

# DRAFT FOR CONSULTATION

## **Tourism Levies Bill**

Member's Bill

### **Explanatory note**

#### **General policy statement**

Our National Parks, rivers, beaches, and wildlife are our taonga and are worth protecting.

This bill aims to help speed the restoration of our natural environment and offset the impacts large and growing numbers of visitors are having on tourism facilities around the country like on toilets, car parking, tracks, and sewage disposal.

The bill will collect two new additional levies from international visitors to New Zealand—a conservation levy and a tourism facilities levy—totalling \$20. When added to existing border charges, the \$44 to \$50 total levy to visit New Zealand will still be lower than Australia's \$58 to \$85 charge and the United Kingdom's \$127 long-haul passenger charge.

Unlike many other countries, entry to our National Parks and public buildings will continue to remain free.

The new conservation levy will go directly to help fund the Government's Predator Free 2050 Limited project, raising \$58 million in its first year and rising over time in line with tourist numbers. The new tourism facilities levy will go directly to help fund the Government's contestable Regional Mid-sized Tourism Facilities Grant Fund, raising \$19 million in its first year and rising over time with tourist numbers.

People who live in New Zealand will not have to pay the new levies along with children under 2 years old, commercial passenger airline and cruise ship crew, airline passengers in transit, mercantile crew and passengers, the military, diplomatic staff, government crisis workers, and anyone who bought their ticket before this bill becomes law.

Visitor numbers are expected to reach 4.5 million within 6 years. The new levies will enable tourist hot spots to cope with the strain and keep New Zealand's environment

beautiful. It's a small contribution paid by international visitors to help protect our environment for generations to come.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

## Part 1

### Conservation levy and tourism facilities levy

*Clause 3* states the purpose of the Bill.

*Clause 4* defines terms used in the Bill.

*Clause 5* states that the Bill binds the Crown.

*Clause 6* provides for travellers to New Zealand to pay a conservation levy. The purpose of the conservation levy is to provide funds for Predator Free 2050 Limited.

*Clause 7* provides for travellers to New Zealand to pay a tourism facilities levy. The purpose of the tourism facilities levy is to provide funds for the Regional Mid-sized Tourism Facilities Grant Fund.

*Clause 8* sets out which categories of traveller are exempt from the conservation levy and the tourism facilities levy.

## Part 2

### Administration of levies

*Clause 9* provides for the Governor-General to make a levy order providing for administration of the conservation levy and the tourism facilities levy.

*Clause 10* prescribes requirements for trust accounts where a levy order requires levy funds payable to be held in separate trust accounts.

*Clause 11* provides for audits in relation to levy orders.

*Clause 12* makes provision for auditors and allows auditors to require any specified person to produce for inspection and copying statements, accounts, and records that are required to be kept.

*Clause 13* prescribes offences in relation to levy orders under *clause 9*, including offences for failing to keep or maintain specified statements, accounts, or records, failing to make returns or declarations as required, or making a return or declaration knowing that any material detail is false or misleading.

*Clause 14* provides for certain offences in *clause 13* to be strict liability offences.

The *Schedule* sets out the rates of the conservation levy and the tourism facilities levy.

*James Shaw*

## **Tourism Levies Bill**

Member's Bill

### **Contents**

	Page
1 Title	2
2 Commencement	2
<b>Part 1</b>	
<b>Conservation levy and tourism facilities levy</b>	
3 Purpose	2
4 Interpretation	2
5 Act binds the Crown	3
6 Conservation levy	3
7 Tourism facilities levy	3
8 Travellers exempt from levies	3
<b>Part 2</b>	
<b>Administration of levies</b>	
9 Orders in Council providing for administration of levies	5
10 Trust accounts for levy money payable to chief executive	6
11 Compliance audits	7
12 Auditors	7
13 Offences in relation to levy orders	8
14 Section 13 strict liability offences	8
<b>Schedule</b>	
<b>Levy rates</b>	
	9

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Tourism Levies Act **2017**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1****Conservation levy and tourism facilities levy****3 Purpose**

The purpose of this Act is to authorise the levying of certain international visitors to New Zealand to provide funds for Predator Free 2050 Limited and the Regional Mid-sized Tourism Facilities Grant Fund.

**4 Interpretation**

In this Act, unless the context otherwise requires,—

**chief executive** means the person holding office under the State Sector Act 1988 as the chief executive of the New Zealand Customs Service

**conservation levy** means the conservation levy referred to in **section 6**

**Contracting Party** has the meaning given in section 7(1) of the Antarctica (Environmental Protection) Act 1994

**CPI** means the consumers price index-all groups published by Statistics New Zealand

**craft** includes any aircraft, ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water

**exclusive economic zone** has the meaning given in section 2(1) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

**levy order** means an order under **section 9**

**official expedition** in relation to a Contracting Party, has the meaning given in section 7(1) of the Antarctica (Environmental Protection) Act 1994.

**Predator Free 2050 Limited** means the registered company of that name owned by the Crown with the New Zealand Business Number 9429045852879

**Regional Mid-sized Tourism Facilities Grant Fund** means the fund administered by the Ministry of Business, Innovation and Employment that provides financial support to assist communities to fund visitor-related facilities such as toilets, carparks, waste disposal and minor water management projects

**registered bank** has the meaning given to it in section 2(1) of the Reserve Bank of New Zealand Act 1989

**resident** has the meaning given in section 4 of the Immigration Act 2009

**tourism facilities levy** means the tourism facilities levy referred to in **section 7**

**traveller** means any person who departs New Zealand for any place outside New Zealand but does not include a resident

**trust account** means the account referred to in **section 10(1)**.

## **5 Act binds the Crown**

This Act binds the Crown.

## **6 Conservation levy**

- (1) Every traveller who on or after 1 January 2018 departs New Zealand is liable to pay a conservation levy to the chief executive.
- (2) The purpose of the conservation levy is to provide funds for Predator Free 2050 Limited.
- (3) The rate of the conservation levy is specified in **clause 1(1)** of the Schedule.
- (4) The rate of the conservation levy that is payable under **subsection (1)** is exclusive of goods and services tax.
- (5) The chief executive is responsible for collecting the conservation levy.
- (6) The chief executive may recover the conservation levy in any court of competent jurisdiction as a debt due from any person responsible for paying or collecting it.

## **7 Tourism facilities levy**

- (1) Every traveller who on or after 1 January 2018 departs New Zealand is liable to pay a tourism facilities levy to the chief executive.
- (2) The purpose of the tourism facilities levy is to provide funds for the Regional Mid-sized Tourism Facilities Grant Fund.
- (3) The rate of the tourism facilities levy is specified in **clause 2(1)** of the Schedule.
- (4) The rate of the tourism facilities levy that is payable under **subsection (1)** is exclusive of goods and services tax.
- (5) The chief executive is responsible for collecting the tourism facilities levy.
- (6) The chief executive may recover the tourism facilities levy in any court of competent jurisdiction as a debt due from any person responsible for paying or collecting it.

## **8 Travellers exempt from levies**

The following travellers are exempt from the conservation levy and the tourism facilities levy:

- (a) a traveller under the age of 2 years:
- (b) a traveller who departs New Zealand on an international aircraft otherwise than as a passenger:
- (c) a traveller who departs New Zealand on a cruise ship otherwise than as a passenger:
- (d) a traveller who—
  - (i) arrives in New Zealand on an aircraft; and
  - (ii) is not required to report to a Customs officer at an arrival hall because the traveller is in transit to a place outside New Zealand; and
  - (iii) departs New Zealand on an aircraft for the place outside New Zealand without having been required to enter a departure hall.
- (e) a traveller who departs New Zealand on any of the following:
  - (i) a craft being operated by the New Zealand Defence Force or the defence forces of any Government other than that of New Zealand:
  - (ii) a craft being used wholly for diplomatic or ceremonial purposes of any Government:
  - (iii) a craft being used wholly for the purposes of a mission being carried out or organised by any Government that is a humanitarian mission or a mission in response to an emergency or a crisis:
  - (iv) a craft being used for the purposes of an official expedition of a Contracting Party:
  - (v) a non-passenger commercial craft:
- (f) a traveller who departs New Zealand as soon as is reasonably practicable after having arrived in New Zealand as a consequence of being rescued at sea:
- (g) a traveller who departs New Zealand as soon as is reasonably practicable after having arrived in New Zealand wholly for the purpose of seeking temporary relief from stress of weather:
- (h) a traveller who departs New Zealand on a craft on a journey—
  - (i) that is not intended to go beyond the exclusive economic zone; and
  - (ii) that is not intended to include a meeting with any craft or persons entering the exclusive economic zone from a point outside New Zealand:
- (i) a traveller who departs New Zealand before 1 January 2018 on an international aircraft as a passenger being carried on a ticket that was purchased, and fully paid for, before 1 January 2017:

- (j) a traveller who departs New Zealand before 1 January 2018 on a cruise ship as a passenger on an international cruise and whose place on the cruise was purchased, and fully paid for, before 1 January 2017.

## Part 2

### Administration of levies

#### 9 Orders in Council providing for administration of levies

- (1) The Governor-General may, by Order in Council, make a levy order—
  - (a) allowing persons collecting the conservation levy, or the tourism facilities levy, or both, to recover the costs of collecting the levy and, if so, prescribe the basis on which those costs are to be calculated or ascertained:
  - (b) requiring that returns be made to the chief executive or some other person or body to enable the amounts of conservation levy payable, or tourism facilities levy payable, or both, to be calculated, determined, or verified:
  - (c) providing, subject to such conditions as may be prescribed, for extensions of time for the payment of the conservation levy, or the tourism facilities levy, or both:
  - (d) providing for the payment of additional or increased conservation levy, or tourism facilities levy, or both, in the event of late payment or non-payment:
  - (e) providing for circumstances in which conservation levy paid, or tourism facilities levy paid, or both, may be refunded:
  - (f) requiring that levy funds payable be held on trust in separate accounts.
- (2) Every order must,—
  - (a) for the purpose of determining whether an order is being complied with, require any of the following persons to keep statements, accounts, or records of specified classes or descriptions:
    - (i) the chief executive:
    - (ii) persons responsible for collecting the conservation levy, or the tourism facilities levy, or both:
    - (iii) persons responsible for paying the conservation levy, or the tourism facilities levy, or both; and
  - (b) provide for those statements, accounts, or records to be retained for a specified period; and
  - (c) provide for the remuneration of auditors under **section 12(2)**.
- (3) A levy order made under this section—

- (a) is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012; and
- (b) must be presented to the House of Representatives under section 41 of that Act.

#### **10 Trust accounts for levy money payable to chief executive**

- (1) If a levy order provides that the conservation levy funds payable, or the tourism facilities levy funds payable, or both, are to be held on trust in separate accounts, each person responsible for collecting the levy must—
  - (a) keep a bank account at a registered bank; and
  - (b) ensure that the account is so named as to identify that it is a trust account kept by the person responsible for collecting the levy for the purposes of the order; and
  - (c) take all practicable steps to ensure that—
    - (i) the account is used only for holding amounts required to be deposited under this section; and
    - (ii) the balance in the account on any day is not less than the amount outstanding on that day to the chief executive.
- (2) A person responsible for collecting the conservation levy, or the tourism facilities levy, or both, must deposit in a trust account an amount equal to the levy calculated in accordance with the levy order on the day or days specified in, or calculated in accordance with, that order.
- (3) If the amount held in the trust account—
  - (a) is more than the amount of levy money that is outstanding to the chief executive, the amount outstanding is deemed to be held on trust for the chief executive:
  - (b) is the same as or less than the amount that is outstanding, all the money in the account is deemed to be held on trust for the chief executive.
- (4) Money deemed by **subsection (3)** to be held on trust is not available for the payment of, and is not liable to be attached or taken in execution at the instance of, any creditor of the person responsible for collecting the conservation levy, or the tourism facilities levy, or both, (other than the chief executive).
- (5) A person who ceases to be a person responsible for collecting the conservation levy, or the tourism facilities levy, or both, must continue to maintain the trust account until all the levy money payable to the chief executive, in respect of the period during which that person was responsible for collecting the levy, has been paid.
- (6) Nothing in **subsection (5)** limits or affects any obligation or liability under this Act of any person who has become responsible for collecting the conservation levy, or the tourism facilities levy, or both.



## 11 Compliance audits

- (1) While an order under **section 9** is in force, the Minister may, at the request of the chief executive, appoint 1 or more auditors to conduct an audit of the affairs of any person responsible for collecting the conservation levy, or the tourism facilities levy, or both.
- (2) The purpose of an audit under this section is to ascertain—
  - (a) the extent to which persons responsible for paying or collecting the conservation levy, or the tourism facilities levy, or both, are doing or have done so:
  - (b) the extent to which appropriate amounts of the conservation levy, or the tourism facilities levy, or both, are being or have been paid over to the chief executive:
  - (c) the extent to which statements, accounts, and records are being or have been kept or properly kept.

