine more than 50,000 litres of liquid fuel will be subject to the Sustainable Biofuel Obligation;

3 **noted** that on 28 October 2021, the Cabinet Environment, Energy and Climate Committee (ENV) agreed that the Sustainable Biofuel Obligation should come into effect from 1 April 2023 [ENV-21-MIN-0058, paragraph 15];

4 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 3 above; and instead

5 **agreed** that the Sustainable Biofuel Obligation come into effect from 1 April 2024 with the following emissions intensity percentage reductions:

Year	Previous emissions intensity percentage	New emissions intensity percentage
2023	1.2	-
2024	2.4	2.4
2025	3.8	3.5
2026	3.8	4.1
2027	4.1	4.4
2028	4.4	4.7
2029	4.7	5.0
2030	5.0	5.3
2031	5.8	5.8
2032	6.6	6.6
2033	7.4	7.4
2034	8.2	8.2
2035	9.0	9.0

6 **noted** that the Climate Change Response Ministerial Group will consider how to manage the impact of the proposed delay and the associated shortfall in the first emissions budget;

7 **noted** that on 28 October 2021, ENV agreed that the primary legislation would provide for a maximum penalty of \$300 per tonne of carbon dioxide equivalent emissions not achieved in the first year of the Obligation [ENV-21-MIN-0058, paragraph 34.1];

8 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 7 above; and instead

9 **agreed** that the maximum penalty rate of \$800 per tonne of carbon dioxide equivalent emission reductions not achieved apply in the first year of the Obligation;

10 **agreed** that the required sustainability of biofuel will be determined by regulations, with the relevant Minister having to consider the sustainability statutory prerequisites in the bill (agreed to by Cabinet) before recommending such regulations;

11 **noted** that on 28 October 2021, ENV agreed that obligated parties must use international sustainability certification schemes to certify that feedstocks and biofuels meet the sustainability criteria and to evaluate the life cycle emissions of biofuels [ENV-21-MIN-0058, paragraph 13];

12 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 11 above; and instead

- 13 **agreed** to include an empowering provision allowing the Minister to make regulations concerning certification of biofuels;
- 14 **agreed** to include an empowering provision allowing feedstocks that are identified as particular waste or residue products to be considered as sustainable;
- 15 **agreed** to include an empowering provision allowing types of biofuels to be excluded from the Obligation or limiting their contribution to meeting the percentages under the Obligation;
- 16 **agreed** to allow obliged persons to apply to the relevant Minister to up to 20 percent of the reduction in emissions intensity that should have been made may be borrowed from the next year;
- 17 **noted** that the Bill gives effect to the above paragraphs;
- 18 **agreed** that the resulting Act will be binding on the Crown;

Consultation

- 19 **noted** that the Green Party has serious concerns over whether there is adequate supply of genuinely sustainable biofuels to meet the demand induced by the mandate and in light of global pressures;
- 20 **noted** that the Green Party considers that the sustainability of biofuel supply needs to be regulated through stringent criteria and certification processes, and must take precedence over the enforcement of penalties on obliged persons;
- 21 **noted** that the Green Party seeks further work on the feasibility of domestic production of sustainable biofuels before the Obligation is in place;

Legislative process

- 22 **noted** that the Bill has a category 2 priority on the 2022 Legislation Programme, meaning it was intended to be passed in 2022, but that this is unlikely to occur;
- 23 **approved** the Sustainable Biofuel Obligation Bill [PCO 22623/6.0] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 24 **agreed** that the Bill be introduced on 27 October 2022;
- 25 **agreed** that the government propose that the Bill be:
- 25.1 referred to the Environment Committee for consideration;
- 25.2 enacted by 1 June 2023.

Janine Harvey
Committee Secretary

Present: (see over)

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Nanaia Mahuta
Hon Damien O'Connor
Hon Stuart Nash
Hon Michael Wood
Hon Kiri Allan
Hon Priyanca Radhakrishnan
Hon Meka Whaitiri
Hon Phil Twyford
Hon Kieran McAnulty
Rino Tirikatene, MP
Dr Deborah Russell, MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV