

Temporary extension of driver licensing and vehicle certification documents- Proposed regulatory amendments and approach to re-compliance

Reason for this briefing	To seek your agreement to a proposed approach (and regulatory amendments) to bringing expired vehicle certification documents, driver licences and endorsements back into compliance.
Action required	<p>Agree to make relevant amendments the Land Transport Rule–COVID-19 Response (No 1) 2020 and, depending on your preferred approach, the Land Transport (Motor Vehicle Registration and Licensing) (COVID-19—Extension of Duration of Motor Vehicle Licences) Amendment Regulations 2020 via Order in Council to:</p> <ul style="list-style-type: none"> remove Waka Kotahi’s delegated authority to set dates <p>and <u>either</u>:</p> <ul style="list-style-type: none"> confirm 10 October 2020 as the date which all documents must be renewed (<i>Ministry preferred option</i>) <p><u>or</u>:</p> <ul style="list-style-type: none"> set an earlier cut-off date for eligibility for the extension of 31 July 2020 for vehicle certification documents require all eligible expired documents to be renewed by 31 October 2020.
Deadline	17 June 2020
Reason for deadline	To enable sufficient time for the Rule and associated Regulation amendments to be made through an Order in Council process before 31 July 2020 (if Option 2 is chosen).

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
Brent Johnston	Manager, Mobility and Safety	██████████	✓
Lucy Nie	Principal Adviser, Mobility and Safety	██████████	

Privacy

MINISTER’S COMMENTS:

Date:	12 June 2020	Briefing number:	OC200410
Attention:	Hon Phil Twyford	Security level:	In confidence

Minister of Transport’s office actions

- | | | |
|--|--|---|
| <input type="checkbox"/> <i>Noted</i> | <input type="checkbox"/> <i>Seen</i> | <input type="checkbox"/> <i>Approved</i> |
| <input type="checkbox"/> <i>Needs change</i> | <input type="checkbox"/> <i>Referred to</i> | |
| <input type="checkbox"/> <i>Withdrawn</i> | <input type="checkbox"/> <i>Not seen by Minister</i> | <input type="checkbox"/> <i>Overtaken by events</i> |

Purpose of report

1. On 14 May 2020, in response to Regulations Review Committee concerns on the Land Transport Rule–COVID-19 Response (No 1), you agreed to make an amendment to the Land Transport Rule–COVID-19 Response (No 1) 2020 (the Rule) to:
 - 1.1. provide certainty around the dates by which expired vehicle certification and driver licensing documents must be renewed
 - 1.2. remove Waka Kotahi NZ Transport Agency's (Waka Kotahi's) delegated authority to set dates [OC200365 refers].
2. This briefing provides our advice on the proposed substance of the amendment, and seeks your agreement to an Order in Council process for making this change.

Executive Summary

3. On 7 April 2020, as a result of COVID-19 restrictions, the COVID-19 Ministerial Group (CVD) with Power to Act agreed to legislative changes which temporarily extended some expired vehicle certification and driver licensing documents for a period of up to six months. Within that six month period, Waka Kotahi could set earlier statutory dates for renewing expired documents.
4. The Regulations Review Committee subsequently raised concerns about the lack of certainty created by the Rule. To address these concerns, you agreed to amend the Rule to provide certainty around dates for renewal, and to remove Waka Kotahi's role in setting dates.
5. We have worked with Waka Kotahi (which has engaged with the vehicle inspection industry) around whether earlier statutory dates for vehicle certifications need to be set. The data indicates that most people are getting their vehicles inspected on time, and demand for inspections has remained high since Alert Level 3 (AL3) and continues to grow. This has assuaged industry concerns that the 'bow wave of demand' they feared for October 2020 (because of the temporary extension) is unlikely to eventuate.
6. For driver licences and endorsements, only three weeks of data is available due to driver licensing agents only resuming their services from Alert Level 2 (AL2). This makes it difficult to draw any quantitative conclusions or recommendations from the available data. However, it indicatively shows that driver licence renewals during May 2020 is close to typical application volumes in May 2018 and May 2019, suggesting voluntary renewal uptake despite the extension. In addition, driver licensing agents have advised that through their queue management data, driver licence application demand is high in general. Waka Kotahi will continue to monitor the situation and advise you if demand changes.
7. We therefore recommend that you remove Waka Kotahi's delegated authority to set dates, and either:

Option 1 (Ministry preferred option)

- 7.1. Confirm that 10 October 2020, the date in the existing Rule, as the date by which all eligible documents must be renewed. This means that all expired documents (i.e. vehicle certification documents, driver licences and endorsements) eligible for the temporary extension would continue to be valid until 10 October 2020, at which point they must be renewed.

