

Injury Prevention, Rehabilitation, and Compensation Amendment Bill

Government Bill

Explanatory note

General policy statement

Government's objectives for ACC Motor Vehicle Account

The Motor Vehicle Account covers the costs of all motor vehicle related injuries.

Income for the Motor Vehicle Account comes from the following 2 sources:

- an excise duty on petrol sales (currently 2.3 cents per litre):
- a portion of the annual vehicle licence fee.

The Motor Vehicle Account has recently faced increased costs. The Government considered options for distributing the increased costs in the Motor Vehicle Account by balancing the key objectives. As a result of decisions taken by Cabinet to absorb the cost increases within a petrol levy rather than a levy on vehicle licensing fees, this Bill makes the necessary legislative changes to establish the petrol amount as a levy and to set the rate of the levy at 5.08 cents per litre of motor spirits.

Government's objectives for this Bill

The petrol amount referred to in the Injury Prevention, Rehabilitation, and Compensation Act 2001 (the **IPRC Act**) is not actually a levy and does not impose a liability to pay a levy on those individuals who are liable for the excise duty on motor spirits; rather, it is an amount that is collected as part of the excise duty on motor spirits and payable to the Corporation for the Motor Vehicle Account without further appropriation. This Bill formally establishes the

petrol amount as a levy at a rate of 5.08 cents per litre of motor spirits or any other rate that may be prescribed by regulations.

Currently, under the IPRC Act, any increase to the ACC petrol amount would result in a correspondingly smaller amount of motor spirits excise duty funds remaining after the ACC petrol amount was deducted, unless an amendment is made to the Third Schedule of the Customs and Excise Act 1996 to change the total amount of the motor spirits excise duty. This Bill ensures that the fiscal impact of decisions to change the ACC petrol levy are not borne by the Crown and avoids the need to amend the Customs and Excise Act 1996 each time the petrol levy is changed.

Current legislation only provides for an ACC levy to be applied to petrol. This Bill provides for an ACC levy to be applied to petrol or any other category of fuel specified in the Third Schedule of the Customs and Excise Act 1996 that is prescribed by regulations made under the IPRC Act.

This Bill also contains a provision that reverses 1 of the effects of the District Courts Amendment Act 2002. That Act (which has not yet been brought into force) substitutes in the IPRC Act a new section 162, which provides for appeals against decisions of District Courts. Unfortunately, the new provision inadvertently removes the requirement to obtain leave to appeal, which is an important filtering mechanism. This Bill preserves the requirement to obtain leave to appeal.

Clause by clause analysis

Clause 1 relates to the Title.

Part 1

Preliminary provisions

Clause 2 relates to the commencement of the Bill. *Clause 4* (which preserves the requirement to obtain leave to appeal against a decision of a District Court) comes into force on the commencement of the District Courts Amendment Act 2002. *Clause 12* (which relates to regulation-making powers) comes into force on the day after the date on which the Bill receives the Royal assent, and the rest of the Bill comes into force on 1 July 2003.

Clause 3 sets out the purpose of the Bill. Its purpose is to—

- establish as a levy the portion of excise duty or excise-equivalent duty payable on motor spirit that is currently transferred to the Motor Vehicle Account; and
- avoid the need to amend the relevant rates of duty in the Third Schedule of the Customs and Excise Act 1996 whenever the rates of the levy are changed; and
- preserve in section 162 of the principal Act the requirement to obtain leave to appeal under that section against a decision of a District Court.

Part 2

Amendments to Injury Prevention, Rehabilitation, and Compensation Act 2001

Clause 4 amends section 162 of the principal Act (as substituted by the District Courts Amendment Act 2002) by preserving the requirement to obtain leave to appeal under that section against a decision of a District Court. The requirement will be removed by the District Courts Amendment Act 2002 unless it is preserved before that Act is brought into force.

Clause 5 amends section 213 of the principal Act to establish as a levy the ACC portion of excise and excise-equivalent duty paid on motor spirit under the Customs and Excise Act 1996. The levy is payable on prescribed kinds or categories of fuel (as specified in the Third Schedule of the Customs and Excise Act 1996) or, in the absence of regulations prescribing the fuel to which the levy applies, on motor spirit to which that Act applies.

