

APPENDIX 3 – Regulatory Impact Statement

Land Transport (Illegal Street Racing) Bill

Executive summary

This initiative is targeted specifically at reducing the harm and nuisance to communities caused by illegal street racers.

Adequacy statement

Treasury does not consider that this Regulatory Impact Statement would currently meet the Regulatory Impact Analysis criteria.

Status quo and problem

Illegal street racing has been an issue around the country for many years. The harm from illegal street racing can be broken down into three categories: road safety, noise, and public nuisance/disorder.

There are penalties for engaging in illegal street racing activity and associated behaviour (eg unlawful exhibition of speed). The Government believes that the current penalties are not enough to make a significant impact on this problem.

Between 2003 – 2007 there were on average 101 crashes a year from wider street racing activity (including showing off and playing chicken). These crashes resulted in (on average) 10 deaths, 46 serious injuries and 125 minor injuries a year.

Actually apprehending a driver or drivers in the act of illegal street racing activity is a rare and random event. In the 2003 – 2007 period, there were on average 1,659 convictions for illegal street racing activity. It is hard to know the true extent of illegal street racing as the participants are transitory and highly organised.

Current penalties for illegal street racing are disqualification and a fine or jail. If a person is convicted twice in four years for an illegal street racing offence their vehicle will be confiscated. Despite confiscation being a discretionary penalty after conviction for one qualifying offence and a mandatory penalty after two convictions, the actual rate of confiscations is very low. In 2006 there were 9,600 offences in which mandatory confiscation applied, and over 50,000 in which discretionary confiscation applied. There were only 1,062 confiscation orders granted. This puts the current rate of confiscation at less than 2 percent (or 1 in 10 for mandatory confiscations).

There are additional penalties for operating a noisy vehicle, but these are not specific to vehicles used for illegal street racing.

One of the major problems associated with illegal street racing is the public nuisance caused both by the drivers of the vehicles and the spectators and supporters. Often the nuisance is caused by large numbers of drivers “cruising” around a predetermined circuit. In isolation, any one vehicle may not be committing an offence or causing a public nuisance, but with a large gathering (sometimes upwards of 100 vehicles) the noise and nuisance to residents and business owners is considerable.

Further to this, spectators and supporters of illegal street racing are known to cause public nuisance/disorder. Again, an individual in on their own may not be causing any specific bother,

congregations of people can be intimidating to communities. There have also been reports to Police of other antisocial behaviour including property damage, damage to roads, drunken and abusive behaviour, intimidation, broken bottles and littering.

In addition to the disruption to daily living for residents, there could also be negative effects on business and tourism, particularly as areas become known as popular haunts for illegal street racers.

A recent incident in Christchurch which resulted in a lone police officer being 'ambushed' by approximately 300 people associated with illegal street racing activity. This incident saw both the public and the government become less tolerant of the small but persistently antisocial group of illegal street racers, and their associates.

Objectives

The central objective is to significantly reduce the harm and nuisance to communities caused by illegal street racers. This includes managing the public disorder of spectators and supporters, reducing noise, and reducing the road safety risk of illegal street racers.

Alternative options

The non-legislative option of local authorities designating areas for burnout pads and racing was considered by officials in early discussions but not progressed.

Local authorities currently have the power to build burnout pads and race tracks. Experience of this type of intervention in the past has done little to reduce or rectify the illegal street racing problem.

It was felt that there was no intervention needed by central Government in this area.

Preferred Option

The preferred option is to introduce two Bills to deal with different aspects of the illegal street racing problem; the Land Transport (Illegal Street Racing) Bill and the Vehicle Seizure and Confiscation Bill.

It is recommended that the following options are included in the Land Transport (Illegal Street Racing) Bill:

- give Local Authorities the power to create bylaws in relation to roads for a defined purpose, such as road safety
- give enforcement officers the power to attach a warning notice to a vehicle when detected breaching a road safety bylaw, and the power to impound the vehicle for subsequent breaches of such bylaws
- enhance existing legislation in respect of vehicle noise
- enhance existing legislation in respect of drivers breaching the Graduated Driver Licence System conditions
- give power to enforcement officers to require a driver to report to a specified location for a vehicle inspection

- increase penalties for registration plate offences
- increase penalties for failing to stop for Police
- increase penalties for failing to provide details to the Police
- compulsory impoundment of vehicles involved in illegal street racing.

It is recommended that the following options are included in the Vehicle Seizure and Confiscation Bill:

- extending vehicle seizure provisions
- expanding vehicle seizure provisions
- establish a vehicle confiscation and destruction regime.

Officials have considered non-legislative options, which will be progressed. These are:

- introducing a secure digital radio network for Police
- Police review of existing operational approaches to managing public disorder associated with illegal street racing.

Benefits and Costs to Consumers and Wider Society

Benefits to the wider community include less disruption in daily living from the noise, dangerous driving practices and disorder.

Longer term, as the incidence of illegal street racing decline, Police will be able to reallocate their resources to other areas of the community, which will be beneficial.

It is not expected that there will be any costs to consumers or wider communities from proposals in this package.

Benefits and compliance costs to business

There may be benefits to businesses that have suffered due to illegal street racing in their community, particularly motels, hotels, animal parks, and hospitals. It would be expected that businesses would have less disruption from noise and unruly gatherings associated with illegal street racing.

It is not expected that there will be any costs to businesses.

If rates of vehicle confiscation increase, finance companies may be more inclined to undertake rigorous background checks on vehicle owners before financing a vehicle, as they may want to make a judgement on the risk of the vehicle being confiscated. However, as confiscation is not a new sanction, this should not be an additional burden on finance companies.

Benefits and costs to Government

Road safety is an ongoing concern for the Government. On average there are approximately 10 deaths from illegal street racing a year, with a social cost of over 30 million dollars. Proposals

aimed at reducing the incidence of illegal street racing should impact on the number of illegal street racing deaths.

Specific costs to the Government relate to GDLS breaches and the proposals in the Vehicle Seizure and Confiscation Bill.

GDLS breaches

The administration costs associated with rebalancing the GDLS penalties (in terms of increased numbers of licence suspensions) are expected to be largely recovered through the licence reinstatement fee which suspended drivers will have to pay to have their licence card reissued at the end of the suspension.

Vehicle confiscation – Vote Courts

Currently the Courts order the confiscation of approximately 1,000 vehicles out of a potential 10,000 per year (this relates to mandatory confiscations only). As noted, an increase in Vote Courts is sought in anticipation that the Courts will order the confiscation of an additional 3,000 vehicles annually.

The previous Cabinet agreed, subject to funding approval, to authorise the Ministry of Justice to pay any prescribed impoundment costs incurred on a vehicle at the time of confiscation, and for the Ministry to be reimbursed from the sale proceeds or when this money is collected from the defendant. (SDC Min (08)14/10 para 2, confirmed by Cab Min (08) 35/5). The cost of this process is included in the figures provided.

The cost to Vote Courts of an increase in the number of confiscations to 3,000 per year is estimated to be \$0.527m (operating expenditure only) in year one and \$1.534m (operating expenditure only) in year 2 and outyears. There will also be some establishment costs in 2009/10 (capital expenditure). Further details and phasing of these costs, and the estimated costs of a total additional 5,000 confiscations, are included in Appendix 2.

Confiscations – Net Crown Revenue

The operational change being made to the confiscations regime will enable any unmet confiscation costs to be collected by the Court as a fine. Based on 3,000 confiscations each year, Crown Revenue of approximately \$1.200m is expected. The Ministry of Justice estimates that 80 percent of this amount will be collected over a 10 year period as Crown Revenue.

Seizures – Vote Courts

Currently the Ministry of Justice seizes approximately 2,500 vehicles per year to ensure the payment of unpaid fines. The cost to Vote Courts of an additional 500 vehicle seizures per year is estimated to be \$0.540m (operating expenditure only) in year one, increasing to \$0.716m (operating expenditure only) in outyears. There will also be some establishment costs in 2009/10 (capital expenditure). Further details and phasing of these costs, including options for an additional 1,000 and 2,000 seizures per year, are included in Appendix 2.

Confiscation and Destruction Orders – Vote Courts

The Ministry of Justice does not expect the new order to be a significant on-going cost to the Crown. There would be a one-off \$80,000 cost to Vote Courts to establish the new orders. This cost is included with the confiscations costs above. Current vehicle confiscation costs average \$750 per vehicle. The law provides for these costs to be recovered from the sale of these vehicles (although many vehicles' values are less than the confiscation costs and these costs must be absorbed by the courts).

While less may be recovered from vehicles intended for destruction, the number of orders is likely to be small. In 2007, only 10 offenders were convicted of a third illegal street racing offence within four years.

Impact on existing regulation

The following legislation will be amended through the Land Transport (Illegal Street Racing) Bill

- Land Transport Act 1998
- Land Transport (Road User) Rule 2004, the Land Transport (Offences and Penalties Regulations) 1999
- Land Transport Rule: Vehicle Equipment 2004
- Land Transport (Driver Licensing) Rule 1999.

The following legislation will be amended through the Vehicle Seizure and Confiscation Bill

- Sentencing Act 2002
- Summary Proceedings Act 1957.

Implementation and review

The introduction of these measures will be implemented progressively, some on enactment and some on given dates.

Media announcements will be made prior to any changes coming into force. There is no specific advertising programme suggested.

The Police will actively enforce these new provisions. All relevant agencies will monitor the effectiveness of the new measures.

Consultation

The following agencies were consulted on this paper: Ministry of Justice, New Zealand Transport Agency, Department of Internal Affairs, the Treasury, Ministry of Economic Development, Department of Corrections, Ministry of Youth Development, Local Government New Zealand, Ministry of Social Development.

The following agencies were informed of this paper: The Department of the Prime Minister and Cabinet, Te Puni Kōkiri and the Ministry of Pacific Island Affairs.