Option 2

- 7.2. For vehicle certification documents – set an eligibility cut-off date for the extension (31 July 2020) and a new date for renewal (31 October 2020). This means that any documents expiring after 31 July 2020 would not be eligible for the temporary extension in validity and would need to be renewed as normal. Any vehicle certification documents that expired prior to the cut-off date that have not yet been renewed would have until 31 October 2020 to be renewed.
- 7.3. For driver licences and endorsements – set a new date for renewal (31 October 2020). All driver licences and endorsements would need to be renewed by 31 October 2020 at the latest.
8. Waka Kotahi modelling suggests that the demand curve differences between the two options are marginal. The modelling is based on behaviour of vehicle owners and operators to date and is sensitive to changes in behaviour (which could be informed by a communications approach). There will however be owners and operators who may put off certification to the last possible date, who will be difficult to capture under any option.
9. The advantage of Option 1 is that it is legislatively simpler and easier to communicate than Option 2. It means public communications on this issue can remain consistent since the Rule was made in April 2020. It also means that benefits conferred to the public continue to be in place – everyone who was originally eligible for the temporary extension continues to remain eligible.
10. Option 2 may have some small safety benefits over Option 1 by ensuring some documents are renewed earlier, but the size and scale of potential safety impacts is unknown. This option has more industry support (due to the greater certainty of workflow it provides). NZ Police and Waka Kotahi also support this option.
11. On balance, taking into account the high volume of public communications issued by Government and Cabinet's expected workload prior to the general election, the Ministry recommends Option 1.
12. Once you have advised us of your preferred approach, we will draft the necessary amendments to the Rule and associated Regulations. We recommend that you make these changes via Order in Council. The agreed legislation change will continue to be supported by a proactive communications approach (led by Waka Kotahi) encouraging people with expired documents to get these renewed as soon as possible.

In April, you introduced legislation temporarily extending some expired transport documents

13. On 7 April 2020, as a result of COVID-19 restrictions, CVD agreed to a temporary extension of some expired transport documents through:
 - 13.1. the Rule
 - 13.2. the Land Transport (Motor Vehicle Registration and Licensing) (COVID-19—Extension of Duration of Motor Vehicle Licences) Amendment Regulations 2020 (the Amendment Regulations).
14. Under the Rule, the following documents were deemed valid from 10 April 2020 for a period of up to six months:
 - 14.1. WoF and CoFs, and driver licences that expired on or after 1 January 2020

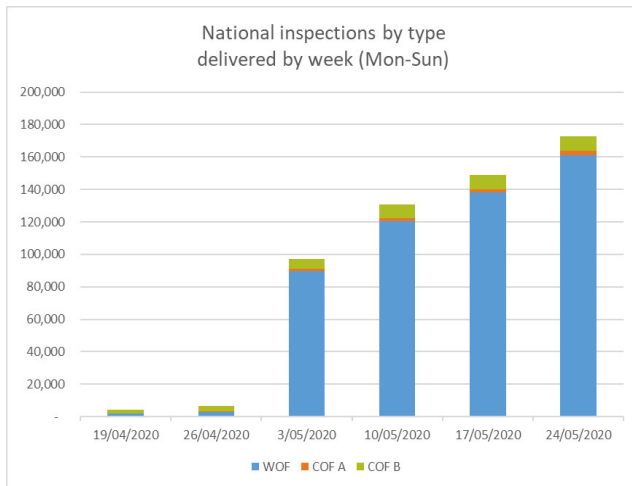
- 14.2. other vehicle certifications which expired on or after 1 January 2020 (including alternative fuel inspection certificates, permits authorising use of vehicles with conditions, and heavy vehicle specialist certifications)
- 14.3. endorsements that expired on or after 1 March 2020 (including for drivers of small and large passenger services, and dangerous goods endorsements held by some truck drivers).
15. Under the Amendment Regulations, the requirement to display valid vehicle licences (commonly known as “rego”) was also temporarily suspended, if the vehicle licence expired on or after 1 January 2020.

