



BRIEFING

Self-Contained Motor Vehicles Legislation Bill: Update on departmental consultation and approval to remove accelerated infringement procedure

Date:	15 July 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-0159

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister of Tourism	Agree to apply the standard 28-day payment period and subsequent 28-day reminder notice period for infringements in the Self-Contained Motor Vehicles Legislation Bill.	19 July 2022

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	✓
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 Withdrawn |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



BRIEFING

Self-Contained Motor Vehicles Legislation Bill: Update on departmental consultation and approval to remove accelerated infringement procedure

Date:	15 July 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-0159

Purpose

This briefing provides an update on departmental consultation and seeks your approval to remove the accelerated infringement procedure in the Self-Contained Motor Vehicles Legislation Bill (the Bill) and revert to the standard 28 day payment period and subsequent 28 day reminder notice period.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that Ministerial and departmental consultation process on the draft of Bill has closed with all those who provided comment broadly supportive of the Bill
Noted
- b **Note** that the Ministry of Justice raised concerns with the accelerated infringement procedure in the Bill because it cuts across principles of fair access to justice and criminal procedure protections
Noted
- c **Agree** to apply the standard 28–day payment period and subsequent 28-day reminder notice period for infringements in the Bill
Agree/Disagree
- d **Note** the associated LEG Cabinet Paper will note that this decision has been made allowing the LEG Cabinet Committee to revert this decision back to Cabinet if they deem it appropriate
Noted
- e **Note** that further minor and technical changes have been made to the Bill to improve its overall workability, consistent with policy intent approved by Cabinet
Noted
- f **Note** that the Bill and associated LEG Cabinet Paper will be lodged on 20 July 2022 for LEG's consideration on 28 July 2022
Noted

g **Note** that MBIE and PCO will continue to make minor and technical editorial changes to the Bill prior to Introduction, including those required to ensure consistency with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Noted



Dale Elvy
Manager, Tourism Operations and Partnerships

15 / 07 / 2022

Hon Stuart Nash
Minister of Tourism

..... / /

Background

1. On 1 November 2021, Cabinet agreed to implement improvements to the management of vehicle-based freedom camping by introducing a Bill to change the Freedom Camping Act [CAB-21-MIN-0442 refers].
2. Specifically, the Bill seeks to:
 - introduce 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.
 - establish a regulatory system for the certification of self-containment of vehicles, with the Plumbers, Gasfitters and Drainlayers Board (the Board) providing regulatory oversight.
 - require self-contained vehicles to have a fixed toilet, and
 - strengthening the infringement regime and extending it to other Crown land.
3. We expect the Bill to be considered by LEG Cabinet Committee on 28 July 2022.

Update on departmental consultation

4. The draft Bill, along with the accompanying draft LEG Cabinet Paper has recently been through Ministerial and Departmental consultation (Briefing 2122-4727 refers).
5. We 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. See **Annex One** for a table of the key feedback we received during department consultation and how this feedback will be reflected in the Bill.

Ministry of Justice's concerns about accelerated infringement procedure

7. As discussed with MBIE officials, Ministry of Justice (MOJ) raised concerns about the accelerated process for infringement fees during departmental consultation. The Bill, as currently drafted, reduces the 28-day payment period and subsequent 28-day reminder notice period to 14 days respectively. Cabinet agreed to the accelerate infringement procedure (CAB-21-MIN-0442 refers).
8. MOJ noted that the accelerated process would truncate the time a person can either pay the fee or challenge it. This cuts across principles of fair access to justice and criminal procedure protections. We expect this issue will also be raised by MOJ through the Bill of Rights Act vetting process.
9. 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.

10. MBIE considers the issue with international visitors departing New Zealand is largely addressed by making rental companies liable for infringement fines incurred by hirers (as is currently provided for in the Bill). The Bill enables rental companies to debit the hirer's credit card. This will ensure ease of enforcement, deterrence, and incentivise rental companies to advise hirers of the freedom camping rules.
11. As such, we consider reverting to a standard 28 day payment period and subsequent 28 day reminder notice period is appropriate. We consider this to be a minor change, particularly given it reverts to the status quo for infringements, as such you can make this decision (CAB-21-MIN-0442 refers). However, we will ensure that the LEG Cabinet Paper identifies the decision has been taken allowing LEG Cabinet Committee to refer the decision back to Cabinet if they deem it appropriate.

Next steps

12. Subsequent to your approval, MBIE will instruct PCO to ensure the Bill reflects your decision. MBIE and PCO will continue to make minor and technical editorial changes to the Bill prior to Introduction, and those required to ensure consistency with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.
13. The intention is for your office to lodge the LEG paper and Departmental Disclosure Statement for LEG by 10am Wednesday 20 July 2022. PCO will lodge the Bill directly with the Cabinet Office.
14. You will receive a suite of documents to support you at LEG. This will contain talking points and back pocket Questions and Answers.

Annex One – Key feedback received during departmental consultation

Department	Feedback received	Treatment
Ministry of Housing and Urban Development	Suggestion to include approach to mitigating impacts on those experiencing homelessness in the General Policy Statement (GPS)	MBIE will reflect this in the GPS
Waka Kotahi	Request clarity regarding NZTA providing written consent to local authority in order to make a bylaw that declares 'NZTA land' to be a local authority area for the purposes of the Act.	MBIE will work with PCO to ensure drafting is clear around when consent is required
Plumbers, Gasfitters, and Drainlayers Board (PGDB)	Queried whether the Bill provides for a self-containment certification authority to be re-appointed if they have had their appointment revoked. PGDB were particularly concerned given the limited number of organisations which are likely to be carrying out this work.	MBIE will work with PCO to ensure there is provision for re-appointment provided authority has taken steps to address the issues which led to its appointment being revoked
Ministry of Justice (MOJ)	As well as the issue raised in this briefing, MOJ also disagreed with the proposal to make rental companies liable for infringement fees, removing their ability to transfer it to the hirer. They argued that liability for the infringement should remain with the person who committed the offence rather than transferring it on to the rental company. MOJ also highlighted some duplication between some of the offences.	MBIE disagrees as the Bill enables rental companies to debit the hirer's credit card. There is strong policy rationale for rental companies being liable, such as reducing costs for enforcement authorities, improving infringement collection rates, incentivising rental companies to make hirers aware of freedom camping requirements, and increasing confidence in the enforcement regime. MBIE is working with PCO to make offence provisions clear and avoid duplication.