

In Confidence

Office of the Minister of Transport

Cabinet

Land Transport (Clean Vehicles) Amendment Bill (No 2) - Approval for Introduction

Proposal

- 1 This paper seeks approval to introduce the Land Transport (Clean Vehicles) Amendment Bill (No 2) (the Bill).

Relation to government priorities

- 2 On 9 May 2022 the Government announced New Zealand's first three greenhouse gas emissions budgets setting out the total amount of emissions New Zealand must cut over the next 14 years. This was followed, on 16 May 2022, by the release of the first Emissions Reduction Plan (ERP) outlining how the emissions budgets will be achieved. In transport, the ERP sets four targets to reduce transport emissions by 41 percent by 2035.
- 3 One of these four targets is to increase zero-emission vehicles to 30 percent of the light fleet by 2035. The Clean Vehicle Standard (the Standard) is a central policy in achieving this target. It will increase the proportion of low and zero carbon dioxide (CO₂) emissions light vehicles entering the fleet.

Executive Summary

- 4 This paper seeks approval to introduce the Land Transport (Clean Vehicles) Amendment Bill (No 2). The implements Cabinet decisions [DEV-22-MIN-0248 and CAB-22-MIN 0466 refer] to amend the Land Transport Act 1998 (the Act) to –
 - 4.1 provide a six-month phased transition for the Clean Vehicle Standard so that:
 - 4.1.1 while charges will still be incurred from 1 January 2023, they will not be required to be paid until 1 June 2023;
 - 4.1.2 while credits will still be accrued from 1 January 2023, the ability to transfer them will be deferred from 1 January 2023 to 1 June 2023;
 - 4.1.3 the requirement for a publicly available record of account holders will be deferred from 1 January 2023 to 1 June 2023, and that between 1 December 2022 and 31 May 2023, importers and the public would need to apply to the Director of Land Transport to access information from the record of account holders;
 - 4.2 amend the requirement for importers to have a CO₂ account and record the emissions of each vehicle they import from applying to all light vehicles to instead only applying to Type A and Type B vehicles, to exclude importers of motorcycles and mopeds;
 - 4.2.1 include an empowering provision in the Land Transport Act to enable regulations to be made that provide for the waiver or refund of charges imposed on Category 2 light vehicle importers, and for unpaid charges to be recoverable as a debt due to the Crown.

5 Obligations under the Scheme commence on 1 December 2022 and 1 January 2023.

Background

6 On 26 January 2021 Cabinet agreed to regulate light vehicle CO₂ emissions through the Standard [CAB-21-MIN-0004 refers]. The Standard sets annual targets that require light vehicle importers to progressively reduce the CO₂ emissions of the vehicles they import.

7 The Land Transport Act 1998 was amended in February 2022 to introduce a new Part 13 that establishes the Standard. This legislation sets two key start dates for the Standard, which are:

7.1 1 December 2022. From this date, all light vehicle importers will be required to have a CO₂ account, where the CO₂ emissions of their vehicles will be recorded. No light vehicle will be able to be certified for entry into New Zealand unless its CO₂ emissions have been recorded in the relevant importer's account.

7.2 1 January 2023. From this date, the CO₂ emissions of Type A and Type B vehicles imported will count towards importers' emissions targets. Importers will have to pay charges for exceeding targets if sufficient credits are not available. Type A and Type B vehicles are defined in Part 13, and are cars, SUVs, vans, utes and small trucks. Part 13 also allows importers to transfer CO₂ credits to other importers' CO₂ accounts. The Director of Land Transport (the Director) is required to maintain and operate an accessible record of CO₂ accounts to facilitate the transfer of credits between importers.

8 On 1 November 2022, Land Transport (Clean Vehicle Standard) Regulations 2022 were made, which specify many of the details concerning opening and operating CO₂ accounts, and how targets on vehicles are to be calculated. These details take effect either one or two months later, depending on which aspect of operating a CO₂ account they relate to.

9 Used-vehicle importers have raised concerns about implementing the Standard within the current legislated timeframes. In their view the timing between the Standard regulations being made and coming into effect does not give the industry sufficient time to become accustomed to operating with the new requirements, business processes and the Standard's online system to be run by Waka Kotahi. Much of the used vehicle industry will be subject to a compliance regime that differs to what the new vehicle industry will operate on, and as a consequence the used vehicle industry would face more immediate financial and operational impacts.

10 Officials acknowledge that the legislation requires all light vehicle importers, in particular those who only import mopeds and motorcycles to open CO₂ accounts although the Standard does not apply to these types of vehicles. The vehicle industry has expressed surprise about this and requested strongly that these obligations be removed.