Clause 6 amends section 214 of the principal Act to provide that the levy established by this Bill is payable either—

- at the rate or rates prescribed by regulations made under the principal Act; or
- in the absence of regulations prescribing the rate of levy, at the rate of 5.08 cents per litre of motor spirit.

Clause 7 amends section 216 of the principal Act to enable regulations made under that Act to prescribe different rates of levy for different kinds or categories of fuel.

Clause 8 amends section 217 of the principal Act to enable the levy established by this Bill to be collected—

- in a manner prescribed by regulations made under that Act; or

- in the absence of regulations prescribing the manner of collection, with excise or excise-equivalent duty payable on the same kind of fuel under the Customs and Excise Act 1996.

Clause 9 amends section 236 of the principal Act and relates to the right to challenge the amounts of levies claimed under that Act. The effect of the amendment is that the levy established by this Bill is not open to challenge under section 236.

Clause 10 amends section 244 of the principal Act, which effectively exempts persons from liability to pay a levy under that Act if the amount levied does not exceed \$20 and similarly exempts persons from liability to pay penalties for non-payment of that levy. The effect of the amendment is that the exemption does not apply to the levy established by this Bill.

Clause 11 amends section 255 of the principal Act to provide for amounts of the levy established by this Bill to be refunded in accordance with regulations made under that Act. The regulations will prescribe who is entitled to a refund, how to apply for a refund, the extent of the refund, and the manner in which refunds are to be paid.

Clause 12 repeals a regulation-making power in section 329(k) of the principal Act that is no longer necessary as a result of the changes in this Bill, and substitutes a new provision empowering the making of regulations contemplated for the purposes of the levy established by this Bill.

Part 3

Consequential amendments

Clause 13 amends the Customs and Excise Act 1996 as follows:

- the definition of **duty** in section 2(1) of that Act is amended to include the new levies. This will apply the enforcement provisions of the Act to the new levies:
- section 75A of that Act is repealed. This provision, which provides that levies under the Injury Prevention, Rehabilitation, and Compensation Act 2001 are in addition to motor spirit duty, is made redundant by the provisions of this Bill:
- the rates of duty payable on motor spirit, as set out in the Third Schedule of that Act, are reduced by 2.3 cents per litre to reflect the fact that that portion will be included in the new levies.

Regulatory impact and business cost compliance statement

Statement of problem and need for action

The Motor Vehicle Account is facing increasing costs. These increases have resulted primarily from improved estimates of long-term rehabilitation costs for seriously injured claimants and underlying cost increases. The estimates were improved as a result of isolating and better understanding the rehabilitation costs for seriously injured claimants.

The Motor Vehicle Account has the highest proportion of serious injuries of all the ACC Accounts. Therefore, the improved estimates and underlying cost increases affect the Motor Vehicle Account disproportionately more than the other ACC Accounts. Increasing costs in the Motor Vehicle Account, particularly in relation to rehabilitation, means that the Motor Vehicle Account is in deficit in relation to future liabilities from past injuries.

Statement of the public policy objective

Funding of the Motor Vehicle Account has 4 key objectives that need to be weighed up when considering changes. The key objectives are as follows:

- (a) **Fairness:** risk-rating through the petrol amount is based on a broad correlation between those who consume more petrol being likely to travel more, and therefore have higher risk exposure than those who travel less. Comparatively, risk-rating through the licence fee levy is based on car ownership, and type of vehicle;
- (b) **Cover:** the Motor Vehicle Account covers all people injured in motor vehicle accidents on public roads, but is funded by the owners (licence fee levy) and drivers (petrol amount) of motor vehicles. This approach means that costs to the Account do not always fall where they are incurred. For instance, passengers, pedestrians, and cyclists do not pay a levy, and motorcyclists only pay a small proportion of actual costs;
- (c) **Levy stability:** levy stability is a major government goal. Levy stability is important to manage the injury costs of all motor vehicle injuries. ACC needs to forecast and collect sufficient income to fund the account over the long term;
- (d) **Full funding:** the Motor Vehicle Account levy is set annually and is required under section 215 of the IPRC Act to take into

account the full costs of injuries occurring in the current year (for example, if a person suffers a spinal injury from a motor vehicle accident, the levy in the year of the injury must cover the full costs of treating, compensating, and rehabilitating that person over the life of the claim, which may take several years), and the ongoing cost of past claims. The funding approach changed in 1999 from a “pay as you go” approach, where levies were collected to cover only those costs occurring in the current year. The ongoing cost of past claims is required to be fully taken into account by 30 June 2014.

