

Land Transport (Clean Vehicles) Amendment Bill

Government Bill

As reported from the Transport and Infrastructure Committee

Commentary

Recommendation

The Transport and Infrastructure Committee has examined the Land Transport (Clean Vehicles) Amendment Bill and recommends by majority that it be passed. We recommend all amendments by majority.

Introduction

This bill would amend the Land Transport Act 1998, the Land Transport Management Act 2003, the Energy Efficiency and Conservation Act 2000, the Income Tax Act 2007, and the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011. Part 1 of the bill would amend the Land Transport Act, while Part 2 would amend the other enactments.

The bill aims to reduce the amount of carbon dioxide (CO₂) emissions produced by New Zealand's vehicle fleet. It seeks to do this by influencing the supply of and demand for zero- and low-emissions vehicles. It would set the broad framework for the clean vehicle standard and clean vehicle discount scheme, while providing for the details of these policies to be set by regulations.

The clean vehicle standard would apply targets to encourage importers to import more zero- and low-emissions vehicles. The bill would set the annual targets and provide for charges if vehicle importers failed to meet them. The targets would become progressively higher between 2023 and 2027. The bill allows for regulations to set post-2027 targets.

The bill would also expand the clean vehicle discount scheme that was introduced in July 2021 to encourage buyers to choose zero- or low-emissions vehicles. It would enable charges and rebates for a broader range of vehicles.

Finally, the bill would provide for consumers to be informed about vehicle emissions levels, and the rebates receivable or charges payable for different vehicles, by setting vehicle labelling requirements.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Clean vehicle standard: main amendments to the Land Transport Act

Clause 7 would insert a new Part 13—new sections 170 to 197G—into the Land Transport Act, specifying the provisions for the clean vehicle standard.

Clause 5 would provide for the creation of regulations for the clean vehicle discount scheme and the clean vehicle standard, by inserting sections 167A, 167B, and 167C into the Land Transport Act.

We recommend below some significant changes to these provisions.

Determining CO₂ emissions in accordance with land transport rules and regulations

As introduced clause 7 would insert section 174, setting out how to determine the CO₂ emissions of a vehicle. We recommend a number of changes to make it clear that rules and regulations made under the Land Transport Act would govern how emissions are determined and converted.

As introduced, section 174(2) states that a vehicle's CO₂ emissions would be taken to be the amount determined by the manufacturer. We do not support this approach. However, we accept that the methods used to calculate emissions are technical, so including them in a rule or regulation would be more appropriate than including them in primary legislation. This approach would also allow for changes to the methods as technology advances.

We therefore recommend amending section 174(2) to clearly state that a vehicle's CO₂ emissions are the amount determined in accordance with the regulations or rules, not by the manufacturer. In line with this, we also recommend deleting section 174(4), providing for the Director of Land Transport to determine CO₂ emissions when a manufacturer did not.

Empowering provisions for rules to support the clean vehicle policy

We consider that a land transport rule would be the most appropriate legislative vehicle to prescribe the process and requirements for determining CO₂ emissions under the clean vehicle policies. We therefore recommend inserting clause 4A to amend section 155 of the Land Transport Act (Rules concerning vehicles).

Section 155, as amended, would allow rules to be made that set out requirements for information and data to be provided about a vehicle's fuel or energy consumption, efficiency, or CO₂ emissions. The rules could also prescribe formulas or methodology for determining these things. They could include ways of estimating values where information or data was incomplete or a test cycle has been used other than the approved test cycle.

Including vehicle importers in rule-making provisions

We recommend inserting clauses 4B and 4C so that the relevant rule-making provisions in the Land Transport Act refer to vehicle importers. This would ensure that rules may apply to all regulated parties under the land transport regulatory system.

Converting amounts of emissions

Section 174(3) as introduced sets out that if a manufacturer measures emissions using a test cycle other than the approved test cycle, the WLTP,¹ those emissions must be converted to the approved test cycle as provided for in regulations.

We note that due to different methods of calculating emissions under each test cycle, it is not always possible to provide a like-for-like conversion from one test cycle to another. We recommend replacing section 174(3) so that regulations or rules would set out how to determine the CO₂ emissions where a different test cycle has been used, which may include estimating the CO₂ emissions that would have been expected if the vehicle had been tested using the approved test cycle. Our amendment would also remove references to the vehicle manufacturer from this section, to align with our other recommended changes to clause 7.

We also recommend several amendments to clause 5 as a consequence of the changes we propose to clauses 4 and 7. Our recommendations would delete sections 167A(3)(e), 167C(1)(a), and 167C(1)(j). They would also amend sections 167A(3)(d) and 167C(1)(k) to allow for the CO₂ emissions to be determined in accordance with the land transport rule.

Definition of “approved test cycle”

We recommend amending the definition of “approved test cycle” in section 172. Our amendment would delete reference to any other test cycle declared by regulations to

¹ The approved test cycle is defined as the WLTP, the Worldwide Harmonized Light Vehicles Test Procedure cycle, as specified in UN Regulation No 154.

be the approved test cycle. This would align with the changes we propose to section 174.

Importers may transfer CO2 credits

Proposed sections 180 and 184 set out that light vehicle importers could transfer CO2 credits between themselves. New vehicle importers would gain credits if they over-achieve the yearly CO2 targets. Used vehicle importers would gain credits if they import more zero- and low-emissions vehicles than required to offset any higher emissions vehicles they import. These credits could be banked for up to three years or transferred to another light vehicle importer.

As introduced, the bill would allow light vehicle importers to transfer credits to another importer in the same category as them. However, it does not differentiate according to whether the vehicles are new or used. This does not align with the policy intent of the bill, which states only new vehicle importers may transfer CO2 credits to other new vehicle importers and that used vehicle importers may only transfer CO2 credits to other used vehicle importers.

We recommend amending section 180 to make it clear that category 1 vehicle importers who import new vehicles could only transfer credits to other importers who import new vehicles. Our proposed section 180(2) would apply the same logic to category 1 light vehicle importers of used cars. Our proposed section 180(3) would make it clear that transfers between a CO2 account relating to new vehicles and a CO2 account relating to used vehicles would not be allowed.

We also recommend corresponding changes to section 184 which applies to category 2 light vehicle importers.

Transfers of credits between importers

Proposed section 189 provides for the Director of Land Transport to open a CO2 account at the request of an importer. An account must be opened if:

- the application complies with the prescribed requirements
- the applicant does not already hold an account.

These conditions were included to prevent importers from holding multiple accounts to circumvent the system. However, when an importer imports both new and used cars they need an account for each car status. This is because new and used cars are subject to different charges if CO2 targets are not met.

Our amendment would replace section 189(2)(b) and insert section 189(2)(c) to ensure that importers who need to hold two accounts could do so.

Effective date of CO2 accounts

Section 185 would require every vehicle importer to have a CO2 account. We recommend amending the effective date in sections 185(1) and 187 to support the transition to the clean vehicle standard. The date needs to be 1 December 2022 to align with

when the registration and reporting requirements of the clean vehicle standard would come into effect.

Clarifying when a vehicle is considered imported

We recommend amending proposed section 173 to clarify when a vehicle is considered imported for the purposes of the clean vehicle standard. The bill currently states that a vehicle is imported at the point it is, for the first time, issued with evidence of vehicle inspection under this Act.

Evidence of vehicle inspection includes a Warrant of fitness and Certificate of fitness. It does not include the inspection undertaken by Customs at the border.

Our amendment to section 173 would make it clear that a vehicle is imported at the point it goes through the entry inspection and certification process under the Land Transport Act (as opposed to when evidence of vehicle inspection is issued, which can occur at a later point).

Further to this change, section 187 would need to be amended. It should make it clear that the CO₂ account number of the importer and CO₂ emissions of the vehicle must be provided before the vehicle is certified for entry under the Act. As introduced, the bill requires this before evidence of vehicle inspection is issued.

As a consequence of this change, we recommend removing the definition of “evidence of vehicle inspection” from section 172(1).

Definition of “used vehicle”

Proposed section 172 is an interpretation provision for Part 13. We recommend replacing the definition of “used vehicle” to align with the Land Transport Rule: Vehicle Standards Compliance 2002. Our amendment would replace the definition in section 172(1) to align it with the land transport rule. It would also clarify that demonstration vehicles used to promote the sale of similar vehicles would be classed as “used”. We also recommend amending the definition of “new vehicle” to further clarify this.

Recovering debt

Clause 5, new section 167A, specifies that the general regulation-making power under section 167(1)(j) of the Land Transport Act provides for regulations to impose fees and charges for importing vehicles. However, the bill does not provide for debt to be collected from those who fail to pay.

We recommend inserting sections 167A(3)(e) and 167C(1)(pa) to provide for the recovery of debt.

We note that the regulations do not enable liens to be held over vehicles for unpaid debt due to the Crown.

Minister must conduct a review

Clause 7, proposed new section 175, would set the targets for reducing carbon dioxide emissions for the years 2024 to 2027. It also provides for regulations to set targets for subsequent years.

We recommend inserting section 175A to require the Minister to initiate a review of the suitability of the targets set out in section 175 or any that have been prescribed in regulations. The review would need to take into account the expected effect of the targets on vehicle emissions, safety, affordability, and availability. It would also need to consider levels of ambition of other jurisdictions, in terms of their existing and proposed carbon dioxide emissions targets, and any other matter the Minister considers relevant. This review would need to be initiated before 30 June 2024. The Minister would have to consult any person the Minister considers appropriate.

Minister must consult

We recommend amending clause 5, proposed sections 167A, 167B, and 167C, to require that the Minister of Transport must consult before making regulations under each of these sections. The Minister would need to consult such persons as the Minister considers appropriate.

Targets consistent with Climate Change Response Act 2002

As introduced, the bill would set the emissions targets for each year up to 2027. The bill provides for post-2027 targets to be set in regulations. These regulations could only be made if the Minister recommends them. Under section 167C(3)(b)(ii), the Minister must also be satisfied that the targets are consistent with the policies under section 5ZG of the Climate Change Response Act.

We recommend amending this provision to achieve further clarity by referring to the “emissions reduction plan”² made under section 5ZG of the Climate Change Response Act. The emissions reduction plan will be released in 2022. It will include policies and strategies that will help New Zealand meet the emissions budget set under the Climate Change Response Act.

National Party differing view

The National Party remains opposed to the Land Transport (Clean Vehicles) Amendment Bill.

National is supportive of a transition of New Zealand’s light vehicle fleet to low-emissions and zero-emissions vehicles. Electric vehicles and low-emissions petrol-hybrids are a promising opportunity to rapidly reduce New Zealand’s transport emissions over the coming years, and one that New Zealand should embrace.

² <https://www.mpi.govt.nz/consultations/emissions-reduction-plan/>.

The bill seeks to overcome the high cost of electric vehicles by allowing the Minister to tax high-emitting vehicles and subsidise low-emitting vehicles. The bill also implements an emissions standard that requires importers to achieve emissions targets in how their car imports or pay penalties.

National has several concerns with this approach and for these reasons cannot support this bill.

Emissions reductions will be low or nil

Firstly, it is important to note that the actual emissions reductions achieved are likely to be either very small or nil.

The Ministry of Transport released data in July this year that suggested the bill is only expected to reduce New Zealand's emissions by about 1 percent by 2030, and after this time emissions reductions then begin to be less as by then electric vehicles are competitive in the base case. Under the schedule used in Ministry of Transport modelling the bill would be taxing petrol Suzuki Swifts and Toyota Corollas by 2028.

Reductions will be expensive

While electric vehicles will likely achieve cost parity with petrol cars in the future, they have not yet. Subsidising electric vehicles will mean people buy them before it always makes economic sense to do so. If we simply allow the emissions trading scheme to price all emissions equally (excluding methane and nitrous oxide from agriculture), we can allow people, rather than the government, to work out where it makes most sense to invest in emissions reductions.

The impacts of the policy will be inequitable

Electric vehicles are currently more expensive than petrol vehicles and electric vehicles are mainly suitable for small urban families.

Currently, there are no electric work utes or seven-seater family cars available in New Zealand.

The schedules released for the car tax (but not included in the bill) suggest a \$3,500 plus GST tax on a new petrol van or ute. The Motor Industry Association state that when combining fees under both the Clean Car Standard and the car rebate-tax, the price of the average vehicle will increase by 15 to 20 percent.

This is a big increase in the cost of living for farmers, tradespeople, and large families at a time inflation is already running high.

Kiwis oppose this bill

Kiwis do not want this bill. A poll by Newshub-Reid Research in August 2021 asked "Do you agree with the Clean Car Discount scheme?" 53 percent of respondents disagreed with the policy and only 37 percent supported. The same poll asked if farm utes should be exempt, to which 68 percent of people felt they should and only 21 percent of people said no.

The industry oppose this bill

The Motor Industry Association (MIA) has come out in opposition to the bill. The MIA said the Clean Car Standard proposed in the first reading version of the bill was a “nasty surprise” and that “There is no obvious rationale and it seems it is a revenue gathering exercise for New Zealand to have targets that are tougher than other jurisdictions like Europe.”³

The bill provides no certainty on what cars will be taxed

The Minister took a paper to Cabinet in which an indicative schedule suggested that car taxes would be phased in over time. While only the “highest emitting” vehicles would be taxed initially, each year the threshold for taxation would decrease so that by 2028 even relatively efficient petrol cars like a Suzuki Swift and Toyota Corolla would be taxed.

Similar schedules were used in the Regulatory Impact Statement and modelling undertaken by the Ministry of Transport. Yet no schedule is included in the bill. Instead the bill allows the Minister to decide what cars are taxed each year, this is far too much power to be given to the Minister.

The methods are overly complex

The bill proposes two measures to encourage low emissions vehicles. Firstly, a car subsidy–tax system in which buyers of cars must apply for a rebate or pay a tax. Secondly, a car standard, where importers must report emissions of cars, can trade over and under achievement with each other, or must pay a penalty for failing to meet standards.

National believes that the Clean Car Standard will work in a very similar way to the tax–subsidy scheme. Because the targets are unlikely to be met, a seller of imported vehicles will discount low-emitting vehicles in recognition that selling more low-emitting vehicles reduces the level of fine they have to pay, and increase the cost of high-emitting vehicles in the knowledge that high-emitting vehicles result in higher fines. Having two policies that do the same thing simply adds complexity and administration cost.

ACT Party differing view

ACT supports the concept of making polluters pay for their carbon emissions. However, ACT opposes this bill because it will not reduce New Zealand’s net carbon emissions which are already capped under the Emissions Trading Scheme.

The stated purpose of the bill is to “achieve a rapid reduction in carbon dioxide emissions from light vehicles imported into New Zealand”. However, manufacturers who submitted on the bill described international supply constraints which mean that there

³ <https://www.mia.org.nz/Portals/0/MIA%20withdraws%20support%20for%20the%20clean%20car%20standard.pdf>

will not be sufficient low- and zero-emissions vehicles available to meet the time-frames proposed by the Government.

In summary:

- The bill will apply vehicle emission standards in wholly impractical time-frames, even earlier than where vehicles are manufactured in some cases, which simply adds unavoidable cost.
- The bill introduces unnecessary regulation that is difficult and costly to comply with and adds to the overall cost of living for New Zealand families.
- The bill will increase costs for farmers and small business owners who depend on petrol and diesel utes and vans to do their job, and this will add to the cost of living for their customers.
- The bill will unfairly increase costs for larger families who require larger vehicles, which by their nature have higher emissions.
- The bill will unfairly and disproportionately affect lower income New Zealanders who rely on lower cost vehicles.
- The bill will result in more polluting vehicles staying in the fleet for longer, due to the charges imposed by this bill on imported new and late-model petrol and diesel vehicles.

Supply and demand issues

Only a few countries drive on the left-hand side of the road which requires cars to be configured for right-hand drive: Japan, New Zealand, Australia, United Kingdom, and some Pacific Island countries.

Australia recently relaxed rules which restricted imports of second-hand vehicles intended to protect their now-defunct domestic light vehicle manufacturing industry, to allow Australian consumers access to used Japanese battery electric vehicles (BEVs) and hydrogen EVs (HEV) light vehicles.

The Motor Industry Association of New Zealand and the Imported Motor Vehicle Industry Association represent new and used vehicle importers respectively. They estimate that there will not be sufficient new electric vehicles (EVs) or low-emission vehicles (LEVs) to satisfy demand in Australia and New Zealand until the mid-2030s at the earliest, as there is simply not the supply.

Treasury, in advice released under the Official Information Act, wanted the time-frames when standards come into force to be delayed because of international supply constraints around low emissions vehicles.

Around 120,000 to 150,000 new light vehicles are sold in New Zealand every year, around 0.18 percent of 80 million new vehicles sold worldwide. As a result, New Zealand based suppliers have very little influence on parent company production or to receive priority for certain types of vehicles.

Manufacturers told the committee that they will massively increase production of BEVs and HEVs from the late 2020s. However, these new vehicles will only enter

market in greater volumes some years after the regulations in the bill will begin to impose cost and penalties on New Zealand vehicle buyers.

This also means lower-cost used BEVs and HEVs will be only available to New Zealand from these future model ranges from the mid 2030s, typically around five to six years after they are sold as new.

Submitters asked that the Government delay imposing the standards to allow suppliers to meet demand in their home markets, and to have sufficient supply for other markets.

Unavoidable costs hit lower income families, farmers, and small business hardest

The industry estimates 50 percent of current imports would fail the standards by 2025. Those standards will be stricter than the European Union by 2027, without any evidence that sufficient vehicles will even be available to meet the standards within that time frame.

Lower income families who typically buy second hand imported vehicles will face higher prices because of these policy interventions. Buyers of utes, vans and larger family cars will have few, if any, BEV and LEV options to switch to and avoid those costs.

Submitters told the committee that, under the Clean Vehicle standards, importers will pay an estimated additional \$4,000 for a petrol or diesel ute landed between 2024 and 2027, before it even leaves the wharf, costs which will be passed directly on to consumers.

One submitter also told the committee that their modelling showed that \$1,500 would be added to the cost of a second hand ute as a flow-on effect from imposing the costs associated with the clean vehicle standards on new utes.

Will not reduce emissions

The Emissions Trading Scheme sets a hard cap on emissions. The Climate Change Commission stated that a price of over \$50 per tonne would incentivise New Zealand businesses to reach net zero carbon by 2050. NZUs, or carbon credits, are selling at around \$68 per tonne, so New Zealand is well on track to meet this target.

Carbon emissions from petrol and diesel fuel is already paid for at the point of production, through the Emissions Trading Scheme. This already adds around \$11 to \$12 to every tank of petrol, which averages over \$500 per year for drivers filling up weekly.

Because New Zealand has a hard cap on carbon emissions, any emissions reduced by the standards imposed by the bill will not reduce a single tonne of carbon that someone else will not be able to emit somewhere else.

Unnecessary regulation and cost to business

Submitters gave evidence that the policy interventions in this bill will require significant amounts of business administration cost, in terms of compliance monitoring, record keeping, reporting, and accounting.

Government agencies will be required to administer the clean car standards which apply to vehicle importers at the border, with powers to audit, issue credits and impose fees on importers.

ACT is of the view that there is no need for the regulations established under this bill, as the Emissions Trading Scheme already caps carbon emissions and imposes a price on emissions.

Appendix

Committee process

The Land Transport (Clean Vehicles) Amendment Bill was referred to the committee on 21 September 2021. We invited the Minister of Transport to provide evidence on the bill. They did so on 11 November 2021.

The closing date for submissions on the bill was 4 November 2021. We received and considered 152 submissions from interested groups and individuals. We heard oral evidence from 28 submitters at hearings held via video conference.

We received advice on the bill from Te Manatū Waka - Ministry of Transport. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Greg O'Connor (Chairperson)

Hon David Bennett

Simeon Brown

Paul Eagle

Shanan Halbert

Dr James McDowall

Ricardo Menéndez March

Terisa Ngobi

Helen White

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Michael Wood

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Land Transport (Clean Vehicles) Amendment Act **2021**.

2 Commencement

- (1) **Sections 22 to 24** of this Act are deemed to have come into force on **1 July 2021**. 5
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to Land Transport Act 1998

10

3 Principal Act

This Part amends the Land Transport Act 1998.

4 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order:
clean vehicle discount scheme has the same meaning as in section 5(1) of the Land Transport Management Act 2003 15

light vehicle means a motor vehicle that has a gross vehicle mass of not more than 3,500 kg

- (2) In section 2(1), replace the definition of **land transport documents** with:

land transport documents means—

- (a) licences, permits, approvals, authorisations, exemptions, certificates, and similar documents issued under this Act, the Government Rooding Powers Act 1989, the Railways Act 2005, or the Road User Charges Act 2012; and
- (b) carbon dioxide accounts opened under **section 189(2)**

4A Section 155 amended (Rules concerning vehicles)

After section 155(1)(f), insert:

- (g) prescribe requirements for the provision of information and data related to vehicles in terms of their fuel or energy consumption, efficiency, or carbon dioxide emissions:
- (h) prescribe formulas or methodologies for the purposes of determining the fuel or energy consumption, efficiency, or carbon dioxide emissions of a vehicle, including to estimate a value where information or data is incomplete or a test cycle other than the approved test cycle (within the meaning of **section 172(1)**) has been used:

4B Section 158 amended (Rules concerning licensing, standard-setting, etc)

After section 158(1)(a)(i), insert:

- (ia) vehicle importers (as defined in **section 172(1)**):

4C Section 159 amended (Rules concerning land transport documents)

After section 159(1)(a), insert:

- (aa) vehicle importers (as defined in **section 172(1)**):

5 New sections 167A to 167C inserted

After section 167, insert:

167A Regulations imposing fees and charges for purposes of clean vehicle discount scheme

- (1) Without limiting the generality of section 167(1)(j), regulations for the purpose of promoting the transition of New Zealand's light vehicle fleet to zero- and low-emission vehicles and reducing vehicle carbon dioxide emissions may be made under that provision providing for fees and charges to be paid in relation to the carbon dioxide emissions of imported new and used light vehicles.
- (2) **Subsection (1)** is subject to **subsections (5) and (6)**.
- (3) Regulations made under section 167(1)(j) for the purpose specified in **subsection (1)** may—

- (a) do any of the things specified in section 168(4)(a), (aa), (ab), and (d) to (h):
- (b) prescribe any vehicle or class of vehicle as excluded from the definition of light vehicle for the purposes of the regulations:
- (c) apply, with any necessary modifications, provisions of this Act concerning the manner in which carbon dioxide emissions of vehicles must be determined for the purposes of the regulations: 5
- (d) prescribe, for the purposes of applying **section 174** in the regulations, how the ~~Director must determine the~~ carbon dioxide emissions of an imported vehicle must be determined, which may be in accordance with a land transport rule: 10
- ~~(e) prescribe formulas for the purposes of converting carbon dioxide emissions calculated using one testing cycle to another testing cycle.~~
- (e) provide for unpaid fees or charges to be recoverable as a debt due to the Crown. 15
- (4) Different rates of fees or charges, or both, may be prescribed or fixed in respect of different classes of vehicles or on any other differential basis.
- (5) Regulations under ~~this section~~ section 167(1)(i) for the purpose specified in subsection (1) may be made only on the recommendation of the Minister in accordance with **subsection (6)**. 20
- (5A) Before recommending the making of regulations, the Minister must consult such persons as the Minister considers appropriate.
- (6) The Minister must not recommend the making of regulations unless the Minister is satisfied—
 - (a) that the fees or charges are appropriate to sustain a scheme designed to increase consumer demand for zero- and low-emission vehicles and decrease consumer demand for high-emission vehicles: 25
 - (b) that the imposition and level of fees or charges are appropriate, after considering—
 - (i) the variety and availability of zero- and low-emission vehicles expected to enter the New Zealand light vehicle market in the following 12 to 24 months; and 30
 - (ii) the market behaviour of consumers, including the nature of any continued demand for high-emission vehicles; and
 - (iii) international and domestic climate change ambitions and commitments; and 35
 - (iv) the anticipated impact of the fees and charges on the market; and
 - (v) whether the estimated revenue to be received from the charges is sufficient to meet the costs and expenses of the clean vehicle dis-

count scheme funded under **section 9(1E) and (1F)** of the Land Transport Management Act 2003.

