

In Confidence

Office of the Minister of Finance

Chair, Cabinet Economic Development Committee

## **Prohibition on the importation of certain coin or banknotes**

### **Proposal**

- 1) This paper seeks Cabinet's agreement to continue the prohibition of the import of false or counterfeit coin or banknotes and any coin or banknotes that are intended for circulation in New Zealand and are not legal tender in New Zealand.
- 2) For the purposes of this paper, I have defined all the above categories as "counterfeit coin or banknotes".

### **Background**

- 3) New Zealand Customs Service administers the Customs and Excise Act 2018 (the "2018 Act").
- 4) When the 2018 Act came into force, goods that were specified in Schedule 1 of the Customs and Excise Act 1996 ("Schedule 1") as being prohibited from importation would continue to be prohibited for a period of 12 months from the specified date of commencement of the 2018 Act (clause 8, Schedule 1 of the 2018 Act).
- 5) A part of Schedule 1 specifies an absolute prohibition on the importation of certain coin or banknotes.  
*"False or counterfeit coin or banknotes; and any coin that is not of the established standard in weight or composition; and any coin or banknotes that are intended for circulation in New Zealand and are not legal tender in New Zealand."*
- 6) The prohibition will expire on 30 September 2019.
- 7) As the policy agency, the Reserve Bank of New Zealand ("Reserve Bank") seeks Cabinet's approval to continue the effect of the prohibition. However, the new prohibition would not include a reference to "any coin that is not of the established standard in weight or composition".
- 8) The Reserve Bank of New Zealand Act 1989 is currently under review by the government and consideration will be given to providing this prohibition under that Act or any successor legislation. In the meantime it is appropriate to maintain the prohibition by Order in Council made under the Customs and Excise Act 2018.

## Comment

### *Offence to be in possession of counterfeit coin or banknotes*

- 9) It is an offence to make or be in possession of any counterfeit coin. Sections 266(3) of the Crimes Act 1961 states:

*Every one is liable to imprisonment for a term not exceeding 10 years who -*

- a) makes or counterfeits any coin resembling any current coin with the intention that it be acted upon as genuine; or*
- b) without lawful authority or excuse, has in his or her possession or under his or her control any thing intended to be used to make or counterfeit any coin resembling any current coin, with intent to use it for such a purpose.*

- 10) It is also an offence under section 263 of the Crimes Act 1961 to be in possession of any forged banknotes:

*Every one is liable to imprisonment for a term not exceeding 7 years who, without lawful authority or excuse (the proof of the lawful authority or excuse lying on him or her), purchases or receives from any person, or has in his or her possession or under his or her control, any forged bank note, whether complete or not, knowing it to be forged.*

- 11) The above shows that it is already an offence to be in possession of counterfeit coin and forged banknotes. The continuation of the existing import prohibition order only serves to support policy that is already in place. It would be counter-productive to existing policy if people were then allowed to import false or counterfeit coin or banknotes intended for circulation in New Zealand.

### *Public interest argument*

- 12) For the prohibition to continue, the Minister of Customs has to instruct the Parliamentary Council Office to draft an Order in Council under the 2018 Act. The Minister of Customs will only do so if he considers that the proposed prohibition is necessary in the public interest.
- 13) There is strong public interest in ensuring counterfeit coin or banknotes are not circulated in our economy as it can pose a threat to public confidence in New Zealand's currency. It follows that the import of such currency should be prohibited.
- 14) The reasons for prohibiting the circulation and import of counterfeit currency include:
- a) Financial losses for people or businesses who find themselves holding counterfeit coin or banknotes.
  - b) A reduction in the value of legitimate coin or banknotes.

- c) In extreme cases, rise in prices (inflation) of goods and services. When there is an artificial increase in the money supply, the purchasing power of people increases which leads to the demand for goods and services.
- d) Reputational damage for the Reserve Bank if it is seen as having not done enough to prevent the circulation of counterfeit coin or banknotes; and
- e) Cost for the Reserve Bank if it is forced revise the design of its banknotes.

### **Consultation**

- 15) New Zealand Customs Service; Parliamentary Counsel Office; and the Department of the Prime Minister and Cabinet have been consulted on this matter.

### **Financial Implications**

- 16) There are no financial implications associated with this paper.

### **Legislative Implications**

- 17) This proposal will require making an Order in Council under section 96 of the Customs and Excise Act 2018 to prohibit the importation of counterfeit coin or banknotes.

### **Impact Analysis**

- 18) The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individuals or not for profit entities.

### **Human Rights**

- 19) There are no inconsistencies between the proposal in this paper and the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. There are no gender or disability perspective implications from the proposal in this paper.

### **Publicity**

- 20) There is no planned publicity for this matter.

### **Proactive Release**

- 21) The Reserve Bank will publish a copy of this paper on its website.

### **Recommendations**

- 22) I recommend that Cabinet:
  - a) **note** that the prohibition of the import of false or counterfeit coin or banknotes, and any coin or banknotes that are intended for circulation in New Zealand and are not legal tender in New Zealand, expires on 30 September 2019.

- b) **agree** to the continued prohibition of the import of false or counterfeit coin or banknotes and any coin or banknotes that are intended for circulation in New Zealand and are not legal tender in New Zealand.
- c) **invite** the Minister of Customs to issue drafting instructions to the Parliamentary Counsel Office to draft an Order in Council under the Customs and Excise Act 2018 to give effect to the prohibition agreed above.
- d) **authorise** the Ministers of Finance and Customs to make final decisions on detail and to make changes, consistent with the policy intent outlined in this paper, on any issues that arise during drafting of the Order in Council.

Authorised for lodgement

Hon Grant Robertson

Minister of Finance