You subsequently agreed to make changes to the legislation to provide certainty around dates, removing Waka Kotahi’s delegated authority to set earlier statutory dates

16. At the time the legislation was introduced, there was considerable uncertainty around how long New Zealand would remain in higher Alert Levels, and what restrictions would be in place. This is why the legislation provided a blanket temporary extension of up to six months.
17. Within that six month period, Waka Kotahi could set earlier statutory dates for renewing expired documents, taking into consideration the status of any regional or national COVID-19 restrictions. This was intended to provide for an orderly return to compliance once New Zealand moved into lower Alert Levels.
18. In May 2020, the Regulations Review Committee raised concerns that the flexibility in the legislation creates uncertainty, and is an unauthorised sub-delegation of power to Waka Kotahi. To address these concerns, you agreed to amend the Rule to provide certainty around dates for renewal, and to remove Waka Kotahi’s role in setting dates [OC200365 refers].
19. We indicated that we would provide you with further advice on the substance of the legislative amendments following more detailed analysis of options and targeted engagement with the industry. Our advice is set out below.

Of the vehicles due for an inspection between 1 January and 24 May 2020, 69 percent had been inspected by 24 May, and further capacity has opened up at lower Alert Levels

20. Under Alert Level 4 (AL4), inspection sites were open on a restricted basis to repair or maintain a vehicle and issue a new WoF or CoF for essential services. The inability for inspections to be operating at full capacity during this time created a backlog of documents that have expired.
21. However, Waka Kotahi’s data indicates that of the vehicles due for an inspection between 1 January and 24 May 2020, 69 percent had been inspected by 24 May. This indicates that many vehicle operators and owners are continuing to complete certifications on time – even with the temporary extension in place. Figures for May 2020 have shown that inspections delivered continue to gain momentum. The rate of delivery in the week ending 24 May 2020 exceeds the weekly average in November 2019 (the busiest month in 2019) by 16 percent.



22. Based on historical data, variations in monthly inspection rates can differ by over 120,000 inspections month-to-month. This illustrates that there is ample capacity in the system to deal with spikes in demand, and that it will take a relatively short time to resolve any spikes. Critically, the current rate of high demand is reducing the ‘bow wave of demand’ that industry feared, if large numbers of vehicle owners deferred their vehicle inspections until October 2020. The data above has also been shared with the industry, which has assuaged many of their concerns.

The rate of Certificate of Fitness renewals is lower than the rate of Warrant of Fitness renewals

23. Waka Kotahi’s data shows that the renewal rate for CoFs is not occurring as quickly as the rate of renewals for WoFs, particularly for CoF-A¹ vehicles which are primarily issued to rental vehicles and taxis. This is not surprising given the impact COVID-19 has had on the tourism sector and on people’s reluctance to use passenger service vehicles to travel.
24. Analysis in 2013, prepared as part of reforms to the WoF/CoF system, showed that the proportion of crashes in which a warrantable vehicle fault was a contributing factor was small (and likely remains small) and is difficult to estimate in practice². However, uncertified CoF-B³ vehicles may pose a greater safety risk than uncertified or unwarranted CoF-A or WoF vehicles. As the renewal rate for CoF-B vehicles is expected to occur more quickly than the renewal rate for CoF-A vehicles, this alleviates concerns about high numbers of CoF-B vehicles on the road that are uncertified and pose a potential safety risk.