Statement of options for achieving the desired objective

The status quo and 3 options for setting the rate for the petrol amount for petrol-powered vehicles were considered. The options were—

| Petrol amount per litre | Option X 2.3c | Option 1 5.08c | Option 2 8.03c | Option 3 15.20c |
|--|--------------------------|---------------------------|---------------------------|----------------------------|
| Average petrol amount/non-petrol levy per vehicle per year | \$29.99 | \$70.73 | \$111.86 | \$211.95 |
| Average licence fee per vehicle per year | \$177.27 | \$141.22 | \$100.09 | \$0.00 |
| Average total levy per vehicle per year | \$207.26 | \$211.95 | \$211.95 | \$211.95 |
| Average licence fee per class 2 (standard petrol-powered) vehicle per year | \$175.83 | \$141.10 | \$100.00 | \$0.00 |

Note: In relation to the average total levy per vehicle per year in the table above, the total levy consulted on was \$207.26 rather than the recommended levy of \$211.95.

Option descriptions

The status quo is a petrol amount of 2.3c per litre, and an average licence fee per vehicle of \$140.55. The status quo is not feasible because the Motor Vehicle Account is required to be fully funded. Option X holds the petrol amount at the current level, and raises the licence fee levy per vehicle to cover the full increase. This option was discarded as the risks of increasing the licence fee were considered too high. Option 1 holds the current licence fee levy per standard vehicle at the current level, and raises the petrol amount per litre to cover the increase. Option 2 decreases the licence fee levy for the standard vehicle to \$100.09 and applies the remaining levy to the petrol amount. Option 3 applies the full levy to the petrol amount.

Preferred option

Option 1 has the lowest implementation cost, the economic impact is relatively low, and a mixed levy based on vehicle ownership and petrol consumption better reflects risk exposure than a levy based solely on petrol consumption.

Other options considered

Options 2 and 3 have the advantages of increasing compliance with licensing (therefore improving vehicle safety), and some administrative and compliance cost savings. However, the disadvantages of options 2 and 3 include the inconsistency between funding methods for petrol and non-petrol vehicles, and the likely negative economic impacts.

Statement of the net benefit of this proposal

It is a legislative requirement that the Motor Vehicle Account levy take into account the full costs of injuries occurring in the current year (“full funding”), and the ongoing cost of past claims. The 25% increase was arrived at through an assessment of the various components of the Account. The estimates included increases in the residual costs, as well as the amount required for reserving, and overall medical, compensation, and rehabilitation costs.

The 3 proposed options have different costs and benefits associated with them. In applying a petrol levy, the following impacts can be anticipated to various degrees:

- effects on the wider economy:
- drops in petrol consumption:
- negative impacts on small businesses dependent on petrol-powered vehicles:
- oil industry working capital requirements:
- shifts to more fuel efficient vehicles and non-petrol-powered vehicles with corresponding future impact on total levy collected from petrol-powered vehicles and increase in pollution:
- cumulative effect with other petrol excise increases.

In summary, option 1 has the least economic impact.

*Consultation***Government departments**

New Zealand Customs Service
Ministry of Economic Development
Department of Labour
Department of Prime Minister and Cabinet
Ministry of Social Development
Ministry of Transport
The Treasury.

Other agencies

Accident Compensation Corporation
Land Transport Safety Authority of New Zealand.

The Accident Compensation Corporation conducted a consultation process on the Motor Vehicle Levy rates as required by section 331 of the IPRC Act. The Corporation received 1 062 submissions on the Motor Vehicle Levy rates from a range of submitters, including key motoring groups. Submitters were relatively evenly split between favouring for petrol-powered vehicles a petrol amount only, and favouring a mixture of licence fee levy and petrol amount (New Zealand Automobile Association favoured the latter). Another key theme from submitters was that an alternative means of risk rating based on driver or licence-holder characteristics, or distance travelled, should be developed (submitters included the New Zealand Automobile Association and Business New Zealand).

Hon Ruth Dyson

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Injury Prevention, Rehabilitation, and Compensation Amendment Act **2003**.
- (2) In this Act, the Injury Prevention, Rehabilitation, and Compensation Act 2001¹ is called “the principal Act”.

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¹ 2001 No 49

Part 1 Preliminary provisions

2 Commencement

- (1) **Section 4** comes into force on the commencement of the District Courts Amendment Act 2002.
- (2) **Section 12** comes into force on the day after the date on which this Act receives the Royal assent.
- (3) The rest of this Act comes into force on 1 July **2003**.

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3 Purpose

The purpose of this Act is to—

- (a) establish as a levy under the principal Act the portion of excise and excise-equivalent duty payable on motor spirit that is paid to the Motor Vehicle Account; and
- (b) avoid the need for an amending Act to consequentially adjust the rates of excise duty and excise-equivalent duty on the relevant fuel (as set out in the Third Schedule of the Customs and Excise Act 1996) whenever the levy changes; and
- (c) preserve the requirement to obtain leave to appeal under section 162 of the principal Act against a decision of a District Court.

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Part 2**Amendments to Injury Prevention, Rehabilitation,
and Compensation Act 2001**

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4 Appeal to High Court on question of law

Section 162 of the principal Act (as substituted by section 4 of the District Courts Amendment Act 2002) is amended by repealing subsection (1), and substituting the following subsections:

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“(1) A party to an appeal who is dissatisfied with the decision of a District Court as being wrong in law may, with the leave of the District Court, appeal to the High Court.

“(1A) The leave of the District Court must be sought within 21 days after the District Court’s decision.

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“(1B) If the District Court refuses to grant leave, the High Court may grant special leave to appeal.

“(1C) The special leave of the High Court must be sought within 21 days after the District Court refused leave.”

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5 Application and source of funds

- (1) Section 213(2) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

“(c) a levy to be paid in accordance with **section 214(4)**; and”.

- (2) Section 213 of the principal Act is amended by repealing subsections (3) and (4), and substituting the following subsection:

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- “(3) The levy payable under **subsection (2)(c)** is payable—
- “(a) on any fuel (or any category of fuel) specified in the Third Schedule of the Customs and Excise Act 1996 that is prescribed by regulations made under this Act; or
 - “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, on any motor spirit in respect of which excise duty or excise-equivalent duty is for the time being payable under the Customs and Excise Act 1996.”
- 6 Rate of levies**
- Section 214 of the principal Act is amended by adding the following subsections:
- “(4) The levy payable under **section 213(2)(c)** is payable—
- “(a) at the rate or rates per litre or other unit prescribed by regulations made under this Act; or
 - “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, at the rate of 5.08 cents per litre of motor spirit in respect of which excise duty or excise-equivalent duty is payable under the Customs and Excise Act 1996.
- “(5) The rate or rates of the levy prescribed by regulations made under this Act, and the rate prescribed by **subsection (4)(b)**, are exclusive of goods and services tax.”
- 7 Levy categories**
- Section 216 of the principal Act is amended by adding the following paragraph:
- “(d) fuel in respect of which a levy is payable under **section 213(2)(c)**.”
- 8 Collection of levies**
- (1) Section 217 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:
- “(2) The levy payable under **section 213(2)(c)** on any fuel is payable—
- “(a) in the manner prescribed by regulations made under this Act; or

- “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, with any excise or excise-equivalent duty that is payable on that fuel.”
- (2) Section 217 of the principal Act is amended by inserting, after subsection (4), the following subsection: 5
- “(4A) However, in the case of the levy payable under **section 213(2)(c)**, an agent who collects any amount of the levy on the Corporation’s behalf must pay that amount to the Corporation—
- “(a) in the manner prescribed by regulations made under this Act; or 10
- “(b) in the absence of regulations for the time being in force for the purpose of **paragraph (a)**, in the manner agreed by the Corporation and the agent.”
- (3) Section 217 of the principal Act is amended by adding the following subsection: 15
- “(6) Subsection (5) does not apply to the levy payable under **section 213(2)(c)**”.
- 9 Challenges to levies**
- Section 236(2) of the principal Act is amended by adding the words “or in respect of the levy payable under **section 213(2)(c)**”. 20
- 10 Power in respect of small amounts of levy**
- Section 244 of the principal Act is amended by adding, as subsection (2), the following subsection: 25
- “(2) Subsection (1) does not apply to the levy payable under **section 213(2)(c)**”.
- 11 Refunds payable by Corporation**
- (1) Section 255 of the principal Act is amended by inserting, after subsection (1), the following subsection: 30
- “(1A) Levies paid under **section 213(2)(c)** are refundable to the persons or classes of person, to the extent, and in the manner, prescribed by regulations made under this Act, and any refundable amount must be paid by the Corporation or an agent of the Corporation in accordance with the regulations.” 35

- (2) Section 255(2) of the principal Act is amended by inserting, after the expression “subsection (1)(b),” the words “or making a refund under **subsection (1A)**”.

12 Regulations relating to levies

Section 329 of the principal Act is amended by repealing paragraph (k), and substituting the following paragraph: 5

“(k) prescribing, in relation to the levy payable under **section 213(2)(c)**,—

“(i) the fuels in respect of which the levy is payable:

“(ii) the category or categories of any fuel in respect of which the levy is payable: 10

“(iii) the rate or rates at which the levy is payable:

“(iv) the manner in which the levy is to be collected and paid to the Corporation:

“(v) the persons or classes of person who are entitled to a refund under **section 255(1A)**, the extent to which any amount of levy may be refunded, the manner in which persons must apply for a refund, and the manner in which refunds are to be paid:” 15

Part 3

Consequential amendments

13 Customs and Excise Act 1996 amended

(1) Section 2(1) of the Customs and Excise Act 1996 is amended by adding to the definition of **duty** the following paragraph:

“(e) levies imposed by **section 213(2)(c)** of the Injury Prevention, Rehabilitation, and Compensation Act 2001” 25

(2) Section 75A of the Customs and Excise Act 1996 is repealed.

(3) The Third Schedule of the Customs and Excise Act 1996 is amended by repealing so much as relates to Excise item numbers 99.75.15C and 99.75.18H, and substituting the Excise item numbers and rates of duty specified in **Part A of the Schedule**. 30

(4) The Third Schedule of the Customs and Excise Act 1996 is amended by repealing so much as relates to Tariff item numbers 2710.19.11 and 2710.19.29, and substituting the Tariff item numbers and rates of duty specified in **Part B of the Schedule**. 35

Schedule
Amendments to Third Schedule of Customs and Excise Act 1996
(excise and excise-equivalent duties)

s 13(3), (4)

Part A
Goods manufactured in New Zealand

| Excise item number | Goods | Unit | Rates of duty |
|-----------------------|---|-------|---------------------------------|
| 99.75.15C | – Motor spirit with a Research Octane No. (RON) less than 92 (regular grade) which, if imported, would be classified within Tariff Item 2710.19.11 or 2710.19.29 | per ℓ | 36.2¢ plus 8¢ per g of Pb |
| 99.75.18H | – Motor spirit with a Research Octane No. (RON) 92 or greater (premium grade) which, if imported, would be classified within Tariff Item 2710.19.11 or 2710.19.29 | per ℓ | 36.2¢ plus 8¢ per g of Pb |

Part B
Imported goods

| Tariff item number | Goods | 5 | Unit | Rates of duty |
|-----------------------------|--|----|-------|---------------------------------|
| 2710.19.11 or 2710.19.29 | - Motor spirit with a Research Octane No. (RON) less than 92 (regular grade) which, if manufactured in New Zealand, would be classified within Excise item number 99.75.15C | 10 | per ℓ | 36.2¢ plus 8¢ per g of Pb |
| 2710.19.11 or 2710.19.29 | - Motor spirit with a Research Octane No. (RON) 92 or greater (premium grade) which, if manufactured in New Zealand, would be classified within Excise item number 99.75.18H | 15 | per ℓ | 36.2¢ plus 8¢ per g of Pb |

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