## 12 Auditors

- (1) A person is not qualified to be an auditor for the purpose of **section 11** if—
  - (a) the person is not a qualified auditor within the meaning of section 35 of the Financial Reporting Act 2013:
  - (b) the person is an officer or employee of—
    - (i) the chief executive:
    - (ii) any person responsible for collecting the levy concerned:
    - (iii) any person responsible for paying the levy concerned.
- (2) Every person appointed as an auditor is entitled to remuneration paid by the chief executive as provided for in the relevant levy order.
- (3) For the purposes of conducting an audit, an auditor may—
  - (a) require any specified person to produce, and the person must produce, for inspection within a reasonable period specified by the auditor any statements, accounts, and records—
    - (i) that are required to be kept under **section 9(2)**; and
    - (ii) that are in that person's possession or under that person's control:
  - (b) take copies of, or extracts from, those statements, accounts, and records.
- (4) The persons referred to in **subsection (3)(a)** are—
  - (a) the chief executive:
  - (b) any person responsible for collecting the conservation levy, or the tourism facilities levy, or both:
  - (c) any employee or officer of a person in paragraph (a) or (b).
- (5) Every direction under **subsection (3)(a)** must contain—

- (a) a reference to this section; and
  - (b) the full name of the auditor; and
  - (c) a statement of the powers conferred on the auditor by that subsection.
- (6) An auditor must not disclose to any person other than the Minister (or a person authorised in that behalf by the Minister) any information obtained by the auditor under **subsection (3)**, except in respect of—
- (a) a prosecution under this Act;
  - (b) an action for the recovery of any amount due under this Act.
- (7) To avoid doubt, the Official Information Act 1982 applies in respect of any information held by a Minister that was obtained pursuant to **subsection (6)**.

### **13 Offences in relation to levy orders**

- (1) A person commits an offence against this Act who fails to keep or maintain statements, accounts, or records that are required to be kept or maintained under an order made under **section 9**.
- (2) A person commits an offence against this Act who fails to make a return that the person is required to make by an order made under **section 9**.
- (3) A person commits an offence against this Act who makes a return that the person is required to make by an order made under **section 9** knowing that the return is false or misleading in a material particular.
- (4) A person commits an offence against this Act who fails to comply with a requirement imposed under **section 12(3)(a)**.
- (5) Every person who commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$5,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$15,000.
- (6) Every person who commits an offence against **subsection (2) or (4)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$1,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$3,000.
- (7) Every person who commits an offence against **subsection (3)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$10,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$30,000.

### **14 Section 13 strict liability offences**

- (1) This section applies to the offences in **section 13(1), (2), and (4)**.
- (2) The offences are strict liability offences and the prosecution is not required to prove that a defendant intended to commit the offence.

- (3) The defendant will have a defence if the defendant proves that—
  - (a) the action or event to which the prosecution relates was due to—
    - (i) the act or omission of another person; or
    - (ii) an accident; or
    - (iii) some other cause or circumstance outside the defendant’s control; and
  - (b) the defendant took all reasonable precautions, and exercised due diligence, to avoid the commission of the offence.
- (4) The defence in **subsection (3)** is available only if the defendant gives a written notice to the prosecutor at least 15 working days before the hearing date, or within such other time as the court allows, that—
  - (a) states the defendant’s intention to rely on the defence; and
  - (b) includes facts that support the defence.

## Schedule Levy rates

ss 6, 7

### 1 Rate of conservation levy

- (1) The rate of the conservation levy is \$15.
- (2) The chief executive must, by notice in the *Gazette*, adjust the rate set out in **subclause (1)** as at 1 April each year so that in each case the new rate is the rate at that date adjusted by any percentage movement upwards in the CPI between the CPI for the quarter ended with 31 December 1 year before the immediately preceding 31 December and the CPI for the quarter ended with the immediately preceding 31 December.
- (3) The chief executive must ensure that a notice made under **subclause (2)** is published in the *Gazette* as soon as practicable following the adjustment described in **subclause (2)**.
- (4) A notice made under **subclause (2)** is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

### 2 Rate of tourism facilities levy

- (1) The rate of the tourism facilities levy is \$5.
- (2) The chief executive must, by notice in the *Gazette*, adjust the rate set out in **subclause (1)** as at 1 April each year so that in each case the new rate is the rate at that date adjusted by any percentage movement upwards in the CPI between the CPI for the quarter ended with 31 December 1 year before the im-

diately preceding 31 December and the CPI for the quarter ended with the immediately preceding 31 December.

- (3) The chief executive must ensure that a notice made under **subclause (2)** is published in the *Gazette* as soon as practicable following the adjustment described in **subclause (2)**.
- (4) A notice made under **subclause (2)** is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.