11 An amendment Bill provides an opportunity to correct a technical matter in section 167C of the Land Transport Act, which permits regulations making charges payable by a Category 1 light vehicle importer (who pay on an annual basis) recoverable as a debt to the Crown, but omits similar regulations relating to charges payable by Category 2 light vehicle importers (who pay on a vehicle by vehicle basis).

- 12 On 26 October 2022, the Cabinet Economic Development Committee agreed [DEV-22-MIN-0248 and CAB-22-MIN-0466 refer] –
- 12.1 agreed to provide a phased transition for the Clean Vehicle Standard so that:
 - 12.1.1 while charges will still be incurred from 1 January 2023, they will not be required to be paid until 1 June 2023;
 - 12.1.2 while credits will still be accrued from 1 January 2023, the ability to transfer them will be deferred from 1 January 2023 to 1 June 2023;
 - 12.1.3 the requirement for a publicly available record of account holders will be deferred from 1 January 2023 to 1 June 2023, and that between 1 December 2022 and 31 May 2023, importers and the public would need to apply to the Director of Land Transport to access information from the record of account holders;
 - 12.2 noted that motorcycles and mopeds have inadvertently fallen within the Clean Vehicle Standard's requirements for their importers to have a CO2 account and to record the emissions of each vehicle they import, and that this is contrary to Cabinet's decisions on applicability [CAB-21-MIN-0004 refers];
 - 12.3 agreed to amend the requirement for importers to have a CO2 account and record the emissions of each vehicle they import to Type A and Type B vehicles, noting that this will exclude motorcycles and mopeds;
 - 12.4 agreed to amend the Act to give effect to paragraphs 12.1 and 12.3 above;
 - 12.5 agreed to include an empowering provision in the Land Transport Act to enable regulations to be made that provide for the waiver or refund of charges imposed on Category 2 light vehicle importers, and for unpaid charges to be recoverable as a debt due to the Crown.
- 13 To ensure importers have access to information on their charges incurred and credits accrued, Waka Kotahi are setting up Pay as You Go accounts so that each vehicle will display the fee owing as well as a running total for the account in New Zealand dollars. This will be a running total for the fees and will not automatically deduct any credits as importers have the option on how they use their credits at the time of invoice. This will allow for a true view of their fee obligations to date.
- 14 Fleet Average accounts work differently as they are only charged on an annual basis. The Fleet Average accounts will not be impacted by this deferral of charges and credits.

Impact Analysis

- 15 A Regulatory Impact Statement (RIS) dated 15 May 2020 was prepared for the Clean Vehicle Standard and was submitted at the time that Cabinet first approved the policy [CAB-21-MIN-0004 refers]. The RIS was assessed by an inter-agency panel as partially meeting the quality assurance criteria. The RIS provides some indication of the impact the proposal will have on businesses, however, acknowledges that some

impacts are unknown and will depend on business performance and COVID-19 recovery.

- 16 This proposal will lessen the operational impact felt by vehicle importers by providing for a six-month phase in of the Standard.
- 17 I note that the proposed amendment to the Act, to not require charges incurred from 1 January 2023 to be paid until 1 June 2023, will not create any obligations on Waka Kotahi in relation to the provision of credit.

Climate Implications of Policy Assessment

- 18 A Climate Implications of Policy Assessment (CIPA) was undertaken for the Clean Vehicle Standard, finalised on 20 May 2020 and was submitted at the time that Cabinet approved the policy [CAB-21-MIN-0004 refers]. A disclosure sheet was attached to the paper under CAB-21-SUB-004.
- 19 The Ministry for the Environment (MfE) was consulted and confirmed that the CIPA requirements applied to that proposal. MfE was highly supportive of the proposal and expects that it will deliver substantial reductions to CO₂ emissions over time. The modelling of the emissions reductions were subject to high levels of uncertainty, but it was MfE's view that the estimated impact will likely to be at the high end of the emissions reductions range provided. This assessment is based on analysis of the Ministry of Transport's modelling, comparative modelling and the effects of similar international schemes.
- 20 A CIPA disclosure sheet was attached to the original policy papers (CAB-21-MIN-004 refers). The proposals under this paper are not expected to materially change carbon dioxide emission levels. This is because the vehicle industry is, on average, already more than achieving their 2023 carbon dioxide targets.

Compliance

- 21 The Bill complies with each of the following:
- 21.1 the principles of the Treaty of Waitangi;
 - 21.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 21.3 the disclosure statement requirements;
 - 21.4 the principles and guidelines set out in the Privacy Act 2020;
 - 21.5 relevant international standards and obligations (subject to note below);
 - 21.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

Departmental consultation

- 22 The following agencies were consulted in the development of this paper: Waka Kotahi, Ministry of Justice, Crown Law, Parliamentary Counsel Office, Inland Revenue, New Zealand Customs Service, New Zealand Defence Force, Ministry for

Primary Industries, Ministry of Health, Treasury, Ministry for the Environment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, and the Energy Efficiency and Conservation Authority. The Department of Prime Minister and Cabinet has been informed.

