

In Confidence

Office of the Minister of Transport  
Chair, Cabinet Legislation Committee

## **LEGISLATION IMPLEMENTING NEW RATES OF PETROL EXCISE DUTY AND ROAD USER CHARGES**

### **Proposal**

1. I propose that the Cabinet Legislation Committee approve the:
  - 1.1. Excise and Excise-equivalent Duties Table (Budget Measures – Motor Spirits) Amendment Bill (the Bill) for introduction
  - 1.2. submission of the Road User Charges (Rates) Amendment Regulations 2019 (RUC Amendment Regulations) to the Executive Council.

### **Executive Summary**

2. This paper deals with two legislative matters:
  - 2.1. a bill to increase excise duty levied on petrol (PED)
  - 2.2. regulations to increase road user charges (RUC) (primarily levied on diesel vehicles).
3. On 25 June 2018, Cabinet [CAB-18-MIN-0293 refers]:
  - 3.1. agreed to increases in PED of 3.5 cents per litre in 2018, 2019 and 2020
  - 3.2. noted that increases in PED in 2019/2020 and 2020/2021 will require a full legislative process
  - 3.3. noted that the Minister of Transport will report back to the Cabinet Economic Development Committee (DEV) to seek approval for increases in RUC rates for 2019 and 2020.
4. On 15 April 2019, following reference from DEV, Cabinet agreed that the RUC rates be increased for the vehicle types and the amounts set out in Appendix One to the paper under CAB-19-SUB-0173, with effect from 1 July 2019 [CAB-19-MIN-0173 refers].
5. The Bill and the RUC Amendment Regulations give effect to Cabinet's decisions to increase RUC for 2019, and to increase PED for 2019 and 2020.

6. Together, the increases are required to ensure there is sufficient revenue in the National Land Transport Fund (NLTF) to fund the delivery of the Government Policy Statement on Land Transport 2018.

## Policy

7. PED and RUC are the major contributors of revenue to the NLTF, which funds the delivery of the Government Policy Statement on Land Transport. The RUC system is used to raise revenue from the operators of vehicles that are not wholly powered by petrol. Rates of RUC are set in the Road User Charges (Rates) Regulations 2015 according to RUC vehicle types and weights prescribed in the Road User Charges Regulations 2012.
8. PED is levied on each litre of petrol imported into or produced in New Zealand. It is paid by the oil companies, and passed on to consumers in the retail price of petrol. The rate is specified in the Excise and Excise-equivalent Duties Table, maintained under the Customs and Excise Act 2018. PED is referred to in this legislation as motor spirit duty.
9. Certain operators of petrol vehicles and commercial petrol driven equipment can apply for refunds of PED and the associated GST, under the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Regulations 2004, where they are using the vehicle or equipment ordinarily not on the public road.
10. On 25 June 2018, Cabinet [CAB-18-MIN-0293 refers]:
  - 10.1. agreed to increases in PED of 3.5 cents per litre in 2018, 2019 and 2020
  - 10.2. noted that increases in PED in 2019/20 and 2020/21 will require a full legislative process
  - 10.3. noted that the Minister of Transport will report back to DEV to seek approval for increases in RUC rates for 2019 and 2020.
11. On 15 April 2019, following reference from DEV, Cabinet [CAB-19-MIN-0173]:
  - 11.1. agreed that the RUC rates be increased for the vehicle types and the amounts set out in Appendix One to the paper under CAB-19-SUB-0173, with effect from 1 July 2019
  - 11.2. noted that the Minister of Transport will submit required amendment regulations to the Cabinet Legislation Committee for approval on 30 April 2019
  - 11.3. noted that the Minister of Transport will also submit the required paper to increase petrol excise duty for approval on 30 April 2019.
12. The Bill and RUC Amendment Regulations will give effect to Cabinet's decisions by implementing:

- 12.1. from 1 July 2019, an increase in all RUC rates of 5.55 percent and an increase in PED rates of 3.5 cents per litre (and an associated increase in the amount of PED refund)
  - 12.2. from 1 July 2020, a further increase in PED rates of 3.5 cents per litre (and an associated increase in the amount of PED refund).<sup>1</sup>
13. Some members of the public may see the imposition of additional costs on vehicle users as undesirable. There may be renewed adverse comment on the impact on consumers, the uses to which the additional revenue will be put, and the relationship between the increases and the Government's forecast surplus.

### **Impact analysis**

14. Impact analyses were prepared by the Ministry of Transport in accordance with the necessary requirements and was submitted to the Cabinet Economic Development Committee when approval was sought for the policy of the Bill and the RUC Amendment Regulations.

### **Compliance**

15. The Bill and the RUC Amendment Regulations comply with each of the following:
- 15.1. principles of the Treaty of Waitangi
  - 15.2. rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - 15.3. disclosure statement requirements (disclosure statement has been prepared for the Bill and is attached to the paper)
  - 15.4. principles and guidelines set out in the Privacy Act 1993
  - 15.5. relevant international standards and obligations
  - 15.6. Legislation Guidelines (2018 edition).
16. The Ministry of Justice has prepared advice for the Attorney-General that states the Bill appears to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990.

### **Certification by Parliamentary Counsel**

17. The Parliamentary Counsel Office has certified the Bill and the RUC Amendment Regulations as being in order for submission to Cabinet.

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<sup>1</sup> Regulations will need to be made in 2020 to give effect to the required increase in RUC rates.

