

Energy (Fuels, Levies, and References) Amendment Bill

Government Bill

As reported from the Commerce Committee

Commentary

Recommendation

The Commerce Committee has examined the Energy (Fuels, Levies, and References) Amendment Bill, and recommends that it be passed with the amendments shown.

Introduction

The bill seeks to amend the Energy (Fuels, Levies, and References) Act 1989. New Zealand has an oil stockholding treaty obligation under the Agreement on an International Energy Program. The bill proposes to expand the purpose of the Petroleum or Engine Fuel Monitoring Levy to include the cost of meeting the oil stockholding treaty obligation.

Our commentary discusses the main amendments we recommend to the bill.

Purpose clause

We recommend amending clause (4)(1)(ba) to state that a purpose for which the levy may be applied is for the Crown to meet the reasonable costs and expenses of compliance with

New Zealand's obligation under Article 2 of the International Energy Agreement, to maintain the emergency reserve commitment set out in that Article.

This would have the effect of limiting the scope of the levy, by clarifying the purposes for which it may be used. Clause 5 of the bill provides for the levy amount to be prescribed by regulations.

Payment of the levy

We recommend an amendment to clause 8 to reflect changes made to section 30 of the Energy (Fuels, Levies, and References) Act after this bill was introduced.

Appendix

Committee process

The Energy (Fuels, Levies, and References) Amendment Bill was referred to the committee on 5 March 2014. The closing date for submissions was 17 April 2014. We received and considered four submissions from interested groups and individuals.

We received advice from the Ministry of Business, Innovation and Employment.

Committee membership

Jonathan Young (Chairperson)

Kanwaljit Singh Bakshi

Hon Clayton Cosgrove

Clare Curran

Kris Faafoi

Julie Anne Genter

Mark Mitchell

Hon Chris Tremain

Dr Jian Yang

Gareth Hughes replaced Julie Anne Genter for this item of business.

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

text deleted unanimously

Hon Simon Bridges

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Energy (Fuels, Levies, and References) Amendment Act **2013**.

2 Commencement

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(1) This Act, except **sections 5** and **8**, comes into force on the day after the date on which it receives the Royal assent.

(2) **Sections 5** and **8** come into force 1 year after the date on which this Act receives the Royal assent unless earlier brought into force on a date appointed by the Governor-General by Order in Council.

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3 Principal Act

This Act amends the Energy (Fuels, Levies, and References) Act 1989 (the **principal Act**).

Part 1

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Amendments to Part 3 (Levies)**4 Section 14 amended (Purpose of levies)**

(1) After section 14(2)(b), insert:

“(ba) compliance by the Crown with New Zealand’s obligations under the International Energy Agreement; and

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“(ba) compliance by the Crown with New Zealand’s obligation, under Article 2 of the International Energy Agreement, to maintain the emergency reserve commitment set out in that Article; and”.

(2) After section 14(2), insert:

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“(3) Levies recovered under **section 24** may be applied for the purpose of meeting the reasonable costs and expenses incurred by the Crown for the purpose set out in **subsection (2)(ba)** on and from 1 July 2013, even though **subsection (2)(ba)** commences after that date.

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“(4) In this section, **International Energy Agreement** has the meaning given in section 2 of the International Energy Agreement Act 1976.”

5 Section 24 replaced (Petroleum or engine fuel monitoring levy)

Replace section 24 with:

“24 Petroleum or engine fuel monitoring levy

- “(1) A levy is payable at the rate prescribed under **section 33** for 5
each complete litre of petroleum or engine fuel of a type specified in regulations made under **section 35(1)(fa)**.
- “(2) The levy must be paid to the New Zealand Customs Service—
“(a) by the person who would be liable to pay any excise 10
duty or excise-equivalent duty on the petroleum or engine fuel under the Customs and Excise Act 1996 if any were payable; and
“(b) when any excise duty or excise-equivalent duty would be paid if any were payable.
- “(3) The New Zealand Customs Service must collect the levy on 15
behalf of the Crown.
- “(4) Section 28 (which provides a penalty for late payment of a levy) does not apply in respect of the levy.”

6 Section 26 repealed (Rebates)

Repeal section 26.

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7 Section 29 replaced (Recovery of levies)

Replace section 29 with:

“29 Recovery of levies

All money payable to the Secretary or the New Zealand Customs Service under this Part is—

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- “(a) a debt due to the Crown; and
“(b) recoverable by the Crown in a court of competent jurisdiction.”

8 Section 30 amended (Payment into Departmental Bank Account)

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- (1) Replace the heading to section 30 with “**Payment of levy into account**”.
- (2) In section 30, insert as subsection (2):
- “(2) All money received by the New Zealand Customs Service under **section 24** must be paid into a Crown Bank Account.” 35

8 Section 30 replaced (Payment of levy into account)

Replace section 30 with:

“30 Payment of levy into Crown Bank Account

All money received by the Secretary or the New Zealand Customs Service under this Part must be paid into a Crown Bank Account.” 5

9 Section 33 replaced (Rates of levies, etc, may be prescribed)

Replace section 33 with:

“33 Regulations prescribing levy rates 10

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing, for levies that are payable under this Part,—

- “(a) amounts or rates of the levies; or
- “(b) formulas for calculating amounts or rates of the levies. 15

“(2) However, an amount or rate prescribed, or calculated using a prescribed formula, must not exceed any maximum amount or rate set out in this Part.

“(3) Before recommending that regulations be made under this section, the Minister must consult persons or organisations considered by the Minister to represent the persons affected by the levy concerned. 20

“(4) Regulations made under **subsection (1)**,—

- “(a) if made on or before 30 June in any year, expire on the close of 31 December of that year unless they are expressly confirmed by an Act of Parliament passed during that year; and 25
- “(b) if made on or after 1 July in any year, expire on the close of 31 December in the following year unless they are expressly confirmed by an Act of Parliament passed before the end of that following year.” 30

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Part 2
Amendments to Part 4 (Miscellaneous provisions)

10 Section 35 amended (Regulations)

- (1) Replace the heading to section 35 with “**Other regulations**”. 5
- (2) After section 35(1)(f), insert:
- “(fa) prescribing, in respect of the levy that is payable under **section 24**, the types of petroleum or engine fuels for which the levy is payable.”.

Legislative history

14 November 2013
5 March 2014

Introduction (Bill 170–1)
First reading and referral to Commerce Committee