Consultation with stakeholders.

- 23 From 15 August to 2 September 2022, members of the motor vehicle industry were included in targeted consultation on the implementation of the Standard. The targeted consultation included the Motor Industry Association, the Imported Motor Vehicle Industry Association, the International Council on Clean Transportation, Motor Trade Association, SOC NZ Limited, AutoHub, Low Volume Vehicle Technical Association, European Motor Distributors, Financial Service Federation, Juno Jupiter, Automobile Association, Vehicle Testing New Zealand, and the Bus and Coach Association.
- 24 Submissions focused on delaying the implementation of the Standard, deferring or removing obligations on motorcycle importers to hold carbon dioxide accounts, streamlining the process for approval as a Category 1 light vehicle importer, how future weight-adjusted targets are set, and ensuring that vehicle forecast information is simplified and kept confidential. Some of the issues raised were not able to be resolved through regulatory change and require the primary legislative change proposed by this paper.

Binding on the Crown

- 25 The Land Transport (Clean Vehicles) Amendment (No 2) Act will be binding on the Crown.

Creating new agencies or amending law relating to existing agencies.

- 26 The Bill will not create a new agency that is legally separate from the Crown.
- 27 The Bill will not amend the existing coverage of the Ombudsmen Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of decision making powers

- 28 The Bill does not involve the allocation of decision making powers between the executive, the courts, and tribunals.

Associated regulations

- 29 Regulations will not be needed to bring the Bill into operation. The Bill makes consequential amendments to the Land Transport (Clean Vehicle Standard) Regulations 2022.

Other instruments

- 30 The Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

- 31 The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

Commencement of legislation

- 32 The Bill will come into force on the day after the date of Royal assent.

Parliamentary stages

- 33 The Bill should be introduced to the House on 22 November 2022, be accorded urgency and passed no later than 25 November 2022.

Communications

- 34 I shall inform key vehicle industry stakeholders and make a public statement on these matters at the time the Bill is introduced.
- 35 Once the Bill has passed, Waka Kotahi shall inform vehicle industry stakeholders of their updated obligations under the Standard.

Proactive Release

- 36 This paper will be proactively released on the Ministry of Transport's website following the Bill's introduction into the House of Representatives, with any redactions in line with the Official Information Act 1982.

Recommendations

The Minister for Transport recommends that the Committee:

- 1 **note** that on 31 October 2022, Cabinet [CAB-22-MIN-0466 refers]:
 - 1.1 agreed to provide a phased transition for the Clean Vehicle Standard so that:
 - 1.1.1 while charges will still be incurred from 1 January 2023, they will not be required to be paid until 1 June 2023;
 - 1.1.2 while credits will still be accrued from 1 January 2023, the ability to transfer them will be deferred from 1 January 2023 to 1 June 2023;
 - 1.1.3 the requirement for a publicly available record of account holders will be deferred from 1 January 2023 to 1 June 2023, and that between 1 December 2022 and 31 May 2023, importers and the public would need to apply to the Director of Land Transport to access information from the record of account holders;
 - 1.2 noted that motorcycles and mopeds have inadvertently fallen within the Clean Vehicle Standard's requirements for their importers to have a CO2 account and to record the emissions of each vehicle they import, and that this is contrary to Cabinet's decisions on applicability [CAB-21-MIN-0004 refers];

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- 1.3 agreed to amend the requirement for importers to have a CO2 account and record the emissions of each vehicle they import to Type A and Type B vehicles, noting that this will exclude motorcycles and mopeds;
- 1.4 agreed to amend the Act to give effect to paragraph 1.1 above;
- 1.5 agreed to include an empowering provision in the Land Transport Act to enable regulations to be made that provide for the waiver or refund of charges imposed on Category 2 light vehicle importers, and for unpaid charges to be recoverable as a debt due to the Crown.
- 2 **note** that the Land Transport (Clean Vehicles) Amendment Bill (No 2) gives effect to decisions in paragraph 1;
- 3 **approve** the Land Transport (Clean Vehicles) Amendment Bill (No 2) for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 **agree** that the Bill be introduced to the House on 22 November 2022;
- 5 **agree** that the Government propose that the Bill be:
 - 5.1 accorded urgency;
 - 5.2 enacted no later than 29 November 2022;
- 6 **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office for any Supplementary Order Paper
- 7 **authorise** the Minister of Transport to move a motion in the House relating to any Supplementary Order Paper.

Authorised for lodgement

Hon Michael Wood
Minister of Transport