

Departmental Disclosure Statement

Self-Contained Motor Vehicles Legislation 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 the Ministry of Business, Innovation and Employment

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

12 August 2022

Contents

Contents.....	2
Part One: General Policy Statement.....	3
Part Two: Background Material and Policy Information	7
Part Three: Testing of Legislative Content.....	9
Part Four: Significant Legislative Features	11

Part One: General Policy Statement

The Freedom Camping Act 2011 (the Act) defines freedom camping as staying for free in a vehicle or tent within 200 metres of a place 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 contribute in other ways, such as participating in the seasonal workforce and volunteering. In 2019, international visitors who freedom-camped at some point during their trip spent an estimated \$645 million. That year, an estimated 245,000 people freedom-camped, 63% of whom were international visitors.

The Act enables local authorities and the Department of Conservation (DOC) to manage freedom camping through local bylaws and notices. About half of New Zealand's territorial authorities have made freedom camping bylaws.

Steadily increasing numbers of freedom campers over recent years have, however, generated concern in some communities about freedom campers' cumulative impact on the environment and on local communities. Of particular concern are freedom campers who stay in cars or vans that are not self-contained and the current unmonitored voluntary standard for self-contained vehicles.

The Self-contained Motor Vehicles Legislation Bill (the Bill) is a Government Bill that will amend the Act and the Plumbers, Gasfitters, and Drainlayers Act 2006.

The Bill is an omnibus Bill introduced under Standing Order 267(1)(a). That Standing Order provides that an omnibus Bill that amends more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That policy is to improve the management of vehicle-based freedom camping by creating a robust regulatory system that central and local government can rely on to reduce the negative effects of freedom camping on communities and the environment. It is not intended that the regulatory regime applies to people who are staying in tents or vehicles due to homelessness. The Bill introduces the following measures:

- 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 motor vehicles that are not self-contained;
- a regulatory system for certifying self-contained vehicles, with the Plumbers, Gasfitters, and Drainlayers Board (the Board) providing regulatory oversight (moving away from reliance on the current unmonitored voluntary standard);
- a requirement for self-contained vehicles to have a fixed toilet; and
- strengthening the infringement regime and extending it to other Crown land.

The Bill also provides for a two-year transition period.

Requirement for freedom camping on land managed by local authorities to be in self-contained vehicles

The Bill requires 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 motor vehicles that are not self-contained. Local authorities would designate such sites in their freedom camping bylaws.

The Bill includes offences for infringements against the new rule, enforceable by enforcement officers appointed under the Act. Offences include freedom camping, or preparing to do so, in breach of the rule. The Bill also includes offences and infringement offences relating to the vehicle's self-containment certification, such as camping in a motor vehicle that is not self-contained, and having more campers staying in a vehicle than it is certified for.

The rule will establish a baseline expectation that freedom campers who are staying on land managed on behalf of ratepayers will stay in certified self-contained vehicles that have facilities enabling them to be self-supporting for several days.

However, the Bill also provides flexibility for local authorities to determine how tourism is managed, by providing for bylaws to designate sites where freedom camping in motor vehicles that are not self-contained may occur, particularly where the local authority has identified sites that have suitable infrastructure to host such vehicles. This may be of particular benefit in districts that are seeking to attract a broader range of tourists.

Regulatory system for self-containment of vehicles

The Bill establishes a regulatory system for the certification of self-contained vehicles, including a register of certified self-contained vehicles. The Board will be the regulator. Key aspects include the following:

- the Board will approve organisations and individuals as self-contained vehicle certification authorities. The authorities will appoint vehicle inspectors to inspect, and will certify vehicles in accordance with, technical requirements set out in regulations;
- the Board will establish and maintain a register of self-contained vehicles. Parts of the register will be accessible by enforcement authorities and the public to confirm whether a vehicle is certified as self-contained. The Board will also be entitled to obtain, upon request, current ownership and contact information in relation to a specific vehicle as recorded on the motor vehicle register maintained by the New Zealand Transport Agency (Waka Kotahi) for auditing and compliance purposes;
- certification authorities will issue 4-year warrant cards and certificates of self-containment for vehicles that pass checks. Certification details will be entered in the new register. Over time, certification under the existing

self-contained vehicle standard (NZS 5465:2001) will become invalid for the purposes of certifying as self-contained for freedom camping; and

- the Board will monitor and audit certification authorities to ensure that the certification process is robust. It will be able to take disciplinary action against certification authorities.

The new regulatory system will aim to provide greater consistency in the certification of self-contained vehicles, increased public trust in the certification system, and certainty for enforcement officers verifying whether vehicles are certified.

Requiring self-contained vehicles to have a fixed toilet

The Bill strengthens the regulatory requirements for self-contained vehicles. Immediately after the Bill becomes law, a vehicle will not be able to be certified or recertified as self-contained under the self-contained vehicle standard (NZS 5465:2001) unless it has a fixed toilet.

Requiring certified self-contained vehicles to have a fixed toilet will help to raise the standard of certified self-contained vehicles, encourage increased usage of toilets on board vehicles, and build public confidence in the regulatory system.

