

Energy (Fuels, Levies, and References) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Energy (Fuels, Levies, and References) Amendment Bill (the **Bill**) aims to strengthen New Zealand's fuel resilience and economic security. Sectors ranging from freight services to building and construction are dependent on fuel supplies. The Bill adds the purpose of meeting the reasonable costs and expenses of the Crown in promoting resilience of engine fuel supplies in New Zealand as an additional purpose for which the petroleum or engine fuel monitoring levy (the **levy**) can be applied. This will enable the Government to use the levy to cover the costs of fuel resilience measures, such as—

- government procurement of services relating to storage and management of reserve fuel stocks to be held onshore;
- facilities that would be useful for mitigating the impacts of local fuel disruptions or distributing fuels in an emergency;
- fuel emergency planning and management activities;
- tools and programmes to improve monitoring and collecting information on fuel resilience.

Fuel industry participants may not have the incentive to invest in fuel resilience measures that are not in their commercial interest, even though the measures may be in the national interest. Using the levy to fund these measures will benefit the parties who pay the levy directly or indirectly, namely, fuel importers, and fuel consumers to whom fuel importers pass on at least some of the levy costs. The levy rate is not expected to have to increase significantly immediately as a result of the additional purpose, but the calculation method for the levy rate will be reviewed in the future to ensure that the levy rate continues to be set in a justifiable and transparent way.

The alternative of using Crown funding to pay for these measures would mean that all general taxpayers, regardless of whether they use fuel and how much fuel they use, would bear the cost of these measures.

Uncertainty about whether existing statutory purpose of levy allows for recovery of cost of onshore fuel resilience initiatives

Section 14(2) of the Energy (Fuels, Levies, and References) Act 1989 sets out the statutory purposes of the levy. One of the existing statutory purposes is to meet the reasonable costs of complying with the 90-day reserve commitment obligation under the International Energy Agreement (IEA)¹.

However, there is uncertainty about whether the levy can be used to fund onshore fuel resilience initiatives under the current purposes. For example, government procurement of onshore reserve diesel stock may be more expensive than other options for meeting the IEA obligation, such as purchasing offshore oil tickets. This could mean that such procurement is not consistent with the levy's existing statutory purposes. The changes proposed in the Bill will ensure that the Government has the flexibility to use the levy to fund initiatives such as government procurement of onshore diesel stock.

The Bill is part of a wider fuel resilience policy package

The Bill is part of a wider fuel resilience policy package announced by the Government in November 2022, which includes—

- introducing a minimum onshore fuel stockholding obligation for fuel importers:
- dedicating additional resources to operationalising the National Fuel Plan, which involves undertaking activities that enable better government–industry co-ordination in planning for and managing fuel emergencies:
- government procurement of storage and management of at least 70 million litres of reserve diesel stock to be held onshore.

The Bill will allow the levy to be used to cover the additional government administration and procurement costs associated with implementing the fuel resilience policy package, as well as the costs of other potential measures for improving fuel resilience.

The minimum onshore fuel stockholding obligation will require fuel importers to meet a minimum stockholding level for diesel, jet fuel, and petrol. The Ministry of Business, Innovation, and Employment will undertake additional compliance, enforcement, and monitoring activities to ensure this obligation is met.

The minimum onshore fuel stockholding obligation will be complemented by government procurement of onshore reserve diesel stock, as the fuel industry currently has

¹ As an IEA member state, New Zealand must hold oil or fuel stocks equivalent to at least 90 days of net oil and fuel imports of the previous calendar year.

relatively low stockholding levels for diesel. Diesel is the most important fuel for critical services, such as delivery by truck of food and essential goods. Government procurement of onshore reserve diesel stock will ensure that New Zealand has sufficient diesel stock onshore to weather the impacts of plausible fuel import disruptions, which may be caused by natural disasters or man-made events.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2023&no=250>

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement in October 2022 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-generation-and-markets/liquid-fuel-market/fuel-security-in-new-zealand/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on 1 July 2023.

Clause 3 provides that this Bill amends the Energy (Fuels, Levies, and References) Act 1989 (the **Act**).

Clause 4 amends section 14 of the Act to add an additional purpose for which the petroleum or engine fuel monitoring levy can be applied, namely, the purpose of meeting the reasonable costs and expenses of the Crown in promoting resilience of engine fuel supplies in New Zealand. This levy is payable by persons who would be liable to pay any excise duty or excise-equivalent duty on the petroleum or engine fuel under the Customs and Excise Act 2018 if any were payable.

Hon Dr Megan Woods

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Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
4 Section 14 amended (Purpose of levies)	1

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Energy (Fuels, Levies, and References) Amendment Act **2023**.

2 Commencement

This Act comes into force on **1 July 2023**.

5

3 Principal Act

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

4 Section 14 amended (Purpose of levies)

After section 14(2A), insert:

- (2B) Levies recovered under section 24 may also be applied for the purpose of meeting the reasonable costs and expenses of the Crown in promoting resilience of engine fuel supplies in New Zealand. 10