### **Commencement of legislation**

18. The Bill is drafted so that the 2019 increase of 3.5 cents in PED takes effect on 1 July 2019. The 2020 increase of 3.5 cents takes effect on 1 July 2020.
19. The RUC Amendment Regulations are drafted so that the 2019 increase in RUC takes effect on 1 July 2019.

### **Timing and the 28-day rule**

20. Section 85 of the Road User Charges Act 2012 prescribes a 42 day period between notifying the new RUC rates in the New Zealand Gazette and those rates commencing. The RUC Amendment Regulations take effect on 1 July 2019. This means that the new RUC rates will need to be notified at the latest by 16 May 2019.

### **Regulations Review Committee**

21. There are no grounds for the Regulations Review Committee to draw the RUC Amendment Regulations to the attention of the House of Representatives under Standing Order 319.

### **Binding on the Crown**

22. The Bill follows the principal Act: the Customs and Excise Act 2018. That Act binds the Crown, except for certain provisions that are not relevant to the imposition of motor spirit duty.

### **Creating new agencies or amending law relating to existing agencies**

23. The Bill will not create any new agencies and will not amend the existing coverage of the Ombudsman Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

### **Allocation of decision making powers**

24. The Bill does not involve the allocation of decision making powers between the executive, the courts and tribunals.

### **Associated regulations**

25. There are no regulations needed to bring the Bill into operation. However, the Bill will consequentially adjust the refunds of motor spirits duty and goods and services tax available under the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Regulations 2004.

### **Other instruments**

26. Not applicable.

## **Definition of Minister/department**

27. The Bill does not contain definitions of a Minister, department, an agency, or a chief executive of a department.

## **Parliamentary stages**

28. The Bill does not hold priority on the legislation programme. I therefore propose that the Bill be given a category 2 priority on 2019 Legislation Programme.
29. I propose that the Bill be introduced on Budget day, have its first reading under urgency and be progressed without referral to a select committee. This will enable that the 2019 PED increases take effect on 1 July 2019.

## **Consultation**

30. The following Government departments and agencies have been consulted on the policy of the Bill and the RUC Amendment Regulations: The Treasury, Ministry of Business, Innovation and Employment, New Zealand Customs Service and the New Zealand Transport Agency.
31. The Department of the Prime Minister and Cabinet has been informed.
32. Possible increases in PED and RUC were included in public engagement on the draft GPS 2018. There were mixed reactions to the proposed changes to PED and RUC. Many submitters accepted that increases in PED and RUC would be necessary to deliver on the Government's priorities to create livable cities and thriving regions. However, some submitters were strongly opposed to the increases.
33. Consultation has been carried out with caucus, New Zealand First, and the Green Party on the proposed changes and considered at the Cabinet Economic Development Committee on 10 April 2019, and then subsequently at Cabinet on 15 April 2019. No concerns were raised.

## **Publicity**

34. The New Zealand Transport Agency will arrange publicity of the Bill and the RUC Amendment Regulations, which will also be notified in the *New Zealand Gazette*. The Ministry of Transport will also publish relevant information on its website. The New Zealand Customs Service will publicise the PED rate on its website and in its newsletter Customs Release. Relevant excise customers (oil companies) will also be advised.

## **Proactive release**

35. I intend to proactively release this paper subject to appropriate redactions under the Official Information Act 1982.

## Recommendations

36. I recommend that the Cabinet Legislation Committee:

1. **note** that on 25 June 2018, Cabinet [CAB-18-MIN-0293 refers]:
  - 1.1. agreed to increases in motor spirits (petrol) excise duty (PED) of 3.5 cents per litre in 2018, 2019 and 2020
  - 1.2. noted that increases in PED in 2019/20 and 2020/21 will require a full legislative process
  - 1.3. noted that the Minister of Transport will report back to the Cabinet Economic Development Committee (DEV) to seek approval for increases in road user charges rates (RUC) for 2019 and 2020
2. **note** that on 15 April 2019, following reference from DEV, Cabinet agreed that the RUC rates be increased for the vehicle types and the amounts set out in Appendix One to the paper under CAB-19-SUB-0173, with effect from 1 July 2019 [CAB-19-MIN-0173 refers]

### *PED*

3. **note** that the Excise and Excise-equivalent Duties Table (Budget Measures – Motor Spirits) Amendment Bill (the Bill) gives effect to recommendation 1.1 and 1.2 for the 2019 and 2020
4. **note** that the Bill does not hold a priority on the legislation programme
5. **agree** that the Bill be given a category 2 priority on the 2019 Legislation Programme (must be passed in 2019)
6. **approve** the Bill for introduction, subject to the final approval of the Government caucus and sufficient support in the House of Representatives
7. **agree** that the Bill be introduced on Budget day, 30 May 2019
8. **agree** that the Government propose that the Bill be:
  - 8.1. accorded urgency for its first reading
  - 8.2. progressed without referral to a select committee for consideration
  - 8.3. enacted and take effect 1 July 2019

### *RUC*

9. **note** that the Road User Charges (Rates) Amendment Regulations 2019 (RUC Amendment Regulations) give effect to recommendation 2 for the 2019 year

10. **authorise** the submission of the RUC Amendment Regulations to the Executive Council
11. **note** that the RUC Amendment Regulations take effect on 1 July 2019.

Authorised for lodgement

Hon Phil Twyford  
**Minister of Transport**