The ability to renew driver licences and endorsements has resumed, and the rate of voluntary renewals are high despite the temporary extension

25. At the beginning of AL4, data indicated that around 40,000 driver licences and 12,500 endorsements were expected to expire between 24 March 2020 and 17 May 2020.
26. Under AL4 and AL3, no face-to-face driver licensing or driver testing transactions were able to be provided by Waka Kotahi’s two service delivery providers (‘driver licensing agents’) – AA and VTNZ. Due to the requirement for photo and signature capture, eyesight checks and

¹ CoF-A refers to all passenger service vehicles (i.e. taxis, rideshares, shuttles and rental vehicles).

² The presence or absence of a current driver licence, WoF or CoF are not, in themselves, an indication that a vehicle is safe or unsafe. They are an indication of the currency of the most recent checks through the formal licensing and certification system.

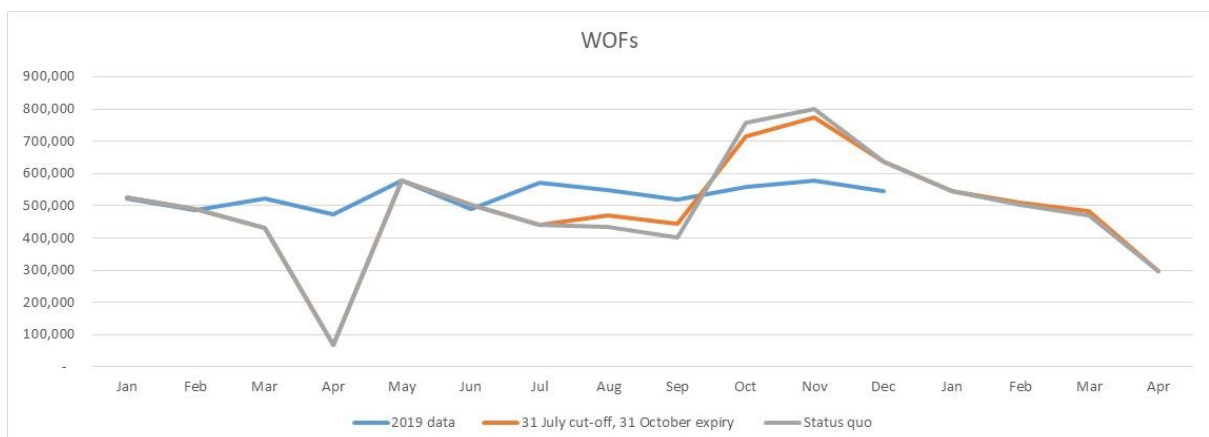
³ CoF-B refers to most heavy vehicles with a gross vehicle mass weight of 3,500kg or more.

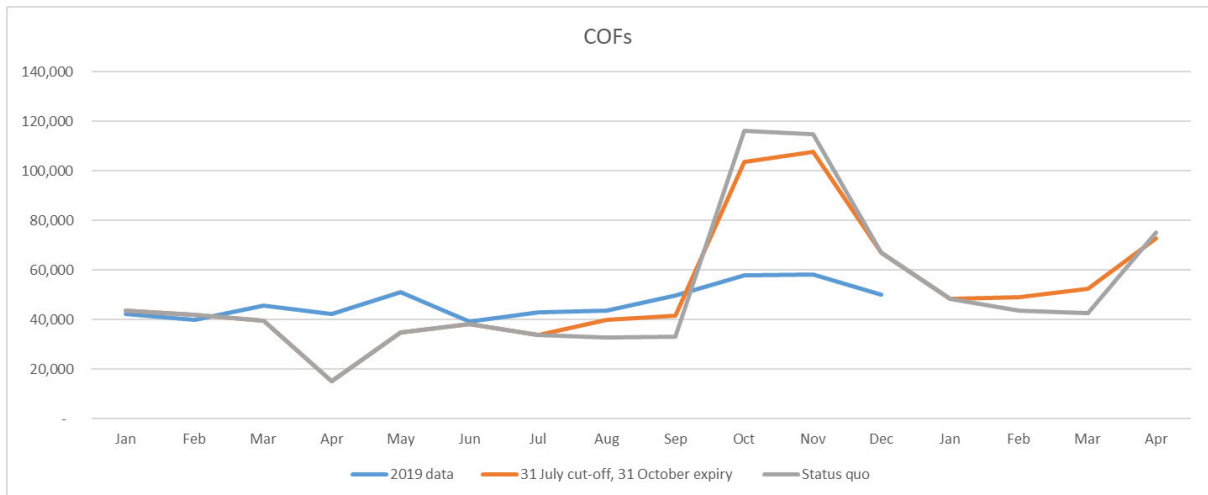
medical certificates, as well as tests, in-person is the only channel available for customers to complete their applications.