Six months after the Bill becomes law, regulations prescribing the requirements for self-containment will come into force. For a vehicle to be self-contained 2 years after the Bill becomes law, a vehicle will need to be self-contained in accordance with requirements prescribed in regulations. The requirements that a vehicle may meet to be self-contained for the purposes of the Bill during the 2-year transitional period are specified below in the description of the Bill's transitional arrangements.

Strengthening infringement regime and extending it to other Crown land

Emailing freedom camping infringements

The Bill enables enforcement authorities to email infringement notices to owners of vehicles involved in the commission of an infringement offence. An infringement notice will be received sooner. This will assist rental companies in recovering infringement fees from rental vehicle hirers. It is also consistent with enforcement practices under other regulatory regimes.

Extending Freedom Camping Act 2011 to land administered by Waka Kotahi and LINZ

Currently, the Act is limited in application to land administered by local authorities and DOC. In recent years there has been an increase in freedom camping on Crown land administered by either Waka Kotahi or Land Information New Zealand (LINZ), particularly in popular areas of the South Island. Those 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 enforce compliance with any requirements they have put in place. They currently rely on issuing and enforcing trespass orders when campers' behaviour is problematic.

To improve management of freedom camping, and reduce the adverse effects on communities, the Bill extends the scope of the Act to apply to Waka Kotahi and LINZ land. The mechanisms introduced are as follows:

- For Waka Kotahi-administered land: the relevant local authority will be empowered to define areas of land that are deemed as local authority areas for the purpose of the Act in its freedom camping bylaw, subject to Waka Kotahi approval; and
- for LINZ-administered land, a notice will designate where freedom camping is permitted and LINZ will be able to appoint officers to enforce the applicable freedom camping rules on the land. This will enable LINZ and local authorities to be partners in enforcement.

Extending the application of the Act to other Crown land in this way will provide additional management tools through the ability to prescribe restrictions on freedom camping, as well as access to the offences and penalties regime. Local authorities will be able to choose whether they wish to extend their freedom camping enforcement efforts to include sites on land administered by Waka Kotahi or LINZ.

Transitional Arrangements

The Bill provides for a 2-year transition period, with various provisions coming into force during that period, as follows:

- The new rule requiring use of certified self-contained vehicles on land managed by local authorities will come into effect as soon as legislation is passed;
- regulations will come into effect 6 months after the Bill's enactment. This will enable:
 - certification authorities to be approved and to start certifying vehicles under the new technical requirements for self-contained vehicles; and
 - establishment and operation of the national register of self-contained vehicles.
- after 12 months, certifications will have to be carried out by approved certification authorities;
- eighteen months after the Bill's enactment, rental vehicles will be considered self-contained under the Act only if they have been certified by approved certification authorities
- twenty-four months after the Bill's enactment, only vehicles that have been certified by an approved certification authority will be considered self-contained under the Act.

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?	YES
Responsible Camping Research 2019/20 (Fresh Info, published April 2020) https://www.mbie.govt.nz/dmsdocument/11909-responsible-camping-research-2019-20-pdf	
Research to inform the Responsible Camping discussion document and regulatory impact analysis – Final Report (Allen and Clarke, published 5 February 2021) https://www.mbie.govt.nz/dmsdocument/13859-research-to-inform-discussion-document-and-regulatory-impact-analysis-5-february-2021	
Supporting Sustainable Freedom Camping in Aotearoa New Zealand (MBIE, published April 2021) https://www.mbie.govt.nz/dmsdocument/13853-discussion-document-supporting-sustainable-freedom-camping-in-aotearoa-new-zealand	

Relevant international treaties

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

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Reducing negative impacts of freedom campers (MBIE, published 3 December 2021) Impact Statement: Reducing negative impacts of freedom campers - 14 October 2021 - Regulatory Impact Assessment - Ministry of Business, Innovation and Employment (treasury.govt.nz)	
The panel considered that the regulatory impact statement partially met the criteria. This rating was due to the limited evidence of the degree of harm from vehicle-based freedom camping compared to other causes.	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
The MBIE Regulatory Impact Analysis Panel reviewed the regulatory impact statement (RIS) because the RIS did not meet the threshold for Treasury RIA Team assessment.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
--	-----------

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
---	-----------

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?	YES
<p>Section 3 of the RIS (https://www.mbie.govt.nz/dmsdocument/13856-impact-statement-reducing-negative-impacts-of-freedom-campers) provides an analysis on costs and benefits of the Bill. It determines that the primary costs from these changes will fall on owners of vehicles used for freedom camping.</p> <p>The appointment of the Board as the regulator of self-contained vehicle certification will require vehicle owners to pay a levy to fund the costs of the Board's regulatory oversight, including the establishment and maintenance of a national register of self-contained vehicles.</p> <p>The requirement for freedom camping on local authority land to be carried out in self-contained vehicles (unless otherwise designated in bylaws) will require owners of non-self-contained vehicles to either get their vehicles certified, or instead freedom camp on Department of Conservation land (unless prohibited). There is a high level of uncertainty on which option vehicle owners will choose.</p> <p>The requirement that only vehicles with fixed toilets will be able to be certified as self-contained will require owners of vehicles with portable toilets to either get a fixed toilet installed or instead only freedom camp on land where non-self-contained vehicles are permitted, such as Department of Conservation land (unless prohibited) or designated local authority areas. There is a high level of uncertainty on which option vehicle owners will choose.</p> <p>There will likely be localised environmental benefits from better management of freedom camping sites, for example less inappropriate waste disposal, but the exact benefit is unknown.</p>	

