



AIDE MEMOIRE

Talking Points for LEG Committee 11 August 2022: Self-Contained Motor Vehicles Legislation Bill

Date:	3 August 2022	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2122-4895

Information for Minister
Hon Stuart Nash Minister of Tourism

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Dale Elvy	Manager, Tourism Operations and Partnerships	Privacy of natural persons	Privacy of natural persons	✓
Jon Lyall	Principal Advisor, Tourism Operations and Partnerships	Privacy of natural persons		
Will Cosgriff	Senior Policy Advisor, Tourism Policy	Privacy of natural persons		

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 Withdrawn |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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Date:	3 August 2022	Priority:	Medium
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Purpose

This aide memoire provides you with talking points for the Cabinet Legislation Committee (LEG) consideration of the Self-Contained Motor Vehicles Legislation Bill on 11 August 2022 (attached as **Annex One**).

Legal professional privilege

Dale Elvy
Manager, Tourism Operations and Partnerships
Labour, Science and Enterprise, MBIE

03/08/2022

Background

1. The Cabinet paper and draft Self-Contained Motor Vehicles Legislation Bill were lodged at the Cabinet Office on 21 July 2022 for discussion at LEG on Thursday 28 July 2022.

Legal professional privilege

2. The talking points for LEG:
 - introduce the paper and cover the need for change
 - outline the key provisions of the Bill, and
 - describe the key changes made following agency consultation.
3. Back pocket questions and answers are also included at **Annex Two**. Officials will be in attendance if they need to be called in.
4. Officials have begun agency consultation on the Regulations Discussion Document.

5. During departmental consultation, MBIE consulted with 11 departments as well as the Plumbers, Gasfitters and Drainlayers Board. All those who provided comment were broadly supportive of the Bill.

6. Legal professional privilege

8. Under the existing Freedom Camping Act 2011, where a rental company is served an infringement notice they have two options:
- accept liability and on-charge the hirer for the infringement fee (plus an additional administration fee), or
 - make a statutory declaration to the enforcement authority stating that it was not in control of the vehicle at the time of the offence. The statutory declaration includes details of the hirer and their contact details. The enforcement authority will then transfer liability to the hirer, and issue a new infringement notice accordingly.
9. In practice, rental companies often choose to transfer liability to the hirer and provide the hirer's contact details to the issuing enforcement authority to chase up the payment. This same process applies for parking and traffic infringements arising under the Land Transport Act 1998.
10. You have previously directed the ability of rental companies to transfer liability to be removed by the Bill [Briefing 2122-0321 refers]. This was approach was subsequently agreed by Cabinet in November 2021 [CAB-21-MIN-0442 refers].
11. This proposal would have helped to avoid passing on the infringement compliance costs to Councils (who currently have to pursue overseas offenders, often without any return), particularly considering that rental companies are in a better position to recover the fee (via the rental companies charging the credit cards of hirers or taking a deposit). This would have ensured hirers were held responsible for offences which would increase collection rates and act as an effective deterrent.
12. Legal professional privilege you have directed officials to remove this aspect of the Bill and revert back to the status quo in the Freedom Camping Act 2011. Officials predict that this change will be raised, particularly by local authorities, during the Select Committee process. Legal professional privilege

Concerns about the accelerated process for infringement procedure

13. The Bill, as previously drafted, reduced the 28-day payment period and subsequent 28-day reminder notice period for the payment of infringement fees to 14 days respectively. Cabinet agreed to the accelerated infringement procedure [CAB-21-MIN-0442 refers].

14. Legal professional privilege
[Redacted]
15. The primary reason for the accelerated infringement procedure was to stop international visitors departing New Zealand before they are aware they have committed an offence and/or paid the infringement fee. However, the accelerated procedure would have unintended consequences for domestic freedom campers who would only have 14 days to contest the fine and/or gather the money required to pay the fine. Domestic freedom campers make up approximately a third of all freedom campers.
16. As such, you agreed to revert to the standard 28-day payment period and subsequent 28-day reminder notice period [Briefing 2223-1059 refers].

Annex One: Talking Points, Self-Contained Motor Vehicles Legislation Bill, Cabinet Legislation Committee, 4 August 2022

Purpose

- I am seeking your agreement to the introduction of the Self-Contained Motor Vehicles Legislation Bill 2022 (the Bill) into Parliament.

Background

- The actions of vehicle-based freedom campers are adversely impacting the natural environment and social licence. I propose that this be addressed through legislative changes that will improve the management of vehicle-based freedom camping.
- Problems associated with freedom camping were escalating pre-COVID. As international visitor numbers increase over time, it is likely these issues will re-emerge. As such, it's important we make changes now as visitors numbers begin to return.
- The Bill is an omnibus Bill that amends the Freedom Camping Act 2011 and the Plumbers, Gasfitters and Drainlayers Act 2006 to ensure more effective management of vehicle-based freedom camping.
- The Bill:
 - introduces a national requirement for freedom campers staying in a vehicle on land managed by a local authority to use a certified self-contained vehicle, unless staying at a site designated by the local authority as suitable for freedom camping in non-self-contained vehicles,
 - establishes a regulatory system for the certification of self-containment of vehicles, with the Plumbers, Gasfitters and Drainlayers Board (the Board) providing regulatory oversight,
 - requires self-contained vehicles to have a fixed toilet, and
 - strengthens the infringement regime and extends it to other Crown land.
- I am aiming for the Bill to be passed as soon as possible, with a two-year transition period.

Further policy decisions

- Agency consultation and the drafting process have resulted in a number of minor changes to the Bill. Four of these change decisions made by Cabinet:
 - Change the 14-day payment and reminder notice periods for infringement notices back to the standard 28 days.
 - Remove the provisions which would make rental companies liable for infringements incurred by hirers.
 - Simplify requirements for incorporating Waka Kotahi land in local freedom camping bylaws, by only requiring Waka Kotahi consent to inclusion.
 - Remove the ability for transition dates to be extended by Order in Council.
- [Further information about these changes is included in the back pocket question and answers should it be required.]

Annex Two: Back Pocket Question and Answers

What is the policy intent behind the Bill?

To address some of the negative environmental and community impacts of vehicle-based freedom camping, and to enable a more sustainable freedom camping system.

Those who camp in vehicles that are not properly self-contained, and therefore cannot dispose of their waste appropriately when staying in areas without proper infrastructure or facilities, have impacted the social licence for tourism in a number of communities. These reforms will help to maintain social licence and strengthen New Zealand's reputation as a destination that delivers a sustainable, high quality visitor experience

What changes have been made to the Bill?

Following agency consultation, a number of changes were made to the Bill outlined below:

Policy decision	Rationale
Simplify requirements for incorporating Waka Kotahi land in local freedom camping bylaws, by only requiring Waka Kotahi consent to inclusion.	The additional requirement was superfluous.
Removing the ability for transition dates to be extended by Order in Council.	Enabling the transitional dates to be delayed by Order in Council is unnecessary and may create uncertainty.
Remove the accelerated infringement procedure in the Bill and revert to the standard 28-day payment period and subsequent 28-day reminder notice period.	Legal professional privilege <div style="background-color: black; height: 10px; width: 100%;"></div> <div style="background-color: black; height: 10px; width: 80%;"></div> <div style="background-color: black; height: 10px; width: 100%;"></div> <div style="background-color: black; height: 10px; width: 100%;"></div> <div style="background-color: black; height: 10px; width: 100%;"></div> <div style="background-color: black; height: 10px; width: 100%;"></div> <div style="background-color: black; height: 10px; width: 100%;"></div>
Remove rental companies' liability for infringement fees incurred by hirers	Legal professional privilege <div style="background-color: black; height: 10px; width: 100%;"></div> <div style="background-color: black; height: 10px; width: 100%;"></div> <div style="background-color: black; height: 10px; width: 100%;"></div> <p>Legal professional privilege the Bill has removed the provision and reverted to the status quo in the Freedom Camping Act 2011. This is a similar process for infringements under the Land Transport Act 1998.</p>
Clarify the ability of enforcement officers to issue infringement notices to the registered vehicle owner (such as a rental company) of a vehicle used in the commission of an offence.	To provide greater clarity as currently it is unclear in the Freedom Camping Act 2011.

<p>Enable an enforcement officer who believes on reasonable grounds that a person has committed, or is committing, an offence to direct the person to give their email address.</p>	<p>The Bill enables the issuing of infringement notices by email. A consequential amendment is needed in the Freedom Camping Act 2011 to enable enforcement officers to direct a person to provide their email address.</p>
<p>Enable regulations to prescribe maximum fines of up to three times the level of the fee for new and existing freedom camping infringement offences.</p>	<p>It is proposed that regulations prescribe a maximum fine for each infringement offence as this is considered best practice.</p>
<p>Create a new power, based on and equivalent to an existing Board power, for the Plumbers, Gasfitters and Drainlayers Board to make secondary legislation (notices) prescribing requirements about how motor vehicle inspections must be carried out.</p>	<p>Regulations made under the Plumbers, Gasfitters and Drainlayers Act 2006 will set out, among other things, the technical requirements for self-contained vehicle certification.</p>