27. Driver licensing agents have resumed services at AL2, and the available data (i.e. from the past three weeks) indicates that the rate of voluntary renewals are high even with the temporary extension in place. Driver licence renewals during May 2020 is close to typical application volumes in May 2018 and May 2019, and driver licensing agents have advised that driver licence application demand is high in general (based on their queue management data).
28. Waka Kotahi has indicated that it is difficult to model the demand curve impacts of setting earlier cut-off dates for driver licence renewals (as only three weeks of data is currently available). Setting a cut-off in the absence of this data could risk overwhelming the agent centres if capacity is not available. Waka Kotahi will continue to monitor the situation and will advise you if demand for renewing driver licences and endorsements is likely to exceed capacity.

There are two potential options for bringing outstanding expired documents back into compliance

29. One option is to confirm that 10 October 2020 (the existing end date) as the date by which all documents must be renewed. This means that all documents (i.e. vehicle certification documents, driver licences and endorsements) that were eligible for the temporary extension would continue to remain valid until 10 October 2020, at which point they must be renewed.
30. Alternatively, you could:
 - 30.1. for vehicle certification documents – set an eligibility cut-off date for the extension (31 July 2020) and a new date for renewal (31 October 2020). This means that any documents expiring after the cut-off date (31 July 2020) would not be valid and would not be eligible for the temporary extension. These would need to be renewed as normal. Owners of vehicles with vehicle certification documents that expired prior to the 31 July 2020 cut-off date that have not yet been renewed, would have until 31 October 2020 to be renewed.
 - 30.2. for driver licences and endorsements – set a new date for renewal (31 October 2020). All driver licences and endorsements would need to be renewed by 31 October 2020 at the latest.
31. As set out in the graphs below, Waka Kotahi modelling suggests that the demand curve differences between Option 1 (status quo) and Option 2 (31 July cut-off, 31 October expiry) are marginal.





32. The advantage of Option 1 is that it is legislatively simpler, easier to communicate and means public communications on this issue can remain consistent since the Rule was made in April 2020. It also means that benefits conferred to the public continue to be in place, and everyone who was originally eligible for the temporary extension continues to remain eligible. This may be important for those suffering economic hardship as a result of the lockdown. In addition, as this option does not propose to introduce new cut-off eligibility dates, the timeframes for making the necessary legislative changes are less pressing. It also does not require Parliamentary Counsel Office involvement or resource, because amendments will only need to be made to the Rule (and not the Regulations).
33. Option 2 may have some small safety benefits, although the size and scale of potential safety impacts is unknown. As noted above, earlier analysis has shown that the proportion of crashes in which a warrantable vehicle fault was a contributing factor has historically been small (and will likely remain small). Nevertheless, setting an earlier eligibility cut-off date would mean fewer vehicles on the road that have not been inspected and are uncertified. This option has more industry support (due to the greater certainty of workflow it provides). NZ Police and Waka Kotahi also support this option.
34. On balance, taking into account the high volume of public communications issued by Government and Cabinet's expected workload prior to the general election, the Ministry recommends Option 1.
35. Other options were also considered, such as setting a single legislative eligibility cut-off date for the extension with staggered dates for renewal. However, we do not recommend a staggered approach because it adds greater complexity, is harder to communicate, and does not smooth the demand curves any more than Options 1 or 2. Industry has also moved away from this option. Similarly, Waka Kotahi also considered bringing heavy vehicle CoFs into compliance first. However, this option is not recommended because heavy vehicle operators (like others) have an existing responsibility to ensure the vehicles they are operating are safe. Industry also believe that a return to compliance can be managed through a communications approach. Two different cut-off and expiry dates for WoFs and CoFs could also be difficult to communicate.

