

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 2013 to those duties in force at the close of 31 December 2012:
- the second on 1 January 2014 to those duties in force at the close of 31 December 2013:
- the third on 1 January 2015 to those duties in force at the close of 31 December 2014:
- the fourth on 1 January 2016 to those duties in force at the close of 31 December 2015.

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 2013 to 2016, independently.

The amendments 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 2014 to 2017 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 War Pensions Act 1954.

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.

Regulatory impact statement

The Treasury produced a regulatory impact statement on 20 April 2012 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- <http://www.customs.govt.nz/news/resources/legal/Documents/riscande-tobaccoproducts-budgetmeasures-amdt-bill2012.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Minister of Finance’s statement on consultation on proposed 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 the 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 that was followed in the formulation of 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.

That statement must include (without limitation)—

- (a) 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):

- (b) whether consultation has taken place with the Guardians (to the extent that the amendment relates to Part 2 of the Act):
- (c) the results of the consultation.

This Bill proposes one amendment to Part 1 of the Act. It does not propose to amend Part 2, Part 3, Part 4 or any of the schedules of the Act. Consultation with the Guardians of New Zealand Superannuation is therefore not required.

This Bill will amend section 15 of the Act. Under section 15, the rates of New Zealand superannuation must be adjusted, by Order in Council, as at 1 April each year so that in each case the new rate is adjusted by any percentage movement upwards in the Consumers Price Index (CPI) between 31 December one year prior and the 31 December immediately prior. The Bill will amend section 15 so that the CPI measure used to index New Zealand Superannuation payments in 2013, 2014, 2015, and 2016 is defined for the purposes of this section as the CPI-all groups excluding cigarettes and other tobacco products published by Statistics New Zealand. This change is consistent with changes being made to the Income Tax Act 2007 in respect of Working for Families Payments and to the War Pensions Act 1954 in relation to veterans' pensions.

Consultation

The parties listed in Schedule 4 of the Act are the Green Party, New Zealand Labour Party, New Zealand National Party, Progressive Coalition Party, and United Future New Zealand. The results of the consultation were that the United Future New Zealand Party indicated it would support the Bill. No consultation has taken place with the Green Party, the New Zealand Labour Party, and the Progressive Coalition Party.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 ensures that the Acts resulting from this Bill will come into force on the day after the date on which they receive the Royal assent.

Clause 3 identifies the principal Act amended: the Customs and Excise Act 1996. The Bill is intended to be divided at the end of its

committee of the whole House stage, and enacted as the following 7 separate amendment Acts:

- Customs and Excise (Tobacco Products—Budget Measures) Amendment Act 2012—*Part 1*:
- Children, Young Persons, and Their Families (Indexation—Budget Measures) Amendment Act 2012—*clause 7*:
- Education (Student Allowances Indexation—Budget Measures) Amendment Act 2012—*clause 8*:
- Income Tax (Working for Families Indexation—Budget Measures) Amendment Act 2012—*clause 9*:
- New Zealand Superannuation and Retirement Income (Indexation—Budget Measures) Amendment Act 2012—*clause 10*:
- Social Security (Indexation—Budget Measures) Amendment Act 2012—*clauses 11 and 12*:
- War Pensions (Indexation—Budget Measures) Amendment Act 2012—*clause 13*.

Part 1

Excise and excise-equivalent duties on tobacco products

Purpose

Clause 4 states the purpose of *Part 1*.

Part 1 amends the Customs and Excise Act 1996 to increase by 10%, on 1 January in 2013, 2014, 2015, or 2016, every rate that is—

- in the Excise and Excise-equivalent Duties Table (as defined in section 76A of that Act); and
- a rate of excise or excise-equivalent duty on a tobacco product (as defined in section 79(4) of that Act); and
- in force immediately before that date.

Those 4 substantive 10% increases in every rate of that kind are to be made—

- by an annual indexation Order in Council that is made under section 79(1) and *new section 79(3A)* of the principal Act, and that comes into force on that date; or
- if no order of that kind comes into force on that date, by *new section 79AB* of that Act.

Amendments to principal Act

Clause 5(1) inserts a *new section 79(3A)*. *New section 79(3A)* 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 2013, 2014, 2015, or 2016. *New section 79(3A)*—

- 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 2012, 2013, 2014, or 2015.

Clause 5(2) repeals *new section 79(3A)* on 1 January 2016 (but without affecting any new rates imposed before or on that date by any orders to which it applies).

Clause 6(1) inserts a *new section 79AB* 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 79AB* 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 2013, 2014, 2015, or 2016; and
- not changed on that date by an Order in Council made under section 79(1) and *new section 79(3A)*.

