



Local Government Act 1974 Amendment Act 2008

Public Act 2008 No 63
Date of assent 9 September 2008
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Local Government Act 1974 Amendment Act 2008.
- 2 Commencement**
This Act comes into force on 1 October 2008.
- 3 Principal Act amended**
This Act amends the Local Government Act 1974.
- 4 Heading to Part 11 amended**
The heading to Part 11 is amended by omitting “**petroleum**” and substituting “**fuel**”.
- 5 Interpretation**
 - (1) Section 181 is amended by inserting the following definitions in their appropriate alphabetical order:
“**engine fuel** has the meaning given by section 1B of the Energy (Fuels, Levies, and References) Act 1989
“**specified engine fuel**—
“(a) means,—
“(i) if no Order in Council is in force under subparagraph (ii), engine fuel specified in Schedule 3 of the Customs and Excise Act 1996 as a type of—
“(A) motor spirit; or
“(B) diesel (including blends of diesel and kerosene); or
“(C) biodiesel; or

- “(D) ethyl alcohol specified under the heading **Fuels** in Part A or B of Schedule 3 of the Customs and Excise Act 1996; or
- “(ii) that part of engine fuel specified in Schedule 3 of the Customs and Excise Act 1996 and prescribed by an Order in Council made under section 199A; but
- “(b) excludes—
- “(i) engine fuel supplied for use in the generation of electricity, or the manufacture of gas, for public use at any electric-power station or gas works; or
- “(ii) engine fuel supplied for use as fuel for any commercial ship within the meaning of section 2(1) of the Maritime Transport Act 1994; or
- “(iii) engine fuel used in the manufacture of refined petroleum products at any refinery.”
- (2) The definition of **petroleum** in section 181 is repealed.
- (3) Section 181 is amended by repealing the definition of **wholesale distributor** and substituting the following definition:
“wholesale distributor means a person who, whether exclusively or not,—
- “(a) engages in the sale of engine fuel by wholesale; or
- “(b) sells engine fuel to a retailer; or
- “(c) manufactures or produces engine fuel within New Zealand.”
- (4) Section 181 is amended by adding the following subsection as subsection (2):
- “(2) For the purposes of this section, the part of engine fuel that is motor spirit, diesel, biodiesel, or ethyl alcohol remains so whether or not it is blended with anything else.”

6 Application of this Part

- (1) Section 182(1) is amended by repealing subsection (1) and substituting the following subsection:
- “(1) Unless the Governor-General by Order in Council determines otherwise, a local authorities fuel tax in accordance with this Part may be levied and collected by the Crown, and is payable on any specified engine fuel purchased in New Zealand.”

- (2) Section 182(2) is amended by omitting “petroleum” and substituting “specified engine fuel”.

7 Powers of component authorities to levy petroleum tax

- (1) The heading to section 185 is amended by omitting “**petroleum**” and substituting “**fuel**”.
- (2) Section 185(1) is amended by omitting “local authorities petroleum tax” and substituting “local authorities fuel tax”.
- (3) Section 185(1) and (2)(b) are amended by omitting “petroleum” and substituting in each case “specified engine fuel”.
- (4) Section 185(3) is amended by omitting “local authorities petroleum tax” and substituting “local authorities fuel tax”.
- (5) Section 185(3)(a) and (b) are amended by omitting “petroleum” and substituting in each case “specified engine fuel”.
- (6) Section 185 is amended by inserting the following subsection after subsection (3):
“(3A) If any type of diesel is a specified engine fuel, the local authorities fuel tax applies to blends of kerosene and diesel as if they were entirely diesel.”
- (7) Section 185 is amended by adding the following subsection:
“(5) Every reference in an enactment or document to the local authorities petroleum tax must, unless the context otherwise requires, be read as a reference to the local authorities fuel tax.”

8 Returns by wholesale distributors

- (1) Section 189(1) is amended by omitting “local authorities petroleum tax” in each place where it appears and substituting in each case “local authorities fuel tax”.
- (2) Section 189(1)(a) is amended by omitting “petroleum” and substituting “specified engine fuel”.

9 Assessment of tax

- (1) Section 190(1) and (3) are amended by omitting “local authorities petroleum tax” and substituting in each case “local authorities fuel tax”.
- (2) Section 190(2) is amended by omitting “petroleum” and substituting “specified engine fuel”.

- 10 Assessment presumed to be correct**
Section 191 is amended by omitting “petroleum” and substituting “specified engine fuel”.
- 11 Tax recoverable as a debt**
(1) Section 193(1) and (2) are amended by omitting “local authorities petroleum tax” and substituting in each case “local authorities fuel tax”.
(2) Section 193(1) is amended by omitting “petroleum” in each place where it appears and substituting in each case “specified engine fuel”.
- 12 Penalty for late payment of tax**
Section 194 is amended by omitting “local authorities petroleum tax” and substituting “local authorities fuel tax”.
- 13 Separate bank account to be kept by distribution authority**
Section 195(1) is amended by omitting “Local Authorities Petroleum Tax Account” and substituting “Local Authorities Fuel Tax Account”.
- 14 Accounts to be kept in accordance with requirements of Auditor-General**
Section 196(1) is amended by omitting “local authorities petroleum tax” and substituting “local authorities fuel tax”.
- 15 Transfer by distribution authority of authorised cost of services**
(1) Section 197(1) and (3) are amended by omitting “Local Authorities Petroleum Tax Account” and substituting in each case “Local Authorities Fuel Tax Account”.
(2) Section 197(1) is amended by omitting “local authorities petroleum tax” and substituting “local authorities fuel tax”.
- 16 Effect on agreements of imposition or alteration of tax**
(1) Section 199 is amended by omitting “sale of petroleum” and substituting “sale of specified engine fuel”.

- (2) Section 199 is amended by omitting “local authorities petroleum tax” and substituting “local authorities fuel tax”.

17 New section 199A inserted

The following section is inserted after section 199:

“199A Order in Council prescribing local authorities fuel tax

- “(1) The Governor-General may, by Order in Council,—
- “(a) specify the engine fuels set out in Schedule 3 of the Customs and Excise Act 1996 to be specified engine fuel for the purposes of this Act; and
 - “(b) prescribe the scale rates for specified engine fuel.
- “(2) The scale rates of the local authorities fuel tax prescribed by an Order in Council under subsection (1)(b) may not exceed the rate of the local authorities fuel tax scale rates set out in Schedule 6 for any class of engine fuel—
- “(a) for which the specified engine fuel is a functional substitute; or
 - “(b) with which the specified engine fuel is commonly blended.
- “(3) Subsection (2) overrides subsection (1).”

18 Regulations in respect of local authorities petroleum tax

The heading to section 200 is amended by omitting “petroleum” and substituting “fuel”.

19 Council may grant right to lay petroleum conduit pipes along or under roads

- (1) The heading to section 338 is amended by omitting “petroleum”.
- (2) Section 338(1) is amended by inserting “or biofuel” after “petroleum”.

20 Amendments to Schedule 6

- (1) The heading to Schedule 6 is amended by omitting “petroleum” and substituting “fuel”.
- (2) Schedule 6 is amended—

- (a) by omitting “**Motor spirits**” and substituting “**Specified engine fuel that is motor spirit or ethyl alcohol**”; and
- (b) by omitting “**Diesel fuel**” and substituting “**Specified engine fuel that is diesel or biodiesel**”.

21 Amendments to Schedule 8

- (1) The heading to Schedule 8 is amended by omitting “**petroleum**” and substituting “**fuel**”.
- (2) Schedule 8 is amended by omitting “local authorities petroleum tax” and substituting “local authorities fuel tax”.

Legislative history

2 September 2008	Divided from Biofuel Bill (Bill 148–2) by committee of the whole House
2 September 2008	Third reading
9 September 2008	Royal assent

This Act is administered by the Department of Internal Affairs.