Process and timeframes

36. Regardless of the option chosen, Rule and Regulation amendments will need to be made through an Order in Council or standard rule making process. We recommend an Order in Council process as targeted engagement with key stakeholders has already been undertaken, and an Order in Council process shortens the timeframes by approximately one month.

37. The key milestones for Option 1 is set out below. Under Option 1, regulatory changes can be made at any time before Parliament adjourns because it simply confirms the existing dates set in the legislation, does not propose to introduce earlier cut-off eligibility dates, and is consistent with previous public communications on the Rule.

Option 1 – Key milestones	Date
Ministerial decisions on preferred option	17 June 2020
Draft Cabinet paper and draft Rule for departmental and cross-party consultation	1 July 2020
Final papers lodged with Cabinet Office	23 July 2020
Cabinet Legislation Committee (LEG)	28 July 2020
Cabinet	3 August 2020
Rule signed	3 August 2020
Rule in force	6 August 2020

38. The timeframes for Option 2 are considerably tighter. This is because Option 2 proposes to introduce a new eligibility cut-off date of 31 July 2020 for vehicle certifications, so the Rule must be signed before this date. The key milestones for Option 2 are set out below. Note that it does not allow much time for a Cabinet paper and the amendment Rule and Regulations to be prepared, or for cross-party and departmental consultation to be undertaken. This is largely due to the three week gap between Cabinet Legislation Committee (LEG) on 30 June 2020 and the next LEG on 28 July 2020. To give the public as much time as possible to be informed of the change, decisions need to be taken through LEG and Cabinet as soon as possible if Option 2 is chosen.

Option 2 – Key milestones	Date
Ministerial decisions on preferred option	17 June 2020
Draft Cabinet paper and draft Rule and Amendment Regulations for departmental and cross-party consultation	19 June 2020
Final papers lodged with Cabinet Office	25 June 2020
Cabinet Legislation Committee (LEG)	30 June 2020
Cabinet	6 July 2020
Rule and Amendment Regulations signed	6 July 2020
Rule and Regulations in force (<i>if 28 day rule is waived</i>)	9 July 2020 (<i>allows three weeks for the public to be informed of the change</i>)

39. Once signed, the Rule and Amendment Regulations will be communicated directly to the public, NZ Police and Local Government New Zealand. Waka Kotahi will publish the Rule on its website and provide guidance on the application of the Rule. The Rule and Amendment Regulations will be notified in the *New Zealand Gazette*.

Next steps

40. Once you have advised us of your preferred approach, we will draft the necessary amendments to the Rule and associated Regulations. We recommend that you make these changes via Order in Council. This will continue to be supported by a proactive communications approach encouraging people with expired documents to get these renewed as soon as possible. This will be led by Waka Kotahi, in partnership with the vehicle inspection industry and driver licensing agents.

Recommendations

41. The recommendations are that you:

- (a) **agree** to Option 1 (*Ministry preferred option*) – to make amendments the Land Transport Rule – COVID-19 Response (No 1) (the Rule) via Order in Council to: Yes/No
- i. remove Waka Kotahi’s delegated authority to set dates
 - ii. confirm 10 October 2020 as the date by which all documents must be renewed

OR

- (b) **agree** to Option 2 – to make amendments the Rule and the Land Transport (Motor Vehicle Registration and Licensing) (COVID-19—Extension of Duration of Motor Vehicle Licences) Amendment Regulations 2020 (Amendment Regulations) via Order in Council to: Yes/No
- i. remove Waka Kotahi’s delegated authority to set dates
 - ii. for vehicle certification documents – set an eligibility cut-off date for the extension (31 July 2020) and a new date for renewal (31 October 2020)
 - iii. for driver licences and endorsements – set a new date for renewal (31 October 2020)
- (c) **note** that upon agreement to one of the options above, we will prepare a draft Cabinet paper and draft Rule and Amendment Regulations for cross-party and departmental consultation.

Brent Johnston
Manager, Mobility and Safety

MINISTER’S SIGNATURE:

DATE: