



COVERSHEET

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| Minister | Hon Stuart Nash | Portfolio | Tourism |
| Title of Cabinet Paper | Self-Contained Motor Vehicles Legislation Bill: Approval for Introduction | Date to be published | 27 September 2022 |

List of documents that have been proactively released

| Date | Title | Author |
|----------------|---|-----------------------------------|
| August 2022 | Self-Contained Motor Vehicles Legislation Bill: Approval for Introduction | Office of the Minister of Tourism |
| 11 August 2022 | Self-Contained Motor Vehicles Legislation Bill: Approval for Introduction LEG-22-MIN-0126 Minute | Cabinet Office |

Information redacted

YES

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.

Some information has been withheld for the reasons of Legal professional privilege.

[In Confidence]

Office of the Minister of Tourism
Chair, Cabinet Legislation Committee

Self-Contained Motor Vehicles Legislation Bill: Approval for Introduction

Proposal

1. This paper seeks approval to introduce the Self-Contained Motor Vehicles Legislation Bill. It is an omnibus Bill that amends the Freedom Camping Act 2011 and the Plumbers, Gasfitters and Drainlayers Act 2006.
2. The Bill addresses concerns from our communities about freedom campers' cumulative impact on the environment, and the cost of hosting them. Of particular concern are freedom campers who stay in cars, or vans with sleeping platforms, that are not self-contained. There is a need to make changes to support sustainable vehicle-based freedom camping in Aotearoa New Zealand.
3. Specifically, the Bill seeks to improve the management of vehicle-based freedom camping by:
 - 3.1. introducing 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;
 - 3.2. establishing a regulatory system for the certification of self-containment of vehicles, with the Plumbers, Gasfitters and Drainlayers Board (the Board) providing regulatory oversight;
 - 3.3. requiring self-contained vehicles to have a fixed toilet; and
 - 3.4. strengthening the infringement regime and extending it to other Crown land (it already applies to land administered by DOC and local authorities).

Issues Identification

4. The actions of vehicle-based freedom campers are adversely impacting the natural environment. I propose that this be addressed through legislative changes that will improve the management of vehicle-based freedom camping.

Policy

5. Freedom camping is deemed to occur when someone is staying for free in a vehicle or tent, within 200 metres of: where you can drive, the coast, or a Great Walks Track. Such camping is a small but highly visible part of both domestic and international tourism. Freedom campers travel widely, spending money in New Zealand communities, and

some contributing in other ways, such as participating in the seasonal workforce and volunteering. In 2019¹, international visitors who freedom camped at some point during their trip spent an estimated \$645 million here. That year, an estimated 245,000 people freedom camped, 63 per cent of whom were international visitors.

6. On 1 November 2021, Cabinet agreed to amend the Freedom Camping Act 2011 and the Plumbers, Gasfitters and Drainlayers Act 2006 to implement improvements to the management of vehicle-based freedom camping [CAB-21-MIN-0442 refers].
7. The following proposals will strengthen public trust in the freedom camping system by strengthening requirements for self-contained vehicles, supporting better enforcement, and creating a more consistent regime for campers to follow. Overall, this will reduce the costs (financial and non-financial) of freedom camping borne by communities:
 - 7.1. The reforms set a baseline expectation that freedom campers who are staying on land managed on behalf of ratepayers will stay in certified self-contained vehicles. This means that they will have facilities in the vehicle enabling them to be self-supporting for several days. However, the national rule also provides flexibility for local authorities to determine how tourism is managed, by providing for bylaws to designate sites where freedom camping in non-self-contained vehicles may occur, particularly where the local authority has identified sites that have suitable infrastructure to host these types of campers. This may be of particular benefit in districts that are seeking to attract a broader market.
 - 7.2. Establishing a new regulatory system for self-containment certification, with the Plumbers, Gasfitters and Drainlayers Board as the regulator. This will provide greater consistency in certification, increased public trust in the certification system, and certainty for enforcement officers verifying whether vehicles are certified.
 - 7.3. Vehicles will be required to have a toilet that is fixed within the vehicle, with either a removable or a permanent black water tank. Portable toilets will no longer be sufficient. This will strengthen the regulatory requirements for self-contained vehicles, encourage increased usage of toilets on board vehicles (which will contribute to reducing the costs borne by communities) and build public confidence in the regulatory system.
 - 7.4. The Bill strengthens the current infringement system to enhance deterrence, make enforcement more effective, and make the collection process more efficient. This will be achieved through several changes, notably moving to a maximum infringement fee of \$1,000 (rather than \$200 as currently provided) and enabling enforcement authorities to email infringement notices.
 - 7.5. Extending the Act to other Crown land (in addition to land administered by DOC and local authorities) will provide additional management tools, through the ability to prescribe restrictions on freedom camping, as well as access to the offences and penalties regime. It will be a decision for local authorities whether they wish to extend their freedom camping enforcement effort to include sites on land administered by Waka Kotahi or Land Information New Zealand (LINZ) where

¹ 'Responsible Camping Research 2019/20' by Fresh Info - commissioned by MBIE.

freedom camping is causing problems. This proposal will help freedom campers to understand requirements by creating a more consistent regime.

Further policy decisions

7. Cabinet authorised me to make decisions on issues arising during the drafting process [DEV-21-MIN-0442 refers]. Pursuant to that, I have approved seven further policy decisions required to give effect to the intent of Cabinet in the drafting of the Bill:

| Policy decision | Rationale |
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| 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 a freedom camping infringement offence. | The current wording of section 27 of the Freedom Camping Act 2011 is ambiguous on the issuing of infringement notices to registered vehicle owners, despite other sections being clear that this can be done under the Act. It is proposed that the ambiguity be addressed by providing greater clarity in section 27. |
| 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. | The Bill enables the issuing of infringement notices by email. A consequential amendment is needed in section 35 of the Freedom Camping Act 2011 to enable enforcement officers to direct a person who they believe has committed or is committing an offence to provide their email address. Section 35 already requires that a person must provide their full address and phone number. |
| Enable regulations to prescribe maximum fines of up to three times the level of the fee for new and existing freedom camping infringement offences. | An infringement fine is one imposed by a court, where the person served an infringement notice challenges the notice in court or fails to pay the infringement fee and court proceedings are taken against them. The Freedom Camping Act 2011 does not currently specify a maximum infringement fine for offences. It is proposed that regulations prescribe a maximum fine for each infringement offence. |
| 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. | Regulations made under the Plumbers, Gasfitters and Drainlayers Act 2006 will set out, among other things, the technical requirements for self-contained vehicle certification. It is proposed that the Plumbers, Gasfitters and Drainlayers Board will be able to issue guidance to assist vehicle inspectors to interpret the requirements. |
| Simplify requirements for incorporating Waka Kotahi land in local freedom camping bylaws, by only requiring Waka Kotahi consent to inclusion. | Cabinet previously agreed that the Bill will empower the relevant local authority to define, in its freedom camping bylaw, areas of land administered by Waka Kotahi that are deemed to be local authority areas for the purposes of the Freedom Camping Act 2011. Inclusion of Waka Kotahi land is subject to (a) Waka Kotahi giving consent and (b) provided it is not inconsistent with the use of the land. Condition (b) is not required, as consent (a) would not be given if the land was not suitable for freedom camping |

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| <p>Removing the ability for transition dates to be extended by Order in Council.</p> | <p>Cabinet previously agreed to enable the transitional dates for the Bill to be extended by Order in Council. The policy intent behind this decision was to provide greater flexibility in the implementation if any part of the transition did not proceed smoothly. However, as the policy development on the regulations has proceeded, I now consider that enabling the transitional dates to be delayed by Order in Council is unnecessary. Furthermore, enabling the transitional dates to be delayed may create undesirable uncertainty for stakeholders about when the provisions of the Bill will come into force.</p> |
| <p>Remove the accelerated infringement procedure in the Bill and revert to the standard 28 day payment period and subsequent 28 day reminder notice period.</p> | <p>Cabinet previously agreed to an accelerated infringement procedure. The Bill, as previously drafted, reduced the 28 day payment period and subsequent 28 day reminder notice period to 14 days respectively.</p> <p>Legal professional privilege [redacted]</p> <p>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.</p> |
| <p>Remove rental companies' liability for infringement fees incurred by hirers</p> | <p>Cabinet previously agreed to make rental companies liable for infringement fees incurred by hirers to assist enforcement authorities and increase collection rates.</p> <p>Legal professional privilege [redacted]</p> |

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| | <p><small>Legal professional privilege</small> the Bill has removed the provision and reverted to the status quo in the Freedom Camping Act 2011. This means that when rental companies receive an infringement notice they can either (i) accept liability and on-charge the hirer or (ii) complete a statutory declaration outlining who was lawfully in position of the vehicle. The enforcement officer will then issue a new infringement notice to the hirer. This is a similar process for infringements under the Land Transport Act 1998.</p> |
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Overview of the Bill

Introducing a national requirement that freedom camping on local authority land can only be carried out in self-contained vehicles

9. The Bill amends the Freedom Camping Act 2011 to require that freedom campers staying in a vehicle on land managed by a local authority must 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 i.e. in sites identified in the local bylaw.
10. Owners of non-self-contained vehicles will need to choose to either, get their vehicles up-graded and certified, freedom camp at sites where camping in non-self-contained vehicles is permitted (most public lands administered by Department of Conservation, and some sites identified by local authorities), or stop freedom camping. Camping at paid sites also remains an option for non-self-contained vehicles.
11. This requirement will come into force upon enactment.

Establishing a regulatory system for the certification of self-containment of vehicles, with the Plumbers, Gasfitters and Drainlayers Board (the Board) providing regulatory oversight.

12. The Bill provides the Plumbers, Gasfitters and Drainlayers Board with new powers to regulate the self-containment certification process. The Board already has similar powers in relation to plumbers, gasfitters and drainlayers, in particular, to gasfitting employer licences. These new powers include:
 - approving certification authorities based on criteria prescribed in regulations;
 - monitoring and auditing the performance of certification authorities;
 - investigating complaints made against certification authorities;
 - taking disciplinary action against certification authorities, ranging from requiring remedial actions through to suspension and revocation; and

- issuing guidelines that vehicle inspectors must have regard to when inspecting vehicles.

13. The Bill also requires that the Board establish and maintain a national register of self-contained vehicles. These are vehicles that have been certified by approved certification authorities in accordance with technical requirements prescribed in regulations.

14. The Bill provides for varying levels of access to the register:

- the public will be able to ascertain whether a specific vehicle is self-contained.
- enforcement officers will have access to all details on the self-containment certificate and warrant card, as well as any notes made by enforcement officers on previous interactions with a specific vehicle.
- certification authorities will have access to vehicle inspection and certification details for those certificates they issue.
- the Board will have access to all information on the register for monitoring, audit and complaint investigation purposes.

15. The Bill also entitles the Board to request from Waka Kotahi the current owner and their contact details in respect of a specific vehicle(s) to enable the Board to audit certification authority performance or to investigate complaints against a certification decision. The Board will also be able to use these details to update the register of self-contained vehicles.

Requiring self-contained vehicles to have a fixed toilet

16. The Bill seeks to strengthen the regulatory requirements for self-contained vehicles, requiring a toilet that is fixed within the vehicle, with either a removable or a permanent black water tank. This will mean vehicles cannot be certified or recertified as self-contained if they have a portable toilet.

17. This requirement will initially come into force upon enactment by the Bill modifying the existing voluntary standard that is the basis for current self-containment certifications. Regulations made under the Plumbers, Gasfitters and Drainlayers Act 2006 prescribing new technical requirements for certifications will then replace the modified standard as the basis for certifications six months after enactment. The intention is that the voluntary standard eventually be withdrawn by Standards NZ, given that most of its content will have been replaced by the new regulations.

Strengthening the infringement regime

18. The Bill amends the Freedom Camping Act 2011 to strengthen the existing infringement system. This will be achieved through several changes, including introducing a maximum infringement fee of \$1,000 (rather than \$200 as currently provided). The infringement fees for particular offences will be the subject of public consultation and included in the Regulations.

Extending the regime to other Crown land

19. The Freedom Camping Act 2011 is currently limited to land administered by DOC and local authorities. The Bill extends the regime beyond public land administered by Department of Conservation to other Crown land. Over recent years there has been an increase in people freedom camping on Crown land administered by either Waka Kotahi or LINZ, particularly in popular areas in the South Island (for example at Waitapu Bridge in Golden Bay, and Lake Dunstan in Central Otago). The agencies have flexibility within their own legislation to put in place management arrangements, but do not have access to an offences and penalties regime to incentivise compliance with any requirements they have put in place. They currently rely on issuing and enforcing trespass orders where campers' behaviour is problematic.
20. *For Waka Kotahi-administered land:* the relevant local authority will be empowered to define, in its freedom camping bylaw, areas of the land that are deemed as local authority areas for the purpose of the Act. Any inclusion will be subject to the consent of Waka Kotahi. As is the case for all local authority areas, the rule requiring freedom campers staying in a vehicle to use a certified self-contained vehicle will then apply. The bylaw may also put in place other prohibitions or restrictions on freedom camping under the existing bylaw making powers under the Act, and existing offences under the Act will apply.
21. *For LINZ-administered land:* freedom camping will be prohibited, except where the relevant decision-maker (either the Chief Executive or Commissioner of Crown Lands depending on the type of land) has made a notice to define an area where freedom camping may occur. The notice may also prescribe restrictions that apply to freedom camping in the area. As with local authorities and DOC, LINZ will also have the ability to appoint enforcement officers to enforce the rules on its land are complied with.

Impact analysis

22. A Regulatory Impact Statement (RIS) was prepared by MBIE in accordance with the necessary requirements and was submitted at the time that Cabinet approved the policies relating to the legislative reform programme [DEV-21-MIN-0219 refers]. MBIE's review panel considers the analysis partially meets the quality assurance criteria. This rating was due to the limited evidence of the degree of harm from vehicle-based freedom camping compared to other causes.
23. The RIS has been published on MBIE's website.

Compliance

24. The Self-Contained Motor Vehicles Legislation Bill complies with:
 - the principles of the Treaty of Waitangi;
 - the disclosure statement requirements, as covered in the attached Departmental Disclosure Statement;
 - the principles and guidelines set out in the Privacy Act 2020;

- the New Zealand Bill of Rights Act 1990
 - relevant international standards and obligations; and
 - the [Legislation Guidelines](#) (2018 edition).
25. In regard to the principles and guidelines set out in the Privacy Act 2020, MBIE has prepared a privacy impact assessment for the proposed national register of self-contained vehicles and discussed this with the Office of the Privacy Commissioner. Feedback has been incorporated into the privacy impact assessment and will inform the register build.
26. The Government's approach to mitigating any potential impacts of the Bill on people experiencing homelessness aligns with the Aotearoa New Zealand Homelessness Action Plan. Furthermore, the Bill does not breach the right to adequate housing under the International Covenant on Economic, Social and Cultural Rights.

Consultation

27. Freedom Camping has been a long-standing issue. As such, there has been considerable work and consultation on the underlying issues and options.
28. In 2018, the Responsible Camping Working Group was established to identify ways to better manage the freedom camping system. It recommended long-term policy and regulatory changes to the responsible camping system, and short-term practical actions that can be taken to help councils manage camping in their regions during the 2018/19 peak summer season. The Group's insights also helped inform the content of the Bill.
29. Comprehensive consultation has taken place on the proposals in the Bill. In April – May 2021, MBIE consulted the public on a set of proposals to support effective management of freedom camping. This included releasing a discussion paper, running a series of public meetings in areas where freedom camping was common, and running public webinars. 5,136 submissions were received, including 40 from local government and 9 from camping organisations. This feedback informed the contents of the Bill and will assist in the development of associated Regulations.
30. MBIE provided a version of the attached Bill for discussion with the Plumbers, Gasfitters and Drainlayers Board as part of development of this paper. Feedback from the Board has been incorporated into the Bill.
31. The following government departments have also been consulted on the Bill and this paper, and their feedback has been incorporated: Department of Internal Affairs, Department of Conservation, LINZ, Ministry of Transport, Waka Kotahi, Ministry of Justice, Department of the Prime Minister and Cabinet, Ministry of Health, Treasury, Ministry of Housing and Urban Development, Ministry of Social Development, Kainga Ora, and Te Puni Kokiri.
32. A privacy impact assessment has been prepared for the proposed national register of self-contained motor vehicles. The Office of the Privacy Commissioner provided input into the assessment and feedback has informed the drafting of the provisions relating to the register.

33. Discussions were held with the Legislation Design and Advisory Committee on the policy proposals last year. Matters raised by them were noted at the time and have been reflected in the drafting of the Bill.

34. I have consulted with my Ministerial and caucus colleagues.

Binding on the Crown

35. The Bill will make the Freedom Camping Act 2011 binding on the Crown.

36. The Bill does not create new agencies but does extend the role and responsibilities of the Plumbers, Gasfitters and Drainlayers Board.

Allocation of decision making powers

37. The Bill provides the Plumbers, Gasfitters and Drainlayers Board with new powers to appoint certification authorities, monitor their performance, audit certification decisions, investigate complaints and take disciplinary action, and suspend or revoke the approval of certification authorities. These decisions are appealable to the District Court. The Board will also establish and maintain a national register of self-contained vehicles.

Associated regulations

38. Regulations will be required to support the implementation of the Bill. They will prescribe the technical requirements for self-containment certification, the criteria for approval as a certification authority, the competency requirements for vehicle inspectors, the format of certification documentation issued to vehicle owners, infringement fees and fines, and an associated application fee and monitoring levy.

39. The Regulations are being developed concurrently with the development and drafting of this Bill.

40. Policy recommendations for associated regulations will be provided to me for in principle approval in November 2022.

Other instruments

41. The Bill adds to the Plumbers, Gasfitters and Drainlayers Board's existing notice-making powers by enabling the Board to make notices on self-contained vehicle certification matters. These notices will be legislative and disallowable instruments.

Definition of Minister/department

42. The Bill contains:

- a definition of Minister – in that it refers to the Ministers of Tourism and Building and Construction as the Ministers responsible for the making of a specific set of regulations; and

- a department (or equivalent government agency), or chief executive of a department (or equivalent position) – in that it refers to land maintained by Land Information New Zealand and Waka Kotahi.

Commencement of legislation

43. The Bill provides for some amendments to come into force the day after Royal Assent. These relate to:
- the requirement that freedom campers who are staying on local authority land do so in self-contained vehicles;
 - establishing a new bylaw-making power to designate specific sites as suitable for camping in non-self-contained vehicles;
 - requiring vehicles to have a fixed toilet in order to be certified as self-contained (though existing certifications remain valid for up to two years);
 - establishing new infringement offences;
 - extending the regime to land administered by Waka Kotahi and LINZ; and
 - new regulation-making powers.
44. The remaining provisions in the Bill will come into force six months after the date of Royal assent to coincide with regulations coming into force.

Parliamentary stages

45. This Bill has a category two priority on the 2022 Legislation Programme (to be passed in 2022).
46. I propose that it be introduced in mid-August 2022 and referred to the Economic Development Select Committee for consideration.

Proactive Release

47. I will proactively release this Cabinet paper and the associated minute to the public within 30 days of Cabinet's agreement, or the introduction of the Bill (whichever is earliest). The other Cabinet papers relating to this Bill have already been publicly released on MBIE's website.

Recommendations

The Minister for Tourism recommends that the Committee:

1. **note** that the Self-Contained Motor Vehicles Legislation Bill holds a category two priority on the 2022 Legislation Programme (to be passed in 2022);
2. **note** that this Bill improves the management of vehicle-based freedom camping. The Bill will:

- 2.1. require freedom campers to use self-contained vehicles when freedom camping on local authority managed land, except on sites exempted by bylaw;
 - 2.2. provide greater consistency in certification, increased public trust in the certification system, and certainty for enforcement officers verifying whether vehicles are certified through the establishment of a new regulatory system for self-containment certification, with the Plumbers, Gasfitters and Drainlayers Board as the regulator;
 - 2.3. strengthen the regulatory requirements for self-contained vehicles, encourage increased usage of toilets on board vehicles (which will contribute to reducing the costs borne by communities) and build public confidence in the regulatory system by requiring that certified vehicles have fixed, rather than portable, toilets;
 - 2.4. strengthen the current infringement system to enhance deterrence, make enforcement more effective, and the collection process more efficient; and
 - 2.5. provide additional management tools in relation to land administered by Waka Kotahi and LINZ where freedom camping is causing problems.
3. **note** that Cabinet authorised me to approve changes consistent with the policy intent [CAB-21-MIN-0442 refers], and I have approved seven drafting decisions to address practical issues highlighted during drafting:
- 3.1. Clarifying 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 a freedom camping infringement offence.
 - 3.2. Enabling 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.
 - 3.3. Enabling regulations to prescribe maximum fines of up to \$3000 for new and existing freedom camping infringement offences.
 - 3.4. Expanding the Plumber, Gasfitters and Drainlayers Board's existing power to issue gazette notices to enable it to issue self-containment certification documents that certification authorities and vehicle inspectors must have regard to when carrying out certifications.
 - 3.5. Simplifying the conditions on which Waka Kotahi land may be used for freedom camping and incorporated in local bylaws to just requiring consent from Waka Kotahi (removing the legislative requirement for land use to be considered also, as Waka Kotahi will consider this before providing consent).
 - 3.6. Removing the ability for transition dates to be extended by Order in Council.
 - 3.7. Removing the accelerated infringement procedure in the Bill and reverting to the standard 28 day payment period and subsequent 28 day reminder notice period
 - 3.8. Removing rental companies' liability for infringement fees incurred by hirers

4. **agree** that the Bill be introduced in August 2022;
5. **agree** that the Government propose that the Bill be referred to the Economic Development Select Committee for consideration.

Authorised for lodgement

Hon Stuart Nash
Minister of Tourism