

Road User Charges Bill 2010: Regulations

The removal of time licences and vehicles to be exempt from paying road user charges: Proposals for Consultation

Purpose of this document

1. This document outlines proposals relating to:
 - possible increases in motor vehicle licensing fees as a result of the removal of time licences from the road user charges (RUC) system
 - vehicles that should be exempt from paying RUC based on the new exemption provisions in the Road User Charges Bill 2010 (the Bill)

Feedback on the proposals

2. Consultation on the two proposals will close on 16 December 2011.
3. The Ministry of Transport will use the feedback received to develop a set of final proposals for the Minister of Transport to consider. The Minister of Transport will also be informed about the nature and tenor of the feedback received.
4. Queries and feedback should be directed to:

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Summary of Proposals

1. Virtually all vehicles previously required to purchase time licences will become exempt from paying RUC.
2. Revenue previously collected through time licences will now be collected through increases to the annual licence fee paid by vehicles previously subject to time licences.
3. Heavy RUC vehicles and light RUC vehicles¹ not suitable for regular road use, and where the compliance costs of collecting and providing RUC refunds are disproportionate to the likely amount of revenue received, will be exempt from paying RUC under Order in Council.
4. There are two options for light RUC vehicles suitable for regular road use but driven almost exclusively off public roads. The first option is that they receive refunds for their off road travel. The second option is that regulations be made specifying a class of light RUC vehicle to be eligible for an exemption. The owner of a vehicle falling within the class could apply to the RUC collector for an exemption which would be subject to, criteria and conditions specified in regulations. Because of the potential for abuse this document proposes a restrictive approach to this option.

Summary of Document

5. This document is split into three main sections:
 - section one provides some background information on the development of the RUC exemption policy and contains internet links to the Bill and relevant policy documents
 - section two outlines the proposal for vehicles currently subject to time licences, including proposed changes to the annual licence fee for vehicles that currently purchase time licences
 - section three outlines proposals for the design of regulations regarding vehicles to be exempt from paying RUC and is split into two subsections

¹A light RUC vehicle means a motor vehicle with a gross vehicle mass of 3.5 tonnes or less and with motive power that is not wholly derived from petrol and includes a light electric RUC vehicle.

SECTION ONE: BACKGROUND

6. In July 2010, the government agreed to a suite of proposals for new legislation to replace the *Road User Charges Act 1977* and *Road User Charges Regulations 1978*. The Bill was introduced to Parliament on 25 November 2010, has been considered and modified by the Transport and Industrial Relations Select Committee, and is part-way through the “committee of the whole House” stage of the parliamentary process.
7. The Bill can be found on the internet at the following link:
<http://www.legislation.govt.nz/bill/government/2010/0261/latest/versions.aspx>
8. Two of the proposals government agreed to were the removal of time licences from the RUC system and a review of the scope and definitions of vehicles exempt from RUC. The relevant Cabinet paper and regulatory impact statement can be found by going to the Ministry of Transport website. The following links take you directly to the:
 - Cabinet paper
<http://www.transport.govt.nz/ourwork/Land/Documents/RUC-Cab-paper-Time-licences-FINAL-23-06-2010.pdf>
 - Regulatory impact statement
<http://www.transport.govt.nz/about/functions/Documents/RUC-RIS-Time-licences-FINAL-23-06-2010.pdf>
9. During the “committee of the whole House” stage of the Bill, a Supplementary Order Paper was tabled to make changes to the Bill. The most important change was the inclusion of a potential new mechanism to enable exemptions to be granted to some light RUC vehicles. The new mechanism is targeted at light RUC vehicles which, while suitable for regular road use, are almost exclusively driven off public roads.