167B Regulations setting fees and charges for purpose of Part 13 (clean vehicle standard) requirements to import vehicles with zero carbon dioxide emissions

- (1) Without limiting the generality of section 167(1)(j), regulations for the purpose set out in **section 170** may be made under section 167(1)(j) setting fees and charges payable by vehicle importers for not including, among the vehicles they imported in any given year, the minimum proportion of vehicles with zero carbon dioxide emissions required under regulations made under **section 167C(1)(m)**. 10
- (2) **Subsection (1)** is subject to **subsection (5)**.
- (3) Different rates of fees or charges, or both, may be prescribed or fixed in respect of different classes of vehicles or on any other differential basis.
- (4) **Section 167A(3)(a) to (e)** applies to any regulations made under section 167(1)(j) for the purpose specified in **subsection (1)**. 15
- (4A) Before recommending the making of regulations, the Minister must consult such persons as the Minister considers appropriate.
- (5) The Minister must not recommend the making of regulations unless the Minister is satisfied— 20
 - (a) that the fees and charges are appropriate to increase the supply and availability of vehicles with zero carbon dioxide emissions; and
 - (b) that the imposition and level of charges and fees are appropriate after considering international and domestic climate change ambitions and commitments. 25

167C Regulations for purposes of Part 13 (clean vehicle standard)

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - ~~(a) declaring, for the purposes of the definition of approved test cycle in **section 172**, the test cycle that must be used to measure vehicle carbon dioxide emissions;~~ 30
 - (b) declaring, for the purposes of the definition of excluded vehicle in **section 172**, excluded vehicles for the purposes of **Part 13**;
 - (c) declaring, for the purposes of the definition of Type A vehicle in **section 172**, a vehicle to be a Type A vehicle for the purposes of **Part 13**; 35
 - (d) declaring, for the purposes of the definition of Type B vehicle in **section 172**, a vehicle to be a Type B vehicle for the purposes of **Part 13**;
 - (e) prescribing the process for approving a person as a category 1 light vehicle importer:

- (f) prescribing criteria for the approval of a person as a category 1 light vehicle importer:
- (g) prescribing the process for suspending or revoking the approval of a person as a category 1 light vehicle importer:
- (h) prescribing criteria for suspending or revoking the approval of a person as a category 1 light vehicle importer: 5
- (i) prescribing provisions that apply to a person whose approval as a category 1 light vehicle importer is suspended or revoked, for the purpose of transitioning from the law applicable to the person under this Part immediately before the suspension or revocation to the law that applies or has effect immediately after: 10
- ~~(j) prescribing formulas for the purposes of converting carbon dioxide emissions calculated using one testing cycle to another testing cycle:~~
- (k) prescribing, for the purposes of **section 174**, how ~~the Director must determine~~ the carbon dioxide emissions of an imported vehicle must be determined, which may be in accordance with a land transport rule: 15
- (l) prescribing targets for the level of carbon dioxide emissions from light vehicles imported annually, and matters relating to those targets, including—
 - (i) separate targets for different classes of imported vehicles; and 20
 - (ii) targets adjusted for vehicle weights; and
 - (iii) formulas for calculating targets, including vehicle weight-adjusted targets; and
 - (iv) targets in respect of any calendar year after 2027, beginning on 1 January of the relevant calendar year: 25
- (m) requiring vehicle importers to include, among the vehicles they import in any given year, a minimum proportion of vehicles with zero carbon dioxide emissions:
- (n) prescribing procedures and requirements for the purposes of banking and transferring carbon dioxide credits: 30
- (o) prescribing procedures and requirements for deferring an obligation to meet carbon dioxide emissions targets:
- (p) providing for the refund or waiver, or enabling the refund or waiver, of charges imposed under **section 177**:
- (pa) providing for unpaid charges under **section 177** to be recoverable as a debt due to the Crown: 35
- (q) prescribing information to be contained in carbon dioxide accounts:
- (r) prescribing the manner in which carbon dioxide accounts must be operated:

- (s) prescribing, for the purposes of **section 186**, requirements in respect of the allocation of account numbers for carbon dioxide accounts:
 - (t) prescribing, for the purposes of **section 188(2)**, the manner in which a person may apply for information contained in the record of carbon dioxide accounts: 5
 - (u) prescribing, for the purposes of **section 188(3)**, requirements for the keeping and operation of the record of carbon dioxide accounts:
 - (v) prescribing, for the purposes of **section 194(1)**, data and information to be collected:
 - (w) prescribing, for the purposes of any provision of **Part 13** that requires a thing to be done in a prescribed manner, or for the purposes of any provision in this section that empowers regulations to prescribe the manner in which something must be done, the manner in which the thing must be done, including prescribing— 10
 - (i) by whom, when, where, and how the thing must be done: 15
 - (ii) the form that must be used in connection with the thing:
 - (iii) requirements with which evidence or documents that are provided in connection with the thing must comply:
 - (iv) that fees and charges must be paid in connection with doing the thing: 20
 - (x) providing for any other matter contemplated by **Part 13**, necessary for its administration, or necessary for giving it full effect.
- (2) **Subsection (1)(l)(iv)** is subject to **subsection (3)**.
- (3) Regulations may be made under **subsection (1)(l)(iv)** only on the recommendation of the Minister, and the Minister must, before making a recommendation,— 25
- (aaa) consult such persons as the Minister considers appropriate; and
- (a) take into account—
 - (i) the expected reduction in vehicle carbon dioxide emissions resulting from the targets; and 30
 - (ii) the expected impact of the targets on vehicle safety, affordability, and availability; and
 - (b) be satisfied—
 - (i) that the targets are set at an appropriate level to increase the supply of zero- and low-emission vehicles in the market; and 35
 - ~~(ii) that the targets are consistent with transport specific policies under section 5ZG of the Climate Change Response Act 2002.~~
 - (ii) that the targets are consistent with transport-specific policies and strategies set out in the emissions reduction plan made under sec-

tion 5ZG of the Climate Change Response Act 2002 for meeting the emissions budget set under that Act.

- (4) Nothing in this section limits section 167 or 168.
- (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

6 Section 168AA amended (Land transport revenue to be paid into national land transport fund)

In the heading to section 168AA, replace “national land transport fund” with “Crown Bank Account”.

7 New Part 13 inserted

After section 169A, insert:

Part 13
Clean vehicle standard

Subpart 1—Preliminary provisions

170 Purpose of this Part

The purpose of this Part is to achieve a rapid reduction in carbon dioxide emissions from light vehicles imported into New Zealand, to assist New Zealand in meeting its 2050 target and emissions budgets under the Climate Change Response Act 2002 and its domestic and international climate change ambitions and commitments.

171 Application of this Part

This Part applies to light vehicles imported into New Zealand.

172 Interpretation in this Part

- (1) In this Part, unless the context otherwise requires,—

~~approved test cycle means—~~

~~(a) the WLTP; or~~

~~(b) if another test cycle is declared by the regulations to be the approved test cycle for the purposes of this Part, that test cycle~~

approved test cycle means the WLTP

category 1 light vehicle importer means a person who carries on the business of importing new or used light vehicles and whom the Director approves as a category 1 light vehicle importer under the regulations

category 1 light vehicle importer fleet target means a vehicle carbon dioxide emissions target for a category 1 light vehicle importer calculated in accordance with the formula prescribed by the regulations

category 2 light vehicle importer means any person who imports a new or used light vehicle and who is not a category 1 light vehicle importer

category 2 light vehicle importer target means a vehicle carbon dioxide emissions target calculated for a category 2 light vehicle importer, in respect of a vehicle, in accordance with the formula prescribed by the regulations

~~**evidence of vehicle inspection** has the meaning given in section 2(1)~~

excluded vehicle means a vehicle declared by the regulations to be an excluded vehicle for the purposes of this Part

imported has the meaning given in **section 173**

new, in relation to a light vehicle, means a vehicle that—

- (a) has not been registered and operated in New Zealand or any other country; and
- (b) has not been operated on a road in New Zealand or any other country as a demonstration or courtesy vehicle (other than to the extent that it has been used for a purpose connected with the vehicle's manufacture or sale); and
- (c) has not been used for training or test purposes (other than to the extent that it has been used for a purpose connected with the vehicle's manufacture or sale); and
- (d) is not a low volume vehicle (within the meaning of Part 2 of the Land Transport Rule: Vehicle Standards Compliance 2002) that contains components that have been fitted to a vehicle that has been operated on the road in New Zealand or any other country

obligation year means the relevant calendar year starting on 1 January and ending on the close of 31 December

registration means registration under Part 17

regulations means regulations made under **section 167C**

Type A vehicle means—

- (a) a light motor vehicle that—
 - (i) is constructed primarily for the carriage of passengers and has not more than 9 seating positions (including the driver's seating position); and
 - (ii) either has at least 4 wheels or has 3 wheels and a gross vehicle mass exceeding 1,000 kg; and
 - (iii) is not an excluded vehicle:
- (b) any vehicle or class of vehicle that is declared by the regulations to be a Type A vehicle for the purposes of this Part

Type B vehicle means—

- (a) a light motor vehicle that—

	(i) is constructed primarily for— (A) the carriage of passengers and has more than 9 seating positions (including the driver's seating position); or (B) the carriage of goods and either has at least 4 wheels or has 3 wheels and a gross vehicle mass exceeding 1,000 kg; and (ii) is not an excluded vehicle: (b) any vehicle or class of vehicle that is declared by the regulations to be a Type B vehicle for the purposes of this Part used, in relation to a light vehicle, means a vehicle that is not new <u>used, in relation to a light vehicle,—</u> (a) <u>means a vehicle that has, at any time before being offered or displayed for sale,—</u> (i) <u>been registered under—</u> (A) <u>the Transport Act 1962; or</u> (B) <u>the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or Part 17 of this Act; or</u> (C) <u>any corresponding enactment of another country;</u> (ii) <u>been used for a purpose not connected with its manufacture or sale; and</u> (b) <u>includes a motor vehicle that has been used for the purpose of demonstration in connection with the sale of a similar motor vehicle</u> vehicle importer means, as the case may require,— (a) a category 1 light vehicle importer: (b) a category 2 light vehicle importer WLTP means the three-phase variant of the Worldwide Harmonised Light Vehicles Test Procedure cycle as specified in UN Regulation No. 154. (2) A reference in this Part to a specified level of vehicle carbon dioxide emissions is a reference to the number of grams of carbon dioxide emitted per kilometre measured in accordance with the WLTP.	5 10 15 20 25 30 35
173	Meaning of imported	
	For the purposes of this Part, a vehicle is imported into New Zealand at the point at which the vehicle is, for the first time, issued with evidence of vehicle inspection <u>certified for entry</u> under this Act.	
174	Measurement and determination of carbon dioxide emissions	
	(1) For the purposes of this Part, carbon dioxide emissions from imported light vehicles must be measured in grams per kilometre based on the approved test cycle.	

- (2) The carbon dioxide emissions of an imported light vehicle are the amount determined ~~by the vehicle manufacturer~~ in accordance with the regulations or rules made under this Act.
- ~~(3) If the carbon dioxide emissions of a vehicle determined by the manufacturer are measured using a test cycle other than the approved test cycle, those emissions must be converted to the approved test cycle in accordance with the regulations.~~ 5
- (3) If the carbon dioxide emissions of a vehicle have been determined using a test cycle other than the approved test cycle, the carbon dioxide emissions of the vehicle must be determined in accordance with the regulations or rules made under this Act, which may include estimating the carbon dioxide emissions that would have been expected if the vehicle had been tested using the approved test cycle. 10
- ~~(4) If the vehicle manufacturer has not determined an amount, the Director must determine the carbon dioxide emissions for the vehicle in accordance with the regulations.~~ 15

Subpart 2—Clean vehicle standard

Targets for reducing carbon dioxide emissions

175 Targets for reducing carbon dioxide emissions

- (1) The targets for the purposes of calculating the weight-adjusted target applicable to each vehicle importer in accordance with the regulations are,— 20
- (a) for the calendar year beginning on 1 January 2023,—
- (i) for Type A vehicles, 145 grams; and
- (ii) for Type B vehicles, 218.3 grams; and
- (b) for the calendar year beginning on 1 January 2024,— 25
- (i) for Type A vehicles, 133.9 grams; and
- (ii) for Type B vehicles, 201.9 grams; and
- (c) for the calendar year beginning on 1 January 2025,—
- (i) for Type A vehicles, 112.6 grams; and
- (ii) for Type B vehicles, 155 grams; and 30
- (d) for the calendar year beginning on 1 January 2026,—
- (i) for Type A vehicles, 84.5 grams; and
- (ii) for Type B vehicles, 116.3 grams and
- (e) for the calendar year beginning on 1 January 2027 and, subject to **paragraph (f)**, any subsequent year,— 35
- (i) for Type A vehicles, 63.3 grams; and
- (ii) for Type B vehicles, 87.2 grams; and

(f) for any calendar year after 2027, any target set by regulations made under section 167C(1)(l)(iv) .	
(2) Every reference to grams in subsection (1) must be read as a reference to grams of carbon dioxide per kilometre.	
175A Minister must review targets	5
(1) <u>The Minister must, not later than 30 June 2024, initiate a review of the targets for reducing carbon dioxide emissions set out in section 175 or prescribed in any regulations made under section 167C(1)(l)(iv).</u>	
(2) <u>The review must take into account—</u>	
(a) <u>the anticipated impact of the targets on vehicle carbon dioxide emissions, vehicle safety, and the affordability and availability of vehicles; and</u>	10
(b) <u>the levels of ambition of other jurisdictions, in terms of their existing and proposed carbon dioxide emissions targets; and</u>	
(c) <u>any other matter the Minister considers relevant in carrying out the review.</u>	15
(3) <u>The review may be undertaken by any method the Minister considers appropriate.</u>	
(4) <u>In conducting the review, the Minister must consult such persons as the Minister considers appropriate.</u>	20
<i>Category 1 light vehicle importers: obligations and ways of complying with targets</i>	
176 Category 1 light vehicle importers: annual, fleet-based compliance regime applies	
(1) A category 1 light vehicle importer must comply with the targets on an annual basis in relation to the fleet of Type A vehicles, the fleet of Type B vehicles, or (if they imported both Type A and Type B vehicles) each of those fleets of vehicles they imported in the relevant obligation year.	25
(2) The actual average vehicle carbon dioxide emissions across a fleet of vehicles imported by a category 1 light vehicle importer in an obligation year must be less than or equal to the category 1 light vehicle importer fleet target applicable to that importer for the relevant vehicle type of that fleet, calculated in accordance with the formula prescribed by the regulations.	30
177 Charges payable by category 1 light vehicle importer if carbon dioxide emissions targets exceeded	35
(1) If the actual average vehicle carbon dioxide emissions across the fleet of vehicles imported by a category 1 light vehicle importer in an obligation year	

exceed the category 1 light vehicle importer fleet target, the charges calculated in accordance with **subsection (2)** apply, unless—

- (a) there are sufficient carbon dioxide credits available in the importer's carbon dioxide account to offset the excess emissions (whether such credits may have resulted from banking overachievement under **section 178** or from 1 or more transfers of carbon dioxide credits into the importer's carbon dioxide account under **section 180**); or
 - (b) the importer can defer their obligation under **section 179**.
- (2) The charges are,—
- (a) from 1 January 2023,—
 - (i) \$22.50 per gram of carbon dioxide in excess multiplied by the number of used vehicles in the fleet; and
 - (ii) \$45.00 per gram of carbon dioxide in excess multiplied by the number of new vehicles in the fleet; and
 - (b) from 1 January 2025,—
 - (i) \$33.75 per gram of carbon dioxide in excess multiplied by the number of used vehicles in the fleet; and
 - (ii) \$67.50 per gram of carbon dioxide in excess multiplied by the number of new vehicles in the fleet.
- (3) The charges payable under this section are land transport revenue for the purposes of the Land Transport Management Act 2003.

178 Category 1 light vehicle importer may bank overachievement of carbon dioxide emissions target

- (1) If the actual average vehicle carbon dioxide emissions across the fleet of vehicles imported by a category 1 light vehicle importer in an obligation year are less than the fleet target applicable to that importer, the excess reduction in emissions may be carried forward to the next obligation year (**banked**) in the vehicle importer's carbon dioxide account in accordance with the regulations.
- (2) Banking provides that the vehicle importer's carbon dioxide account for the next obligation year will be credited by the amount carried forward.
- (3) Carbon dioxide credits banked in an importer's carbon dioxide account expire 3 years from the end of the year in which the credits accrue.

179 Category 1 light vehicle importer may defer obligation

- (1) This section applies in relation to obligation years 2023, 2024, and 2025.
- (2) A category 1 light vehicle importer may apply to the Director, in accordance with the regulations, to defer their obligation to meet the category 1 light vehicle importer fleet target for an applicable obligation year (**year 1**) until the following obligation year (**year 2**).

- (3) If a category 1 light vehicle importer defers their year 1 obligation until year 2, the importer must, at the end of year 2, ensure that they have met or bettered both the year 1 and the year 2 fleet targets.
- (4) If the vehicle importer does not meet the year 1 and year 2 fleet targets, the charges in **section 177** apply.

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180 Category 1 light vehicle importer may transfer carbon dioxide credits

- (1) A category 1 light vehicle importer who imports new vehicles may transfer carbon dioxide credits in their carbon dioxide account to the carbon dioxide account of another ~~category 1~~ light vehicle importer who imports new vehicles, in accordance with the regulations.
- (2) A category 1 light vehicle importer who imports used vehicles may transfer carbon dioxide credits in their carbon dioxide account to the carbon dioxide account of another light vehicle importer who imports used vehicles, in accordance with the regulations.
- (3) No transfer may be made under **subsection (1) or (2)** between a carbon dioxide account relating to new vehicles and a carbon dioxide account relating to used vehicles.

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Category 2 light vehicle importers: obligations and ways of complying with targets

181 Category 2 light vehicle importers: vehicle-by-vehicle compliance regime applies

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- (1) A category 2 light vehicle importer must ensure that each vehicle they import in an obligation year complies with the category 2 light vehicle importer target that applies in respect of that vehicle.
- (2) The vehicle emissions targets applicable in respect of Type A and Type B vehicles imported by a category 2 light vehicle importer must be calculated in accordance with the formulas prescribed by the regulations.

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182 Charges payable by category 2 light vehicle importer if emissions targets exceeded

- (1) If the carbon dioxide emissions of a vehicle imported by a category 2 light vehicle importer exceed the category 2 light vehicle importer target, the charges set out in **subsection (2)** apply unless there are sufficient credits available in the importer's carbon dioxide account (whether such credits may have resulted from banking overachievement under **section 183** or from 1 or more transfers into the importer's account under **section 184**) to offset the excess emissions.
- (2) The charges are,—
- (a) from 1 January 2023,—

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	(i) \$18.00 per gram of carbon dioxide by which a used vehicle exceeds its target; and	
	(ii) \$36.00 per gram of carbon dioxide by which a new imported vehicle exceeds its target; and	
	(b) from 1 January 2025,—	5
	(i) \$27.00 per gram of carbon dioxide by which a used vehicle exceeds its target; and	
	(ii) \$54.00 per gram of carbon dioxide by which a new vehicle exceeds its target.	
	(3) The charges payable under this section are land transport revenue for the purposes of the Land Transport Management Act 2003.	10
183	Category 2 light vehicle importer may bank overachievement of carbon dioxide emissions	
	(1) If the carbon dioxide emissions of a vehicle imported by a category 2 light vehicle importer are less than the category 2 light vehicle importer target in respect of that vehicle, the overachievement may be banked in the importer's carbon dioxide account in accordance with the regulations.	15
	(2) Section 178(3) applies to any credits banked under this section.	
184	Category 2 light vehicle importer may transfer carbon dioxide credits	
	(1) A category 2 light vehicle importer <u>who imports new vehicles</u> may transfer carbon dioxide credits in their carbon dioxide account to <u>the carbon dioxide account of another</u> category 2 light vehicle importer <u>who imports new vehicles</u> , in accordance with the regulations.	20
	(2) <u>A category 2 light vehicle importer who imports used vehicles may transfer carbon dioxide credits in their carbon dioxide account to the carbon dioxide account of another light vehicle importer who imports used vehicles, in accordance with the regulations.</u>	25
	(3) <u>No transfer may be made under subsection (1) or (2) between a carbon dioxide account relating to new vehicles and a carbon dioxide account relating to used vehicles.</u>	30
	<i>Carbon dioxide accounts: general provisions</i>	
185	Vehicle importers must hold carbon dioxide accounts	
	(1) Every vehicle importer who imports a light vehicle on or after 1 January 2023 <u>1 December 2022</u> must hold a carbon dioxide account with the Director.	
	(2) The account must contain the information and be operated in the manner prescribed by the regulations.	35

186 Director must allocate unique numbers for carbon dioxide accounts

The Director must, in accordance with the regulations, allocate a unique account number to each carbon dioxide account when the account is opened.

187 Carbon dioxide account information required for vehicle importation

On and after ~~1 January 2023~~ 1 December 2022, no light vehicle may be ~~issued, for the first time, with evidence of vehicle inspection~~ certified for entry under this Act, unless—

- (a) the carbon dioxide account number of the vehicle importer has been provided to the Director; and
- (b) the carbon dioxide emissions of the vehicle have been recorded in the vehicle importer's carbon dioxide account.

188 Director to keep accessible record of carbon dioxide accounts

- (1) The Director must establish and maintain a record of all carbon dioxide holders and the carbon dioxide account number that corresponds to each account holder.
- (2) Any person may apply to the Director for information contained in the record, in accordance with the regulations, for any of the purposes in **subsection (3)(a) or (b)**.
- (3) The Director must maintain and operate the record in a manner that—
 - (a) allows members of the public to verify whether a person holds a current carbon dioxide account and whether an account number is correct; and
 - (b) facilitates the transfer of carbon dioxide credits between account holders; and
 - (c) complies with any requirements prescribed by the regulations.

*Opening, closing, and suspension of carbon dioxide accounts***189 Opening carbon dioxide accounts**

- (1) Any person who intends to import a light vehicle into New Zealand may apply to the Director to open a carbon dioxide account by submitting an application in the manner prescribed by the regulations, accompanied by the prescribed fee (if any).
- (2) The Director must open a carbon dioxide account on receipt of an application under **subsection (1)** if the Director is satisfied that—
 - (a) the application complies with the prescribed requirements; and
 - ~~(b) the applicant does not already hold an account.~~
 - (b) if the applicant intends to import new vehicles, the applicant does not already hold a carbon dioxide account that relates to new vehicles; and

- (c) if the applicant intends to import used vehicles, the applicant does not already hold a carbon dioxide account that relates to used vehicles.

190 Carbon dioxide account holder may require Director to close account

- (1) A person who holds a carbon dioxide account may require the Director to close their account. 5
- (2) The requirement must be made in the manner prescribed by the regulations.

191 When Director may close carbon dioxide accounts

- (1) The Director may close a carbon dioxide account—
- (a) if the Director receives a requirement from the account holder to close the account; or 10
- (b) where the Director has not received a requirement from the account holder, if the Director has given the account holder reasonable notice and the Director is satisfied that the account holder no longer requires the account.
- (2) For the purposes of **subsection (1)(b), reasonable notice** means notice in writing to the account holder of the Director's intention to close the account and sufficient opportunity in the circumstances for the account holder to make submissions to the Director regarding the account holder's need to retain the account. 15

192 Director may suspend carbon dioxide accounts 20

- (1) The Director may suspend the operation of a carbon dioxide account for a period not exceeding 5 years if—
- (a) the Director is satisfied that the account holder has failed to comply with specified provisions of this Part or the regulations and the Director has given the account holder reasonable notice; or 25
- (b) the account holder has been convicted of an offence under this Part and the Director considers suspension of the account for the relevant period to be necessary for the purpose of maintaining the integrity of the clean vehicle standard.
- (2) For the purposes of **subsection (1)(a), reasonable notice** means notice in writing to the account holder of the Director's intention to suspend the account and sufficient opportunity in the circumstances for the account holder to comply with the specified provisions of this Part or the regulations. 30

193 Application of general right of appeal to District Court

Section 106 (which provides for a general right of appeal to the District Court against decisions made by the Director in respect of the grant, issue, revocation, or suspension of a land transport document sought or held by a person) applies in respect of a carbon dioxide account— 35

- (a) as if every reference to the grant, issue, revocation, or suspension of a land transport document were a reference to the opening, closing, or suspension of a carbon dioxide account; and
- (b) with all other necessary modifications.

Subpart 3—Information gathering and enforcement powers

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194 Requirement to collect and keep information and records for purposes of clean vehicle standard

- (1) A vehicle importer must, in relation to each vehicle they import,—
 - (a) collect the data and information prescribed (if any); and
 - (b) keep records of the data and information in the prescribed manner (if any); and
 - (c) keep sufficient information to enable the Director to verify, in relation to each obligation year, the vehicle importation, charges payable, and charges paid.
- (2) The data, records, and information specified in **subsection (1)(a) to (c)** must be kept for a period of at least 7 years after the end of the year to which they relate.

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195 Offence in relation to failure to collect data and keep records for purposes of clean vehicle standard

- (1) A vehicle importer commits an offence against this Act if the vehicle importer, without reasonable excuse, fails to comply with **section 194**.
- (2) A person who is convicted of an offence against **subsection (1)** is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$15,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$75,000.

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196 Offence of knowingly producing false records or information

- (1) A vehicle importer commits an offence against this Act if the vehicle importer knowingly or recklessly, in relation to the administration or enforcement of the clean vehicle standard under this Part, provides to the Director information that is false or misleading.
- (2) A person who is convicted of an offence against **subsection (1)** is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$15,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$75,000.

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197 Inspection of records or other information

- (1) The Director may require a vehicle importer to produce for inspection any records or other information in the vehicle importer's possession or control that the Director reasonably considers necessary to establish compliance with the requirements and obligations of the clean vehicle standard. 5
- (2) The Director may, in relation to any records or other information produced under **subsection (1)**,—
- (a) inspect and make copies of, or take extracts from, the records or other information: 10
 - (b) where the vehicle importer chooses to produce the records or other information at their premises or any other place of inspection,—
 - (i) make copies of the records or other information at the place of inspection: 15
 - (ii) remove the records or other information if the Director is satisfied that it is impracticable to copy the records or other information at the place of inspection.
- (3) If the Director removes any records or other information under **subsection (2)(b)(ii)**, the Director must—
- (a) issue a receipt for the records or other information to the person from whom the records or other information was taken; and 20
 - (b) return the records or other information as soon as practicable; and
 - (c) for as long as the Director holds the records or other information, allow the person from whom the records or other information was taken to inspect, and obtain copies of, the records or other information at any reasonable time at the premises where the records or other information is held. 25

197A Offence in relation to production of records or other information

- (1) A vehicle importer commits an offence against this Act if the vehicle importer, without reasonable excuse, fails or refuses to comply with a requirement made under **section 197** in relation to the production of records or other information. 30
- (2) A person who is convicted of an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$15,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$75,000. 35

197B Director may require person to supply information, produce documents, or give evidence

- (1) If the Director considers it necessary or desirable for the purposes of performing or exercising the Director's functions, powers, or duties under this Part, the Director may, by notice in writing, require a person— 5
- (a) to supply to the Director, within the time and in the manner specified in the notice, any information or class of information specified in the notice; or
 - (b) to produce to the Director, or to a person specified in the notice acting on the Director's behalf in accordance with the notice, any document or class of documents specified in the notice (within the time and in the manner specified in the notice); or 10
 - (c) if necessary, to reproduce, or assist in reproducing, in usable form, information recorded or stored in any document or class of documents specified in the notice (within the time and in the manner specified in the notice); or 15
 - (d) to appear before a specified person, at a time and place specified in the notice, to give evidence, either orally or in writing, and produce any document or class of documents specified in the notice.
- (2) Information supplied in response to a notice under **subsection (1)(a)** must be— 20
- (a) given in writing; and
 - (b) signed in the manner specified in the notice.
- (3) If a document is produced in response to a notice under **subsection (1)**, the Director, or the person to whom the document is produced, may— 25
- (a) inspect and make records of that document; and
 - (b) take copies of the document or extracts from the document.
- (4) In this section, **specified person** means—
- (a) an employee of the Agency;
 - (b) another person to whom the Director has delegated the power to receive the relevant document or class of documents or to receive evidence and the relevant document or class of documents (being a person that the Director is satisfied is suitably qualified or trained, or is a member of a class of persons who are suitably qualified or trained, to exercise the power). 30 35

197C Offence in relation to requirement to supply information, produce documents, or give evidence

- (1) A person commits an offence against this Act if the person,—

- 23

(d)	the terms of the order do not unduly hinder or restrict the Director in performing or exercising the Director's functions, powers, or duties under this Act.	
(3)	The remedies are as follows:	
(a)	any remedy that the court may grant in making a final decision in relation to the proceeding (for example, a declaration):	5
(b)	any damages that the applicant may be able to claim in concurrent or subsequent proceedings:	
(c)	any opportunity that the applicant may have, as defendant in a proceeding, to challenge the admissibility of any evidence obtained as a result of the exercise or discharge of the power or obligation.	10
197G Effect of final decision that exercise of powers under section 197B unlawful		
(1)	This section applies in any case where it is declared, in a final decision given in any proceeding in respect of the exercise of any powers conferred by section 197B , that the exercise of any powers conferred by that section is unlawful.	15
(2)	If this section applies, to the extent to which the exercise of those powers is declared unlawful, the Director must ensure that, immediately after the decision of the court is given,—	
(a)	any information obtained as a consequence of the exercise of powers declared to be unlawful and any record of that information are destroyed; and	20
(b)	any documents, or extracts from documents, that are obtained as a consequence of the exercise of powers declared to be unlawful are returned to the person who previously had possession or control of them, and any copies of those documents or extracts are destroyed; and	25
(c)	any information derived from or based on such information, documents, or extracts is destroyed.	
(3)	However, the court may order that any information, record, or copy of any document or extract from a document may, instead of being destroyed, be retained by the Director subject to any terms and conditions that the court imposes.	30
(4)	No information, and no document or extracts from a document, obtained as a consequence of the exercise of any powers declared to be unlawful, and no record of any such information or document,—	35
(a)	is admissible as evidence in any civil proceeding unless the court hearing the proceeding in which the evidence is sought to be adduced is satisfied that there was no unfairness in obtaining the evidence:	
(b)	is admissible as evidence in any criminal proceeding if the evidence is excluded under section 30 of the Evidence Act 2006:	40

- (c) may otherwise be used in connection with the exercise of any powers conferred by this Act unless the court that declared the exercise of the powers to be unlawful is satisfied that there was no unfairness in obtaining the evidence.
- 8 Section 208 amended (Appointment of enforcement officers and dangerous goods enforcement officers) 5**
In section 208(3)(a)(i), replace “and 6B” with “6B, and **13**”.
- 9 Section 213 amended (Customs control over imported vehicles)**
After section 213(2), insert:
- (3) In subsection (1), **regulation** does not include a regulation made under **section 167B or 167C.** 10
- 10 Section 239 amended (Further restrictions)**
After section 239(4)(b)(ii), insert:
- (iii) to the Agency, if necessary for the administration of the clean vehicle discount scheme. 15
- 11 Section 243 amended (Application for registration)**
After section 243(1A), insert:
- (1B) An application for registration of a motor vehicle must also be accompanied by the amount of any charges prescribed for the purpose under **section 167A.**
- 12 Schedule 1 amended 20**
In Schedule 1,—
- (a) insert the Part set out in the **Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Part 2

Amendments to other enactments 25

Amendments to Land Transport Management Act 2013

- 13 Principal Act**
Sections 14 to 19 amend the Land Transport Management Act 2013.
- 14 Section 5 amended (Interpretation)**
In section 5(1), insert in its appropriate alphabetical order: 30
- clean vehicle discount scheme—**
- (a) means the scheme administered by the Agency under **section 95(1)(ma)**, established for the purpose of promoting the transition of

New Zealand's light vehicle fleet to zero- and low-emission vehicles and reducing vehicle carbon dioxide emissions; and

- (b) includes—
- (i) the provision of rebates in relation to the carbon dioxide emissions of a vehicle; and
 - (ii) the imposition of charges under section 167(1)(j) of the Land Transport Act 1998 for the purpose of **section 167A** of that Act; and
 - (iii) actual and reasonable costs incurred by the Agency in relation to administration of the scheme; and
 - (iv) any funding provided to the Agency by the Crown for the purposes of the scheme and the repayment of that funding

15 Section 9 amended (The Crown's authority to incur certain land transport expenses and capital expenditure)

- (1) After section 9(1D), insert:
- (1E) The Crown may, without further appropriation than this subsection, incur expenses or capital expenditure in a financial year up to an amount equal to the revenue for that financial year received from charges paid pursuant to regulations made under section 167(1)(j) of the Land Transport Act 1998 for the purpose of **section 167A** of that Act to fund the clean vehicle discount scheme.
- (1F) The Crown may, without further appropriation than this subsection, incur expenses or capital expenditure in any financial year, up to any positive amount calculated under **subsection (1)(G)**, to fund the clean vehicle discount scheme.
- (1G) The amount referred to in **subsection (1F)** must be calculated in accordance with the following formula:
- $$a - b = c$$
- where—
- a is the revenue received in any previous financial year from charges paid pursuant to regulations made under section 167(1)(j) of the Land Transport Act 1998 for the purpose of **section 167A** of that Act
 - b is the expenses and capital expenditure incurred under **subsections (1E) and (1F)** for those previous financial years
 - c is the calculated amount.
- (1H) The positive amount calculated under **subsection (1G)** may be used only to fund the clean vehicle discount scheme.
- (2) In section 9(3), after “(1A),”, insert “**(1E), (1F)**,”.
- (3) In section 9(5), formula item b, after “(1A),”, insert “**(1E), (1F)**,”.

16 New section 9A inserted

After section 9, insert:

9A Accounting for clean vehicle discount scheme

The annual report of the Agency must, in respect of the financial year to which it relates, contain the following information concerning the clean vehicle discount scheme funded under **section 9(1E) and (1F)**:

- (a) the revenue received from charges paid pursuant to regulations made under section 167(1)(j) of the Land Transport Act 1998 for the purpose of **section 167A** of that Act:
- (b) any positive amount from a previous year, in accordance with **section 9(1F) and (1G)**:
- (c) the expenses and capital expenditure for the purpose of administering the scheme, including—
 - (i) rebates provided, in relation to the carbon dioxide emissions of a vehicle; and
 - (ii) actual and reasonable costs incurred by the Agency in relation to administration of the scheme; and
 - (iii) any funding provided to the Agency by the Crown for the purposes of the scheme and repayment of that funding.

17 Section 10 amended (National land transport fund)

Replace section 10(2)(a) with:

- (a) land transport revenue, less—
 - (i) any expenses or capital expenditure incurred under section 9(1) or (1A); and
 - (ii) the revenue received from charges paid pursuant to regulations made under section 167(1)(j) of the Land Transport Act 1998 for the purpose of **section 167A** of that Act:

18 Section 95 amended (Functions of Agency)

In section 95(1), after the heading above paragraph (n), insert:

- (ma) to administer the clean vehicle discount scheme funded under **section 9(1E) and (1F)** in accordance with this Act, the regulations made under section 167(1)(j) of the Land Transport Act 1998 for the purpose of **section 167A** of that Act, and any direction under section 103 of the Crown Entities Act 2004:

19 New section 101A inserted (Monitoring matters relating to clean vehicle discount scheme)

After section 101, insert:

101A Monitoring matters relating to clean vehicle discount scheme

- (1) The Secretary, for the purpose of evaluating the performance of the clean vehicle discount scheme, may monitor and review—
- (a) the revenue used by the Agency for the purposes of administering the scheme; and 5
 - (b) the number and nature of rebates provided in relation to the carbon dioxide emissions of vehicles; and
 - (c) the expenses and capital expenditure for the purpose of administering the scheme; and
 - (d) any funding provided to the Agency by the Crown for the purposes of the scheme and repayment of that funding. 10
- (2) The Secretary may, in writing, request the Agency to provide any information that is reasonably required and relevant to enable the Secretary to carry out the monitoring specified in **subsection (1)**.
- (3) The Agency must provide the Secretary with the information that the Secretary requests under **subsection (2)**. 15
- (4) Section 101(4) and (5) applies with all necessary modifications in relation to a request for information from the Secretary under this provision.

*Amendment to Energy Efficiency and Conservation Act 2000***20 Principal Act** 20

Section 21 amends the Energy Efficiency and Conservation Act 2000.

21 Section 36 amended (Regulations)

After section 36(1)(b), insert:

- (ba) prescribing requirements in relation to the labelling of vehicles in terms of their carbon dioxide emissions and any financial rebates receivable or charges payable relating to those emissions: 25

*Amendments to Income Tax Act 2007***22 Principal Act**

Sections 23 and 24 amend the Income Tax Act 2007.

23 Section YA 1 amended (Definitions) 30

In section YA 1, insert in its appropriate alphabetical order:

clean vehicle discount scheme means the clean vehicle discount scheme administered by the New Zealand Transport Agency

24 Schedule 5 amended

- (1) In Schedule 5, after clause 7, insert: 35

7B For the purposes of this schedule, if a person who owns a motor vehicle to which this schedule applies receives a payment under the clean vehicle discount scheme for the vehicle,—

- (a) the cost price of the vehicle to the person on the first acquisition of it by them is net of the amount of the payment; and
- (b) the cost of the vehicle to the person on the first acquisition of it by them is net of the amount of the payment.

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(2) In Schedule 5, clause 8(a), replace “is—” with “is,—”.

(3) In Schedule 5, clause 8(a)(i), replace “included” with “subject to **clause 7B**, included”.

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*Amendment to Land Transport (Motor Vehicle Registration and Licensing)
Regulations 2011*

25 Principal regulations

Section 26 amends the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011.

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26 Regulation 5 amended (Entry on register and issue of certificates)

After regulation 5(2), insert:

(2A) The Registrar must not issue a certificate of registration for a motor vehicle if the charges prescribed for the vehicle under **section 167A** of the Act have not been paid.

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Schedule

New Part 4 inserted into Schedule 1

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Part 4	
Provisions relating to Land Transport (Clean Vehicles) Amendment Act 2021	5
20 Interpretation	
In this Part, amendment Act means the Land Transport (Clean Vehicles) Amendment Act 2021 .	
21 Transitional provision concerning regulations relating to motor vehicle labelling	10
(1) For the purposes set out in subclause (2) , the Minister may, before the commencement of section 21 of the amendment Act,—	
(a) publicly notify a proposal to make regulations under section 36(1)(ba) of the Energy Efficiency and Conservation Act 2000 as soon as practicable after the commencement of section 21 of the amendment Act; and	15
(b) consult any persons as the Minister considers appropriate.	
(2) The purposes are to ensure that interested persons are given reasonable time to make submissions on the proposed regulations and to enable the Minister to consult any persons as the Minister considers appropriate before the regulations are made.	20
(3) If any action referred to in subclause (1) is taken by or on behalf of the Minister before the commencement of section 21 of the amendment Act, the action is deemed to have been validly taken by the Minister under section 36(2) of the Energy Efficiency and Conservation Act 2000 for the purposes of making the regulations under section 36(1)(ba) of that Act and bringing those regulations into force.	25

Legislative history

8 September 2021
21 September 2021

Introduction (Bill 62–1)
First reading and referral to Transport and Infrastructure Committee