

Proactive Release

This document is proactively released by Te Manatū Waka the Ministry of Transport.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it. *Note - N/A (see below)

Listed below are the most commonly used grounds from the OIA.

N/A - Document released in full. No information has been withheld for this proactive release

Section	Description of ground
6(a)	as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government
6(b)	as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by <ul style="list-style-type: none"> (i) the Government of any other country or any agency of such a Government; or (ii) any international organisation
6(c)	prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
9(2)(a)	to protect the privacy of natural persons
9(2)(b)(ii)	to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
9(2)(ba)(i)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public
9(2)(ba)(ii)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest
9(2)(f)(ii)	to maintain the constitutional conventions for the time being which protect collective and individual ministerial responsibility
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
9(2)(h)	to maintain legal professional privilege
9(2)(i)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities
9(2)(j)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

In Confidence

Office of the Minister of Transport

Chair, Cabinet Legislation Committee

Urgent Amendment to Land Transport Rule: Vehicle Exhaust Emissions 2007

Proposal

1. This paper seeks authorisation for the Land Transport Rule: Vehicle Exhaust Emissions Amendment 2024 (the Rule) (**attached**) to be submitted to the Executive Council.
2. The Rule amends the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Principal Rule), correcting an error created in a recent amendment to the Principal Rule that creates unintended requirements for used vehicle importers. The previous amendment was drafted in haste by the previous government and signed on October 12, 2023.

Executive Summary

3. The draft 2023 Amendment Rule originally specified that emissions requirements would apply at the date vehicles were certified for entry into service. This was intended to simplify the Principal Rule by treating both new and used imports identically.
4. However, as the amendment was drafted in haste by the previous government, the Rule now contains an unintentional error that requires used vehicle importers to register their vehicles instead of certifying them to remain compliant. This error would create costs of between \$3.2 million and \$7 million for used vehicle importers, as registration is usually completed following the sale of a vehicle. This error does not impact on new car importers who are able to import vehicles without registration.
5. The New Zealand Transport Agency (NZTA) advises that the error will affect around eight per cent of all imported vehicles, or 15,000 vehicles.
6. The current 12-month registration fee in New Zealand varies between \$215.22 and \$465.74, depending on the type of vehicle. For vehicle importers who import high quantities, this means the error could cost between \$3.2 million and \$7 million if the importers had to register the vehicles to themselves to comply. This could increase prices for consumers.
7. This requirement will take effect from 30 April 2024, unless an amendment is in place before then.
8. The Rule removes the error and ensures that used vehicle importers can import vehicles without registering them. Further amendment will likely be needed to the Principal Rule later this year, to put in place other unrelated improvements including alignment with Australia.

Policy

9. The Land Transport Rule: Vehicle Exhaust Emissions Amendment 2023 (the 2023 Amendment Rule), made amendments, including the unintentional error, to the Principal Rule on 12 October 2023.
10. The amendments sought to transition to a new emissions standard for new and used vehicles entering New Zealand after 30 April 2024. New vehicles would have to meet the “Euro 6” standard, and used vehicles would have to meet the “Euro 5” standard. Cars that comply with the outgoing standard for used cars, “Euro 4”, could still be imported until April 30, 2024.
11. Clause 23(3) of the 2023 Amendment Rule inserted clauses 2.2(1C) and 2.2(1D) into the Principal Rule. These clauses specified that emissions requirements apply at the date vehicles enter service (i.e. are registered), and that this applies to any used vehicle that enters service more than four months after the date on which the vehicle was inspected at the border.
12. The Draft 2023 Amendment Rule originally specified that emissions requirements would apply at the date vehicles were certified for entry into service. This was intended to simplify the Principal Rule by treating both new and used imports identically.
13. Following consultation, officials recommended that a requirement be added that border inspection is no longer valid if performed more than four months prior to entry certification. This was intended to reduce abuse and prevent stockpiling of lower quality vehicles.
14. However, rather than “entry certification” the resulting 2023 Amendment Rule specified “entry to service” as the point of compliance.
15. Industry bodies have raised concerns that these amendments effectively introduce a four-month limit between border inspection and registration of used vehicles. Most vehicles will not be affected, as most imported vehicles already meet Euro 5.
16. They are concerned that this may make recently imported used light vehicles that meet the Euro 4 standard unsaleable in New Zealand unless the vehicles are registered within 4 months of border inspection. This would result in considerable registration costs for used vehicle sellers, since vehicle registration is usually completed following the sale of a vehicle.

The impact on used vehicle importers could be significant and ongoing

17. The 2023 Amendment Rule was not intended to create a requirement for used vehicle importers to register vehicles to remain compliant. Industry advises that the current would have the following impacts:
 - 17.1. vehicles that were border inspected more than four months ago are permanently unsaleable if not registered
 - 17.2. some vehicles which were imported for future registration as classic cars (over 20 years old) may be unable to ever be registered if they were imported close threshold for exemption under classic car criteria.

18. NZTA advises that the error will affect around eight per cent of imported vehicles, or 15,000 vehicles.
19. The current 12-month registration fee in New Zealand varies between \$215.22 and \$465.74, depending on the type of vehicle. For vehicle importers who import high quantities, this could cost between \$3.2 million and \$7 million, if the importers had to register the vehicles to themselves to comply. This could increase prices for consumers.
20. Given the tight timeframe before this unintended requirement takes effect, I propose an urgent amendment through the Rule, which deletes clauses 2.2(1C) and 2.2(1D). I propose to do this through an Order in Council, as an amendment using the Minister's power to make ordinary rules under section 152 of the Land Transport Act 1998 (the Act) would take until early June 2024.
21. Further amendment will likely be needed to the Principal Rule later this year, to put in place other unrelated improvements including alignment with Australia.

Legislative Implications

22. I propose that this Rule is made by the Governor-General by Order in Council under section 152A of the Act, on my recommendation.
23. The Governor-General may make ordinary rules for all or any of the purposes of the Act listed in section 152 of the Act, including:
 - 23.1. making technical requirements and standards for the purposes of safety and licensing, and
 - 23.2. ensuring environmental sustainability.
24. I have had regard to the criteria specified in 164(2) of the Act and am satisfied as to all of them.
25. The consultation requirements specified in section 161(2) of the Act do not apply to rules made by Order in Council under section 152A(3).

Timing and 28-day rule

26. I propose that the Rule come into effect on 30 April 2024, the same day that new emissions requirements are introduced.
27. I consider it is appropriate to seek a waiver of the 28-day rule which requires that regulations must not come into force until at least 28 days after they have been notified in the New Zealand Gazette.
28. Amending the Rule as proposed will provide a benefit to the public, by removing the requirement for used vehicle importers to register vehicles, which may increase prices for consumers.

29. Early commencement is necessary to avoid the purpose of the Rule being defeated. The Rule needs to be in place before 30 April 2024, which is when the amendments to the Principal Rule come into force.

Compliance

30. The Rule complies with each of the following:
 - 30.1. LDAC Guidelines on Process and Content of Legislation (2021 edition), a publication maintained by the Legislation Design and Advisory Committee,
 - 30.2. New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993,
 - 30.3. principles and guidelines set out in the Privacy Act 2020,
 - 30.4. relevant international standards and obligations, and
 - 30.5. principles of the Treaty of Waitangi.

Regulations Review Committee

31. There are no grounds for the Regulations Review Committee to draw the Amendment Regulations to the attention of the House of Representatives under Standing Order 327.

Certification

32. The Amendment Rule was drafted by NZTA and reviewed by the Ministry. The Chief Legal Adviser, Ministry of Transport, has certified the Amendment Rule as being in order for submission to Executive Council.

Impact Analysis

33. The Treasury's Regulatory Impact Analysis team has determined that the proposed amendment to the Vehicle Exhaust Emissions Rule 2007 is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.
34. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Publicity

35. The Rule will be published in the *New Zealand Gazette* and presented to the House of Representatives once made. The Rule will also be published on the NZTA's website.
36. NZTA will notify industry bodies of the changes following the publication of the Rule in the *New Zealand Gazette*.

Proactive release

37. I intend to proactively release this Cabinet paper shortly after decisions are made on this paper. Release will be subject to appropriate redactions.

Consultation

38. The Ministry of Transport consulted NZTA in drafting this paper.
39. The Imported Motor Vehicle Industry Association was consulted on the policy proposals contained in this paper.

Recommendations

I recommend that the Cabinet Legislation Committee:

1. authorise the submission to the Executive Council of the Land Transport Rule: Vehicle Exhaust Amendment 2024 (the Rule).
2. note that the Rule will come into force on 30 April 2024.
3. note that a waiver of the 28-day rule is sought:
 - 3.1. so that the Rule can come into force before the unintended requirement takes force on 30 April 2024.
 - 3.2. on the grounds that the Rule will confer only benefits on the public, and early commencement is necessary to avoid a purpose of the Rule being defeated.
4. agree to waive the 28-day rule so that the regulations can come into force on 30 April 2024.
5. note that the Minister of Transport must have regard to the criteria specified in section 164(2) of the Land Transport Act 1998 before recommending that the Governor-General make the Rule by Order in Council.
6. note the advice of the Minister for Transport that this requirement has been met.

Authorised for lodgement

Hon Simeon Brown

Minister of Transport



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Urgent Amendment to the Land Transport Rule: Vehicle Exhaust Emissions 2007

Portfolio Transport

On 11 April 2024, the Cabinet Legislation Committee:

- 1 **noted** that the Land Transport Rule: Vehicle Exhaust Amendment 2024 (the Rule) amends the Land Transport Rule: Vehicle Exhaust Emissions 2007, correcting an error created in a recent amendment to the Principal Rule that creates unintended requirements for used vehicle importers;
- 2 **noted** that a waiver of the 28-day rule is sought:
 - 2.1 so that the Rule can come into force before the unintended requirement takes force on 30 April 2024;
 - 2.2 on the grounds that the Rule will confer only benefits on the public, and early commencement is necessary to avoid a purpose of the Rule being defeated;
- 3 **agreed** to waive the 28-day rule;
- 4 **noted** that the Minister of Transport must have regard to the criteria specified in section 164(2) of the Land Transport Act 1998 before recommending that the Governor-General make the Rule by Order in Council;
- 5 **noted** the advice of the Minister for Transport that this requirement has been met;
- 6 **authorised** the submission to the Executive Council of the Land Transport Rule: Vehicle Exhaust Amendment 2024;
- 7 **noted** that the Rule will come into force on 30 April 2024.

Rebecca Davies
Committee Secretary

Attendance: see over

Present:

Hon Brooke van Velden
Hon Shane Jones
Hon Chris Bishop (Chair)
Hon Dr Shane Reti
Hon Simeon Brown
Hon Paul Goldsmith
Hon Todd McClay
Hon Tama Potaka
Hon Matt Doocey
Hon Nicole Mckee
Hon Casey Costello
Hon Andrew Bayly
Hon Scott Simpson
Todd Stevenson, MP
Jamie Arbuckle, MP

Officials present from:

Officials Committee for LEG
Office of the Leader of the House



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 12 April 2024

On 15 April 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 12 April 2024:

LEG-24-MIN-0059 **Urgent Amendment to the Land Transport Rule:
Vehicle Exhaust Emissions 2007** CONFIRMED
Portfolio: Transport

Rachel Hayward
Secretary of the Cabinet