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

Clause 6(2) repeals *new section 79AB* on 1 January 2016 (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 7 to 13 amend or affect the following provisions to ensure that until the end of 2017 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):
 - War Pensions Act 1954, section 74C, veterans' pensions.
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Hon Tariana Turia

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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*

7	Section 363 amended (Payment to person or organisation providing care)	5
	<i>Amendment to Education Act 1989</i>	
8	Section 303 amended (Student allowances)	5
	<i>Application of Income Tax Act 2007</i>	
9	Application of section MF 7 (Orders in Council)	5
	<i>Amendment to New Zealand Superannuation and Retirement Income Act 2001</i>	
10	Section 15 amended (Annual adjustment of standard rates of New Zealand superannuation)	5
	<i>Amendments to Social Security Act 1964</i>	
11	Section 61HA amended (Annual CPI adjustment of rates of certain benefits)	6
12	Section 155 amended (Regulations relating to this Part)	6
	<i>Amendment to War Pensions Act 1954</i>	
13	Section 74C amended (Annual adjustment of rates of veterans' pensions)	6

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Customs and Excise (Tobacco Products—Budget Measures) Amendment Act **2012**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.

- 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 5

Purpose

- 4 Four substantive 10% increases**
- (1) This **Part** amends the principal Act to increase by 10%, on 1 January in 2013, 2014, 2015, or 2016, every rate that is— 10
- (a) in the Excise and Excise-equivalent Duties Table (as defined in section 76A of that Act); and
- (b) a rate of excise or excise-equivalent duty on a tobacco product (as defined in section 79(4) of that Act); and
- (c) in force immediately before that date. 15
- (2) Those 4 substantive 10% increases in every rate of that kind are to be made—
- (a) by an annual indexation Order in Council that is made under section 79(1) and **(3A)** of the principal Act, and that comes into force on that date; or 20
- (b) if no order of that kind comes into force on that date, by **section 79AB** of that Act.

Amendments to principal Act

- 5 Section 79 amended (Indexation of rates of excise duty and excise-equivalent duty on alcoholic beverages and tobacco products)** 25
- (1) After section 79(3), insert:
- “(3A) 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 2013, 2014, 2015, or 2016, then despite subsections (1) to (3),— 30
- “(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

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- on the product to the result achieved by applying the formula in subsection (3); and
- “(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 2012, 2013, 2014, or 2015.” 5
- (2) **Section 79(3A)** of the principal Act (as inserted by **subsection (1)**) is repealed on 1 January 2016 (but without affecting any new rates imposed before or on that date by any orders to which it applies). 10
- 6 New section 79AB inserted (Rates of duties for tobacco products increased by 10% if not indexed on 1 January in 2013 to 2016)**
- (1) Before section 79A, insert:
- “79AB Rates of duties for tobacco products increased by 10% if not indexed on 1 January in 2013 to 2016” 15**
- “(1) This section, in accordance with section 76G(1), amends the Excise and Excise-equivalent Duties Table.
- “(2) A rate in that Table is amended by this section only if the rate is one that is— 20
- “(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 2013, 2014, 2015, or 2016; and
- “(c) not changed on that date by an Order in Council made 25 under section 79(1) and **(3A)**.
- “(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 79AB** of the principal Act (as inserted by **subsection (1)**) is repealed on 1 January 2016 (but without affecting 30 any amendments it makes before or on that date).

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* 5
- 7 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 “2011, 1 April 2012, and 15
1 April 2013” with “in any year from 2011 to 2017 (inclu-
sive)”.
- Amendment to Education Act 1989*
- 8 Section 303 amended (Student allowances)**
In section 303(3C) of the Education Act 1989, replace “2011, 15
1 April 2012, and 1 April 2013” with “in any year from 2011
to 2017 (inclusive)”.
- Application of Income Tax Act 2007*
- 9 Application of section MF 7 (Orders in Council)**
- (1) Section MF 7(1)(a), (2), and (2B) of the Income Tax Act 2007 20
(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 2014–15, 2015–16, 2016–17,
and 2017–2018 tax years.
- (2) **Subsection (1)** does not limit section 94(6) of the Taxation 25
(Budget Measures) Act 2010.
- Amendment to New Zealand Superannuation
and Retirement Income Act 2001*
- 10 Section 15 amended (Annual adjustment of standard
rates of New Zealand superannuation)** 30
In section 15(2A) of the New Zealand Superannuation and Re-
tirement Income Act 2001, replace “2011, 1 April 2012, and
1 April 2013” with “in any year from 2011 to 2017 (inclu-
sive)”.

Amendments to Social Security Act 1964

11 Section 61HA amended (Annual CPI adjustment of rates of certain benefits)

In section 61HA(3) of the Social Security Act 1964, replace “2011, 1 April 2012, and 1 April 2013” with “in any year from 2011 to 2017 (inclusive)”. 5

12 Section 155 amended (Regulations relating to this Part)

In section 155(2A) of the Social Security Act 1964, replace “2011, 1 July 2012, and 1 July 2013” with “in any year from 2011 to 2017 (inclusive)”. 10

Amendment to War Pensions Act 1954

13 Section 74C amended (Annual adjustment of rates of veterans’ pensions)

In section 74C(2A) of the War Pensions Act 1954, replace “2011, 1 April 2012, and 1 April 2013” with “in any year from 2011 to 2017 (inclusive)”. 15