SECTION TWO: REMOVAL OF TIME LICENCES AND RECOVERY OF REVENUE FOREGONE AS A RESULT OF THE REMOVAL

Problem

10. Under the current RUC system there are a small number of vehicles liable for RUC but, are inappropriate for RUC distance licences because:
 - some vehicles cannot be easily fitted with distance recorders
 - their travel on the road is relatively limited
11. These vehicles are required to purchase time licences based on their estimated average road use for vehicles of their type over a year (ie less than 1000 km, 1001 km to 2500 km, and 2501 km to 5000 km²). In 2008/09 there were approximately 7,524 vehicles that used time licences (just over 1 percent of the total diesel vehicle fleet).
12. Time licences are costly to administer, serve only a small fraction of eligible diesel vehicles, and unnecessarily add to the complexity of the RUC system. As a result, government decided to remove time licences from the RUC system.
13. When the government decided to remove time licences we advised that:
 - it made most sense to exempt most if not all vehicles subject to time licences from having to pay RUC
 - the revenue foregone from time licences would be recouped through increases to the annual licence fees paid by vehicles previously subject to time licences

Future treatment of vehicles currently subject to time licences

14. Time licences are to be removed from the RUC system. Under the Bill, vehicles that currently hold time licences will either have a RUC distance licence or will be exempt from paying RUC, if they operate on public roads. The vast majority of vehicles currently subject to time licences will be exempt under the new system.

²These estimates are of average distances considered likely to be covered by vehicles in the various licence types over the course of a year. There is no hard data to confirm their accuracy.

15. Under clause 37B³ of the Bill, exemptions are to be prescribed by Order in Council.⁴ The criteria for exempting RUC vehicles that are subject to time licences are:
- the exemption is necessary because the purpose or design of the RUC vehicle or class of vehicles is unsuitable for regular road use;
 - and**
 - requiring RUC to be paid in respect of the vehicle, or class of vehicles, would impose compliance costs that are disproportionate to the amount of likely road use by the vehicle or class of vehicles
16. In applying the above criteria we consider that most vehicles currently subject to time licences meet the criteria and therefore should be exempt under the new Bill.
17. The one exception is unregistered vehicles operating under trade plates. We consider that these vehicles should carry distance licences and are currently looking at the implications of this approach.

Proposal for recovering revenue collected through time licences

18. The proposal to exempt the vast majority of vehicles currently subject to time licences means that government needs to recover the revenue foregone.
19. In 2008/09, approximately \$2 million in revenue was collected from the issuing of time licences. Government has decided that this revenue be recovered through the introduction of an increased annual licence fee for selected vehicle types.
20. The decision to increase annual licence fees for only selected vehicle types primarily reflects two factors:
- estimated road use
 - better alignment of annual licence fees across vehicle types
21. We propose that motor vehicles assumed to be travelling less than 1000 km a year, excluding tractors, will not have a change to their annual licence fee, as the current annual licence fee is considered an appropriate contribution to road costs.
22. We propose that motor vehicles assumed to be travelling between 1001 km and 5000 km a year, excluding unregistered vehicles operated under

³Previously was clause 80C, but changed to 37B through the Supplementary Order Paper to the Bill

⁴ Orders in Council are very similar to regulations. Cabinet approves Orders in Council and regulations and recommends to the Governor General that he make them.

trade plates, will have their annual licence fee increased from \$43.50 to \$560.⁵

23. The proposed annual licence fee for tractors is to be increased from \$24.50 to \$43.50, as there is no clear rationale for having lower annual licence fees for tractors. The increase in the annual licence fee for tractors would apply to all registered tractors, and not just those that are currently required to purchase a time licence.
24. Unregistered motor vehicles operating under trade plates will see no increase to their annual licence fee. This is because the proposal outlined in paragraph 17 is that such vehicles be required to carry RUC distance licences. The revenue foregone through the sale of time licences would be recovered through the sale of RUC distance licences.
25. The vehicles likely to be impacted most by this proposal are those vehicle types assumed to travel in excess of 1000 kilometres a year. Their annual licence fee is proposed to increase to \$560. Because the average time licence fee paid for these vehicles varies substantially from a low of \$246 per vehicle to a high of \$1558 per vehicle,⁶ some will pay more and some will pay less.
26. The imposition of a single rate of charge, in the form of an annual licence fee, on vehicles that now pay differing amounts for time licences may appear to reduce the accuracy and efficiency of the charging system. However, the existing time licence scale for charges creates an illusion of accurate charging for which there is little concrete evidence to justify particular charges. Partly because of the lack of such evidence, no time licence charges have been adjusted since 2002. Time licence charges for vehicle weights over 4 tonnes have been at current levels since 1996.
27. Table One shows the financial implications of the proposed changes to annual licence fees, compared to the average time licence fee paid per vehicle in 2010/11.

⁵As a comparison, the average 11-15 tonne two axle truck pays about \$200 per 1,000 kilometres for a RUC distance licence.

⁶Based on 2010/11 time licence information.

Table One: Comparing the financial impact of changes to annual licence fees against average time licence fees paid per vehicle in 2010/11

Vehicle Category	Average time licence fee paid in 2010/11	Proposed annual licence fee	Difference (savings for vehicle owner in bold)	No. of vehicles with time licence
Trailer Scraper (70)	\$73.29	\$43.50	\$29.79	1
Plant for servicing oil filled cables (71)	\$91.50	\$43.50	\$48.00	9
Road Rollers (72)	\$84.87	\$43.50	\$41.37	877
Post debarkers (74)	\$163.50	\$43.50	\$120.00	2
Saw Bench Apparatus (75)	\$79.18	\$43.50	\$35.68	9
Forestry Chippers (76)	\$183.45	\$43.50	\$139.95	29
Sawing or shearing apparatus for tree cutting (77)	\$194.96	\$43.50	\$151.46	34
Stone and gravel crushing and screening plant (78)	\$204.56	\$43.50	\$161.06	156
Asphalt mixing and paving plant (79)	\$219.14	\$43.50	\$175.64	122
Bulldozers and angle dozers (80)	\$126.01	\$43.50	\$82.51	32
Tractor mounted mobile cranes and log skidders (81)	\$130.29	\$43.50	\$86.79	24
Tractors (73)	\$86.97	\$43.50	\$43.47	3578
Front end loaders (82)	\$257.60	\$560.00	-\$302.40	1071
Mobile pile drivers (83)	\$244.56	\$560.00	-\$315.44	16
Motor Scrapers (84)	\$817.10	\$560.00	\$257.10	21
Self-propelled water carts that are always unladen on the road (85)	\$245.94	\$560.00	-\$314.06	16
Self-propelled trench diggers and excavator (86)	\$264.14	\$560.00	-\$295.86	702
Self-propelled vehicles that are always unladen on the road and that are designed exclusively for carrying earth or other bulk materials (87)	\$487.27	\$560.00	-\$72.73	117
Mobile cranes (excluding mobile vehicle recovery units, truck mounted cranes, and cranes to which a distance recording device is or could readily be fitted) (88)	\$1,558.83	\$560.00	\$998.83	37
Motor Graders (89)	\$962.68	\$560.00	\$402.68	571
Cable Jinkers (91)	\$268.25	\$560.00	-\$291.75	19

Questions for consideration

28. Are there any vehicles currently subject to time licences that should not be exempt from paying RUC? If not, why not?
29. Do you consider that unregistered vehicles operating under trade plates should have RUC distance licences?
30. Do you consider an increase to the annual licence fee to be the best solution for recovering revenue currently collected through time licences? If not, what alternative approach would you recommend?
31. Do you consider the proposed annual licence fee levels to be appropriate? If not, what do you consider to be a fairer distribution of costs across annual licence fees?
32. What are the likely implications of increasing the annual licence fee for tractors?
33. What are the likely implications of increasing the annual licence fee for time licence vehicle types 82 to 91?

SECTION THREE: MODERNISATION OF THE REGULATIONS RELATING TO VEHICLES TO BE EXEMPT FROM PAYING RUC

Problem

34. The current scope of exemptions from RUC is inconsistent and the definitions of exempt vehicles in legislation are not clear and inaccessible. This makes it confusing and difficult for both the owner of a vehicle and the administrators of the RUC system to determine whether a particular vehicle is required to purchase a RUC licence or is exempt. It also makes it possible to 'game the system' in that some vehicles are being exempted from paying RUC when they should be paying RUC.

Future treatment of exemptions

35. As already noted in paragraph 15, under clause 37B of the Bill an Order in Council will exempt a vehicle from having to pay RUC if the Minister is satisfied the vehicle meets the two criteria for an exemption:

- the exemption is necessary because the purpose or design of the RUC vehicle or class of vehicles is unsuitable for regular road use;
- and**
- requiring RUC to be paid in respect of the vehicle or class of vehicles would impose compliance costs that are disproportionate to the amount of likely road use by the vehicle or class of vehicles⁷

36. Since the Bill was reported back to Parliament by the Transport and Industrial Relations Select Committee an additional option in the form of an exemption mechanism has been added which potentially could cover light RUC vehicles used almost exclusively off public roads.

37. The potential new mechanism, clauses 37D to 37F, was included in response to concerns that the compliance costs imposed on owners of such vehicles (like maintaining records regarding travel on road versus off road for refund purposes) may be disproportionate to the amount of likely road use. While such vehicles meet the second criterion identified above, they do not meet the first criteria in that most are suitable for regular road use.

38. The following discussion is split into two parts:

- subsection one identifies the vehicles that would be exempt under the first two criteria under clause 37B of the Bill
- subsection two discusses whether the potential new mechanism is useful to deal with the issue of light vehicles that are used almost

⁷ Note, under clause 37C of the Bill the RUC Collector can exempt individual vehicles on a case-by-case basis. It is not expected that this provision will be used extensively, as it is for the occasional vehicle that does readily fit within existing vehicle types.

exclusively off road and if so what would be the appropriate application of the new mechanism for light RUC vehicles

Subsection One – Proposed list of vehicles to be exempt under clause 37B of the Bill

39. The proposed list of exemptions is contained in Table Two in this subsection. The table does not include motor vehicles whose motive power is always wholly derived from petrol and whose gross laden weight is 3.5 tonnes or less. These vehicles are exempt from RUC because they are not subject to the Bill (ie do not fall within the definition of a light RUC vehicle). In addition, light electric vehicles weighing up to 3.5 tonnes are not included in the table as they are currently exempt from RUC until June 2013. The government will reassess the decision to exempt light electric vehicles closer to that time.
40. The vehicles identified in Table Two would receive an automatic exemption from paying RUC, rather than having to apply for an exemption.
41. Where possible and appropriate, the same terminology has been used as is used in related legislation and regulations like the *Land Transport (Motor Vehicle Registrations and Licensing) Regulations 2011*.
42. The major difference to the current list of exemptions has been a move away from the extensive list of agricultural related activity exemptions currently contained in the *Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Regulations 2004*, to a vehicle-based approach for agricultural machinery.
43. Agricultural activity related exemptions have been replaced by:
 - a separate generic category for tractors – whether used for agriculture or other activity like cutting grass verges of roads
 - a list of agricultural machines that have clearly been designed and constructed for agricultural purposes
 - all terrain vehicles
44. For tractors, two different definitions have been identified as potentially being appropriate. The first definition is broader than the second (refer section A of Table Two).
45. For agricultural machinery two different options have been identified for determining which agricultural machines will be exempt. Similar to the definition for tractors, the first option provides a broader scope for what constitutes an agricultural machine. The second option provided clarity, but is possibly more restrictive in that it specifies a list (refer section E of Table Two).

46. The categories of vehicles that are not included in the exempt list are:
- mobile or movable huts, galleys, or similar vehicles used solely on the road in connection with agricultural activity or construction or maintenance of roads
 - vehicles for ships' passengers, cargo, mails, etc and used on public highways as specified
47. We consider that moveable huts and galleys used in connection with agriculture and roading construction have been replaced by portable hut units carried on trucks. This exemption had therefore become redundant.
48. We propose that vehicles that use roads in connection with carrying ships passengers, cargo or mail should pay for their use of the roads. They would be eligible for refunds when operating off public roads.
49. Light RUC vehicles suitable for regular road use like utility vehicles, passenger cars and vans are not covered in the list. However, these vehicles are eligible for refunds of RUC and those vehicles that are used almost exclusively off road are the subject of the proposals in subsection two.

Table Two: Proposed list of vehicles that will be exempt from paying RUC under the Bill, excluding those that might be exempt under the light RUC vehicle exemption mechanism

Item	Exemption
A	<p>A tractor</p> <p>EITHER means a motor vehicle (other than traction engine) designed principally for traction at speeds not exceeding 50 kilometres per hour (Land Transport Act 1998 s233)</p> <p>OR means a motor vehicle (other than a traction engine) constructed principally for towing an agricultural trailer or powering agricultural implements (from Land Transport Rule: Work Time and Log Books Amendment 2010)</p>
B	A traction engine
C	A forklift
D	<p>A self-propelled machine that is designed and constructed (not merely adapted) for specialist industrial purposes such as driving, carrying, or propelling any of the following:</p> <ul style="list-style-type: none"> • Aerodrome runway sweepers • Electrical substations • Filters for transformer oil • Log haulers that are stationary when hauling logs • Aero engine test benches
E	<p>Exemptions for agricultural vehicles can be defined in two potentially different ways:</p> <p>EITHER a self-propelled machine (other than a tractor) that is designed and constructed (not merely adapted) for agricultural purposes, but not including –</p> <ul style="list-style-type: none"> • A self-propelled machine for trimming trees or hedges • A motor vehicle designed for spreading fertiliser if it is used on a road for the cartage of fertiliser • A motor vehicle designed as a weed sprayer on a truck chassis <p>OR the following vehicles that have been designed and constructed (not merely adapted) for agricultural purposes are exempt from paying RUC:</p> <ul style="list-style-type: none"> • Combine harvester • Maize harvester • Pea viner • Windrower • Silage chopper • Hay balers • Hay rakes • Fertiliser spreaders (not self propelled) • Cultivation Equipment • Silage wagons • Feed troughs
F	A motor vehicle propelled and supported solely by self-laying tracks
G	All terrain vehicle (quad bike)
H	A trailer whose gross laden weight does not exceed 3.5 tonnes
I	Aerodrome crash fire tenders used on road only in emergencies
J	Trailers designed and used exclusively as part of the armament of any of HMFs
K	A trailer towed by exempt vehicles B, C, D, E
L	All vehicles previously subject to time licences as outlined in Table One of this document

Questions for consideration

50. Does the list in Table Two adequately cover all vehicles that should be exempt from RUC licences because they are unsuitable for road use and the compliance costs are disproportionate to the amount of road use by the vehicle or class of vehicles?
51. Which of the two definitions identified in Table Two should be used for a tractor (section A)? If neither is appropriate what alternative definition would you suggest?
52. Which of the two options identified in the table for defining agricultural machinery other than tractors should be used (section E)?
53. If a 'list approach' is taken for defining agriculture machinery, is there other purpose built agricultural machinery not covered by the current list that should be included?
54. Is our assumption that mobile huts (used in connection with agricultural operations and roading construction and maintenance) have been replaced by portable huts carried on trucks correct?
55. Should any vehicle currently included in the list be subject to RUC?

Subsection Two – Options for light RUC vehicles that are suitable for regular road use but are used almost exclusively off road.

Problem

56. There are a number of light RUC vehicles that are suitable for regular road use but are used almost exclusively off road. Under the current RUC Act an exemption is only available to the agricultural sector for these vehicles. The current system is complicated, difficult to monitor and unfair.
57. Given the difficulties of the current exemption, the Bill as introduced requires the owners of these vehicles to purchase RUC and then apply for a refund for off-road use. There are concerns that the compliance cost imposed on the owners of these vehicles in applying for refunds is disproportionate to the amount of likely off-road use.
58. The Supplementary Order Paper, therefore, enables regulations to be made for an exemption mechanism that would apply to this group. This mechanism is a possible additional option to address this group of vehicles' off-road use.
59. Government is consulting on whether the regulations for the exemption mechanism should be made and if so what is the appropriate application of the mechanism.

Description of the potential new exemption mechanism

60. The potential new mechanism targets light RUC vehicles that are suitable for regular road use, but are driven almost exclusively off public roads. The mechanism specifically excludes heavy RUC vehicles, as government considered the existing exemption mechanism under clause 37B to be appropriate for determining which heavy RUC vehicles should be eligible for an exemption from having to pay RUC.
61. The proposal would enable the owner of a light RUC vehicle that falls within a class specified in regulations to apply to the RUC collector for an exemption. The exemption would be personal to the owner and would expire on the sale of the vehicle. The exemption would be subject to criteria and conditions, again specified in regulations.
62. Because there are approximately 500,000 light RUC vehicles in New Zealand and because many of these are suitable for regular road use the Supplementary Order Paper also contains further measures to reduce the risk of abuse of the new mechanism. To reduce the risk of abuse, the RUC collector will be able to:
 - monitor light RUC vehicles granted an exemption under the new mechanism to ensure the vehicles are driven almost exclusively off public roads and are adhering to the conditions of the exemption
 - revoke an exemption where the owner or operator of a vehicle is not using the vehicle almost exclusively off public roads and/or adhering to the conditions of the exemption, and issue an assessment for unpaid road user charges
63. In addition, as a deterrent, the Supplementary Order Paper includes a new offence and associated penalty (not exceeding \$15,000 for an individual or \$75,000 for a body corporate) for submitting information on an application for an exemption granted to a light RUC vehicle under the new exemption mechanism which the applicant knows to be false.
64. The cost of administering the new mechanism will be higher than administering the other exemption criteria, as vehicle owners and operators will need to apply for an exemption and the RUC collector will need to monitor exemptions to ensure they are being adhered to.
65. The cost of administering the new mechanism will be passed on to the owners and operators who are applying for an exemption under the new mechanism.

Discussion

66. Because the potential new mechanism is a recent addition, the Ministry's thinking on the appropriate application of the mechanism is still in development. Consequently, we have not attempted to identify in this document specific light RUC vehicle classes that might be exempted

under the mechanism or the likely conditions that might be imposed on them. Instead we have focused on a set of principles that should inform the development of regulations under the mechanism.

67. We are concerned that any system should guard against the loss of RUC revenue and should not create unfairness where the honest road user subsidises the unwilling payer. For this reason, if the mechanism is to be adopted, its application should be narrow as the wording “vehicles that are used almost exclusively off road” indicates.
68. There are two principles we consider should inform the development of regulations covering vehicle classes, criteria and conditions.
- *A conservative approach is taken to the application of this mechanism.* That is, if we are to err in one direction or the other in the granting of exemptions we should err on the side of not granting an exemption. The rationale for erring on the side of not granting an exemption is because of the large number of light RUC vehicles in New Zealand and the need to be confident that an exemption is justified. So, for instance, the application of this mechanism might be restricted to certain types of light RUC vehicles rather than left open ended even if this may mean some potentially eligible vehicles are unable to secure an exemption.
 - *Travel on public roads is subject to tight limits.* Because light RUC vehicles are suitable for regular road use there is the potential for these vehicles to do a lot of on-road travel. Tight restrictions should be placed on on-road use to discourage abuse of the exemption. For instance, travel on public roads could be restricted to a certain distance per trip⁸, and/or between specified properties or locations that are no more than a certain distance apart.
69. We will use feedback on the principles to guide our thinking on developing appropriate regulatory parameters for the new exemption mechanism.

Questions

Exemption mechanism or refunds

70. Which of the two options for addressing the issue of light vehicles that are used almost exclusively off road (that is refunds or the potential exemption mechanism) do you prefer?

⁸There are examples of this approach in the Land Transport Management (Apportionment and Refund of Excise-Equivalent Duty) Regulations 2004.

The applicable principles for an exemption mechanism

71. Are the above principles reasonable? If not what alternative principles would you consider reasonable?
72. Are there other principles that should be taken into account when developing regulations under this mechanism?