

Customs and Excise (Tobacco Products— Budget Measures) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Customs and Excise Act 1996 to make 4 cumulative 10% increases to the duties on all tobacco products:

- the first on 1 January 2017 to those duties in force at the close of 31 December 2016:
- the second on 1 January 2018 to those duties in force at the close of 31 December 2017:
- the third on 1 January 2019 to those duties in force at the close of 31 December 2018:
- the fourth on 1 January 2020 to those duties in force at the close of 31 December 2019.

Those increases will be made in combination with annual Consumers Price Index (CPI) indexation of the duties or, if no CPI-indexation occurs on 1 January in all or any of 2017 to 2020, independently.

The amendments are intended to increase the price of tobacco to discourage tobacco consumption, which will improve the health of New Zealanders.

The Bill also amends or affects exclusions of tobacco product price increases (including those resulting from increases in duties) from required CPI-indexation of, or related to, social assistance. The Bill continues these exclusions for the indexation required for the years 2018 to 2021 inclusive. These exclusions are in the Children, Young Persons, and Their Families Act 1989, Education Act 1989, Income Tax Act 2007, New Zealand Superannuation and Retirement Income Act 2001, Social Security Act 1964, and Veterans' Support Act 2014.

Continuing these exclusions ensures that recipients of social assistance are not reimbursed for the increases in tobacco duties. Any reimbursement for those increases would contradict the reason for making them, which is to discourage smoking.

Departmental disclosure statement

The Ministry of Health 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=2016&no=137>

Regulatory impact statement

The Treasury produced a regulatory impact statement on 15 April 2016 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 <http://www.treasury.govt.nz/publications/informationreleases/ris>

Minister of Finance’s statement on consultation process followed in formulation of amendment to New Zealand Superannuation and Retirement Income Act 2001

Introduction

Section 73 of the New Zealand Superannuation and Retirement Income Act 2001 (the **Act**) provides that the Minister must, on introduction into the House of Representatives of a Government Bill that proposes an amendment to the Act, bring to the attention of the House the consultation process followed in formulating the proposed amendment.

The term “Minister”, for the purposes of section 73, is defined in section 5 of the Act as the Minister of Finance. The statement must include (without limitation)—

- whether consultation has taken place with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act);
- whether consultation has taken place with the Guardians of New Zealand Superannuation (to the extent that the amendment relates to Part 2 of the Act);
- the results of the consultation.

This Bill proposes amendments to Part 1 of the Act. The only amendment is to section 15(2A) of the Act. The Bill proposes to replace the reference to the year 2017 in subsection (2A) with a reference to the year 2021. The effect of this amendment is to extend an existing exclusion of tobacco product price increases from the annual Consumers Price Index (**CPI**) adjustment of standard rates of New Zealand superannu-

ation. Continuing this exclusion ensures that recipients of social assistance are not reimbursed for the increases in tobacco excise. Any reimbursement for those increases would contradict the reason for making them, which is to discourage smoking.

Consultation process

The amendments in the Bill to Part 1 of the Act ensure that until the end of 2021 the required annual CPI adjustment of standard rates of New Zealand superannuation excludes tobacco product price increases.

The proposed amendments do not affect the Act's underlying policy. The Act currently excludes tobacco product price increases from the annual CPI adjustment of superannuation rates until the end of 2017; the current amendments only extend that exclusion of CPI until the end of 2021.

Consultation has therefore not been undertaken with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act). These are the Green Party, the New Zealand Labour Party, the New Zealand National Party, the Progressive Coalition Party (which was deregistered as a political party in 2012), and United Future New Zealand.

No consultation was undertaken with the Guardians of New Zealand Superannuation, as the Bill does not propose to amend Part 2 of the Act.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 ensures that the Act resulting from this Bill will come into force on the day after the date on which it receives the Royal assent.

Clause 3 identifies the principal Act amended: the Customs and Excise Act 1996.

Part 1

Excise and excise-equivalent duties on tobacco products

Amendments to principal Act

Clause 4(1) inserts a *new section 79(3B)*. *New section 79(3B)* applies if an indexation Order in Council is made under section 79(1), changes the rates of excise duty and excise-equivalent duty for tobacco products, and comes into force on 1 January in 2017, 2018, 2019, or 2020. *New section 79(3B)*—

- requires every new rate of excise duty or excise-equivalent duty that the Order in Council imposes on a tobacco product to be calculated by adding 10% of the existing rate of duty on the product to the result achieved by applying the annual indexation formula in section 79(3); and
- requires the Order in Council to be called (as the case requires) an Excise and Excise-equivalent Duties Table (Tobacco Products Indexation and Separate 10% Increase) Amendment Order 2016, 2017, 2018, or 2019.

Clause 4(2) repeals *new section 79(3B)* on 1 January 2020 (but without affecting any new rates imposed before or on that date by any orders to which it applies).

Clause 5(1) inserts a *new section 79AD* which, in accordance with section 76G(1), amends the Excise and Excise-equivalent Duties Table. A rate in that Table is amended by *new section 79AD* only if the rate is one that is—

- a rate of excise duty or excise-equivalent duty on a tobacco product (as defined in section 79(4)); and
- in force immediately before 1 January in 2017, 2018, 2019, or 2020; and
- not changed on that date by an Order in Council made under section 79(1) and *new section 79(3B)*.

New section 79AD replaces the rate with a new rate calculated by adding to the rate an amount equal to 10% of the rate.

Clause 5(2) repeals *new section 79AD* on 1 January 2020 (but without affecting any amendments it makes before or on that date).

Part 2

Excluding price increases from required CPI indexation of, or related to, social assistance

Clauses 6 to 12 amend or affect the following provisions to ensure that until the end of 2021 they exclude tobacco product price increases from required CPI indexation of, or related to, the following social assistance:

- Children, Young Persons, and Their Families Act 1989, section 363, payments to persons or organisations providing care:
- Education Act 1989, section 303, student allowances:
- Income Tax Act 2007, section MF 7, Working for Families entitlements:
- New Zealand Superannuation and Retirement Income Act 2001, section 15, New Zealand superannuation:
- Social Security Act 1964, section 61HA, main social security benefits:
- Social Security Act 1964, section 155, long-term residential care (income-from-assets exemption):
- Veterans' Support Act 2014, section 170, veterans' pensions.

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The Parliament of New Zealand enacts as follows:

1	Title This Act is the Customs and Excise (Tobacco Products—Budget Measures) Amendment Act 2016 .	
2	Commencement This Act comes into force on the day after the date on which it receives the Royal assent.	5
3	Principal Act This Act amends the Customs and Excise Act 1996 (the principal Act).	
 Part 1 Excise and excise-equivalent duties on tobacco products		
4	Section 79 amended (Indexation of rates of excise duty and excise-equivalent duty on alcoholic beverages and tobacco products)	
(1)	After section 79(3), insert:	
(3B)	If an Order in Council is made under subsection (1), changes the rates of excise duty and excise-equivalent duty for tobacco products, and comes into force on 1 January in 2017, 2018, 2019, or 2020, then despite subsections (1) to (3),—	15
(a)	every new rate of excise duty or excise-equivalent duty that the Order in Council imposes on a tobacco product is calculated by adding 10% of the existing rate of duty on the product to the result achieved by applying the formula in subsection (3); and	20
(b)	the Order in Council must be called (as the case requires) an Excise and Excise-equivalent Duties Table (Tobacco Products Indexation and Separate 10% Increase) Amendment Order 2016, 2017, 2018, or 2019.	

- (2) **Section 79(3B)** of the principal Act (as inserted by **subsection (1)**) is repealed on 1 January 2020 (but without affecting any new rates imposed before or on that date by any orders to which it applies).

5 New section 79AD inserted (Rates of duties for tobacco products increased by 10% if not indexed on 1 January in 2017 to 2020) 5

- (1) Before section 79A, insert:

79AD Rates of duties for tobacco products increased by 10% if not indexed on 1 January in 2017 to 2020

- (1) This section, in accordance with section 76G(1), amends the Excise and Excise-equivalent Duties Table. 10
- (2) A rate in that Table is amended by this section only if the rate is one that is—
- (a) a rate of excise duty or excise-equivalent duty on a tobacco product (as defined in section 79(4)); and
 - (b) in force immediately before 1 January in 2017, 2018, 2019, or 2020; and
 - (c) not changed on that date by an Order in Council made under section 79(1) and **(3B)**. 15
- (3) The rate is on that date replaced with a new rate calculated by adding to the rate an amount equal to 10% of the rate.
- (2) **Section 79AD** of the principal Act (as inserted by **subsection (1)**) is repealed on 1 January 2020 (but without affecting any amendments it makes before or on that date). 20

Part 2

Excluding price increases from required CPI indexation of, or related to, social assistance

Amendment to Children, Young Persons, and Their Families Act 1989 25

- 6 Section 363 amended (Payment to person or organisation providing care)**
In section 363(6) of the Children, Young Persons, and Their Families Act 1989, replace “2017” with “2021”.

Amendment to Education Act 1989

- 7 Section 303 amended (Student allowances)** 30
In section 303(3C) of the Education Act 1989, replace “2017” with “2021”.

*Application of Income Tax Act 2007***8 Application of section MF 7 (Orders in Council)**

- (1) Section MF 7(1)(a), (2), and (2B) of the Income Tax Act 2007 (as amended or inserted by section 94(2), (4), and (5) of the Taxation (Budget Measures) Act 2010) apply for Working for Families entitlements for the 2018–19, 2019–20, 2020–21, and 2021–22 tax years. 5
- (2) **Subsection (1)** does not limit section 94(6) of the Taxation (Budget Measures) Act 2010 or section 3(1) of the Income Tax (Working for Families Indexation—Budget Measures) Amendment Act 2012.

Amendment to New Zealand Superannuation and Retirement Income Act 2001 10**9 Section 15 amended (Annual adjustment of standard rates of New Zealand superannuation)**

In section 15(2A) of the New Zealand Superannuation and Retirement Income Act 2001, replace “2017” with “2021”.

Amendments to Social Security Act 1964 15**10 Section 61HA amended (Annual CPI adjustment of rates of certain benefits)**

In section 61HA(3) of the Social Security Act 1964, replace “2017” with “2021”.

11 Section 155 amended (Regulations relating to this Part) 20

In section 155(2A) of the Social Security Act 1964, replace “2017” with “2021”.

*Amendment to Veterans’ Support Act 2014***12 Section 170 amended (Annual adjustment of rates of veteran’s pension)**

In section 170(4) of the Veterans’ Support Act 2014, replace “2015, 2016, and 2017” with “any year from 2015 to 2021 (inclusive)”. 25