

Departmental Disclosure Statement

Land Transport Management (Repeal of Regional Fuel Tax) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Te Manatū Waka Ministry of Transport.

The Ministry of Transport certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

26 January 2024

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Part One: General Policy Statement

The purpose of this Bill is to terminate the 10-cents-per-litre Auckland regional fuel tax, and remove the legislative framework that allows new regional fuel taxes to be created. The Bill also addresses transitional, savings, and related issues as part of the winding up of the Auckland regional fuel tax scheme.

The Bill—

- revokes the Land Transport Management (Regional Fuel Tax Scheme—Auckland) Order 2018, which provides for the Auckland regional fuel tax; and
- repeals the empowering framework that provides for the creation of regional fuel taxes in the Land Transport Management Act 2003 and revokes the associated Land Transport Management (Regional Fuel Tax) Regulations 2018.

The Bill will revoke the existing Auckland scheme on 1 July 2024.

Fuel costs are significant for many households, and this Bill will provide some relief to New Zealanders who are facing difficulty due to the rising cost of living. Removing the legislative framework for imposing regional fuel taxes will provide certainty to households and businesses that no regional fuel taxes will be implemented in any other region.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
Cabinet decided to suspend the requirement for Regulatory Impact Statements for decisions relating to 100 Day Plan proposals (taken within the 100 Days) which solely involve the repeal of legislation.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
No.	

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
There are no reports or the like available, but see appendix one for more detail.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO
Regional fuel tax is paid by a small number of fuel companies who distribute fuel in the Auckland area. Compliance with the changes will be in their favour.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

Consideration was given to the list of international obligations relevant to transport. Consultation was undertaken with the legal team on this matter.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Consideration was given to potential Te Tiriti o Waitangi implications of this legislation change, with no impact on Māori rights and interests identified.

This Bill is removing an existing scheme, and we have not identified any resources or taonga that will be impacted by removing the scheme.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

NO

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

YES

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Offences in current legislation likely to be kept as part of the savings provisions.

<https://www.legislation.govt.nz/act/public/2003/0118/latest/LMS56400.html>

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The Treasury, The Department of Internal Affairs (DIA), Ministry of Business and Innovation (MBIE) and New Zealand Transport Agency Waka Kotahi (NZTA) were consulted on aspects of the policy.</p> <p>NZTA have also been consulted on implementation matters in relation to the savings provisions.</p> <p>The following departments have been consulted on the relevant parts of the draft Bill: the Ministry of Justice, Te Puni Kōkiri, MBIE, Treasury, Te Arawhiti, DIA, and Inland Revenue. The Department of the Prime Minister and Cabinet has been informed.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>NZTA were also consulted on practical matters required for the savings provisions. Ongoing conversations around implementation matters will continue.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
<p>This Bill removes the provisions for any regional fuel tax under the Land Transport Management Act 2003.</p> <p>This removes the Government's taxing power for a cents per litre charge on fuel that can be used for local government transport projects that otherwise may not be fully funded.</p> <p>Currently wholesale fuel distributors pay the tax to NZTA, who recover collection costs and then distribute the revenue to agencies responsible for the projects to be funded by the tax (specifically Auckland Council).</p>	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO

Appendix One: Further Information Relating to Part Two

Extent of impact analysis available – question 2.5(a)

Costs and potential risks

Removing the Regional Fuel Tax (RFT) in Auckland will have an impact on Auckland City Council revenue. This will likely 'cost' Auckland Council \$600 million in lost revenue (if the scheme is ended June 2024), given it was set to continue until 2028.

This may impact on the delivery of projects the RFT was to part-fund – though details of this are yet to be finalised. The list of projects is available in Schedule 2 of the Land Transport Management (Regional Fuel Tax Scheme—Auckland) Order 2018¹.

The total infrastructure investment the RFT contributes to is around \$4.4 billion. Removal of the RFT could affect most of these projects – and around \$3 billion in investment. While the RFT is only part-funding these projects, removing this does also affect the corresponding proportion of National Land Transport Fund funding that would go towards them.

As a result, Auckland Council may increase other funding streams (for example reintroducing the \$150 transport levy previously in place) or defer or not progress with the projects.

There may be small increases in climate and health costs, as removing the RFT will make fuel cheaper and incentivise internal combustion engine vehicle users to drive more. This potential increase in travel could result in more greenhouse gases and air pollutants being emitted. However, this is likely to be a low impact, given road travel is relatively inelastic to changes in fuel prices.

Nature of the impacts on population

Removing the RFT will result in modest savings for households and businesses, between \$5-\$10 per tank (depending on vehicle) or \$96 to \$139 per year based on average distances travelled in Auckland. Not collecting the RFT out to 2028 will mean consumers avoid paying around \$600m tax in total.

The RFT is regressive, and as such it likely affects those with lower incomes disproportionately, particularly those who are not well served by other transport options or who live further away from work or other commitments.

Removing the RFT has the potential to reduce the price of petrol and some of the financial pressure on Auckland households, however fuel monitoring may be required to ensure the 10 cents per litre saving is passed on to consumers.

Removing the RFT is unlikely to have a substantive impact on households and this change would need to be made alongside other interventions in order to help reduce the cost of living on Aucklanders.

¹ <https://www.legislation.govt.nz/regulation/public/2018/0103/latest/whole.html#LMS52616>