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?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>The Bill contains proposals to facilitate more effective and efficient compliance of the requirements by local authority and Department of Conservation compliance officers:</p> <ul style="list-style-type: none"> • moving away from a standard \$200 infringement fee to a maximum of \$1,000 infringement fee • the establishment of a national register of self-contained vehicles to assist compliance staff to identify whether a vehicle is self-contained • the appointment of the Board as the regulator of self-containment certification to provide greater assurance that the certification system is robust • improving infringement fee collection rates by allowing infringement notices to be emailed to vehicle owners. 	

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?

MBIE has worked with other government agencies to consider whether the Bill is in breach of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in relation to homelessness. The assessment is that the Bill is not in breach.

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?

The Bill has been reviewed for consistency with the principles of the Treaty of Waitangi and is confirmed to be consistent.

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

The Ministry of Justice is currently undertaking a vet of the Bill and will provide advice to the Attorney-General on the Bill's compliance with the New Zealand Bill of Rights Act 1990.

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)?

YES

The Bill:

- adds new infringement offences relating to the extension of freedom camping to Waka Kotahi and LINZ land, and the new requirements around self-contained vehicles
- moves away from a standard \$200 infringement fee for all offences with an ability to prescribe a higher infringement fee of up to \$1000 by regulations, to a default infringement fee of \$1000 with an ability to prescribe a lower infringement fee in relation to individual infringement offences by regulations
- introduces infringement fines for existing and new offences
- provides for decisions of the Board regarding certification authorities to be appealed to the District Court.

3.4.1. Was the Ministry of Justice consulted about these provisions?

YES

The Ministry of Justice was consulted on the provisions as part of departmental consultation on the Bill.

The Ministry was also consulted during the policy development process on the proposals relating to the infringement process, the proposed changes to infringement fees, and the functionality of the national register of self-contained vehicles.

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?	YES
Clause 44 creates a new subpart 3. This subpart: <ul style="list-style-type: none">• requires that the Board establish and maintain a register of self-contained motor vehicles• sets out the purpose of the register in relation to different parties• outlines the matters to be contained in the register• outlines who will enter information into the register• outlines who can access specific information in the register.	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
MBIE consulted the Office of the Privacy Commissioner to inform its privacy impact assessment (PIA) on the proposed national register of self-contained vehicles. Advice from the Office of the Privacy Commissioner was incorporated into the PIA and will inform the security settings of the register.	

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>During April and May 2021, the Government consulted the public on a set of proposals to support effective management of freedom camping. 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.</p> <p>In 2018, the Responsible Camping Working Group was established by MBIE to identify ways to better manage the freedom camping system. They recommended long-term policy and regulatory changes to the responsible camping system, and short-term practical actions that could 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.</p> <p>Further consultation on the proposals in the Bill will occur through the select committee stage of the Bill.</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
Discussions have been ongoing with the Board on the proposals in the Bill to ensure that these are workable and complete from a regulator's perspective.	

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

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
The Bill provides for the making of a new levy, payable by vehicle owners at the time their vehicles are certified as self-contained. The proposed levy will fund the costs of the Board in its role as the regulator of the self-containment certification system. The rate of the levy will be prescribed in regulations.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

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?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
The Bill adds new strict liability offences as infringement offences. These new offences relate to the new requirement to use a self-contained vehicle when freedom camping on local authority areas and the extension of the Act to Waka Kotahi and LINZ land.	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

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

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

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>The Bill expands the regulation-making powers in the Plumbers, Gasfitters and Drainlayers Act 2006 to enable the Governor-General, on the advice of the Minister of Tourism, to make regulations in respect of the following matters:</p> <ul style="list-style-type: none">• prescribing criteria for appointment as a certification authority• prescribing competency requirements for appointment as a vehicle inspector by a certification authority• prescribing requirements that a vehicle must comply with to be certified as self-contained• prescribing the form of the certificate and warrant card of self-containment• prescribing levies to be paid by owners of certified self-contained motor vehicles. <p>The Bill also creates a new notice-making power that enables the Board to make notices prescribing requirements relating to how motor vehicle inspections arranged by certification authorities are carried out.</p>	

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?	YES
<p>The Bill enables enforcement authorities to email infringement notices to vehicle owners such as rental companies. This will speed up the infringement issuing process, and for the likes of rental companies enable them to receive the infringement notice before the hirer departs New Zealand.</p>	