

In Confidence

Office of the Associate Minister of Transport  
Chair, Cabinet Legislation Committee

## **REGULATIONS SUPPORTING RULES MANDATING ANTI-LOCK BRAKING SYSTEMS FOR MOTORCYCLES**

### **Proposal**

1. This paper seeks authorisation for submission to the Executive Council of the:
  - 1.1 Land Transport (Offences and Penalties) Amendment Regulations (No 2) 2019
  - 1.2 Land Transport (Certification and Other Fees) Amendment Regulations 2019(the proposed regulations).

### **Policy**

#### *Cabinet involvement*

2. On 18 February 2019 [DEV-19-MIN-0002 and CAB-19-MIN-0033 refer] Cabinet:
  - 2.1. agreed to consult on a proposal to mandate Anti-lock Braking Systems (ABS) for motorcycles, including an exception for motorcycles of any age that are imported by immigrants as part of their household possessions, a new Special Interest Motorcycle system will be created to allow for a small number of collectable motorcycles without ABS manufactured after the fixed date exception to continue to be imported (supported by application fees and offences, and penalties consistent with the existing regime for other classes of vehicle), and to remove the requirement for 'twinneled' motor tricycles to be fitted with a park brake
  - 2.2. noted my intention to implement the agreed proposals by making amendments to rules without further reference to Cabinet unless contentious issues arise in the course of the development of the Rule or new policy decisions were required
  - 2.3. invited me to issue drafting instructions to the Parliamentary Counsel Office for consequential amendments to regulations to give effect to the Rule decisions (if required) once consultation was completed.

#### *Land Transport Rule: Light-vehicle Brakes Amendment (No 2) 2019*

3. On 12 September 2019, I signed Land Transport Rule: Light-vehicle Brakes Amendment (No 2) 2019 (the Rule) into law.
4. The Rule, which came into force on 1 November 2019, amended the Land Transport Rule: Light-vehicle Brakes 2002 (the Light-Vehicle Brakes Rule). In particular –
  - 4.1. it will require all motorcycles of engine capacity greater than 50 cubic centimetres (or 4kW if electrically powered) entering service in New Zealand to be equipped with either an ABS or, if the engine capacity does not exceed 125 cubic centimetres or 11 kilowatts, a combined braking system (CBS) or an ABS

- 4.2. these requirements will apply on and from 1 April 2020<sup>1</sup> for new, new model motorcycles and to all motorcycles, extending to all motorcycles (new model or existing model and new or previously registered elsewhere) from 1 November 2021, subject to exceptions
  - 4.3. exceptions will apply for motorcycles first registered before 1 January 1990, motorcycles (farm, enduro, and trial) for which ABS or CBS is unsuitable, certain low volume vehicles, and crucially for the proposed regulations motorcycles that are identified as immigrants' vehicles or issued with special interest motorcycle permits.
5. The scheme for immigrants' vehicles and special interest motor cycles is based on the existing scheme for exempting immigrants' vehicles and special interest vehicles from compliance with Land Transport Rule: Frontal Impact 2001 (the Frontal Impact Rule).

### *The need for consequential regulations*

6. Under the Land Transport Act 1998 (the Act), fees and offences and penalties are set in regulations, not rules. Section 167 (together, in the case of fees and charges, with section 168) of the Act authorises the making of regulations:
  - 6.1. specifying those breaches of the rules that constitute offences against the Act
  - 6.2. setting the maximum penalty for each offence prescribed by regulations, which, in the case of an individual, may be a fine not exceeding \$10,000 and in the case of a body corporate, may be a fine not exceeding \$50,000
  - 6.3. providing for the collection of land transport related fees and charges.

### **The proposed regulations**

7. The proposed regulations build on the existing scheme for recognition of vehicles as immigrants' vehicles and special interest vehicle permits in the Frontal Impact Rule).
8. The Land Transport (Offences and Penalties) Amendment Regulations (No 2) 2019 amend the Land Transport (Offences and Penalties) Regulations 1999 to provide a maximum fine of \$2,000 (both for an individual and a body corporate) for breach of a persons responsibilities in relation to declarations imposed by clause 4.7 of the Light-Vehicle Brakes Rule. This is consistent with the existing penalties for breach of the equivalent provision in the Frontal Impact Rule.
9. The Land Transport (Certification and Other Fees) Amendment Regulations 2019 amend the Land Transport (Certification and Other Fees) Regulations 2014 to:
  - 9.1. prescribe fees of \$160 for the identification of a vehicle as an immigrant's vehicle under Schedule 1 of the light-vehicle brakes rule and for an application to obtain a special interest motorcycle permit under Schedule 2 of the Light-Vehicle Brakes Rule. This is consistent with the existing fees for identification of a vehicle as an immigrant's vehicle and for an application to obtain a special interest vehicle permit under the frontal impact rule

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<sup>1</sup> Following submissions on the draft rule, the date proposed in the Cabinet Paper of 1 November 2019 was extended to 1 April 2020, to allow for delivery of existing orders at rule commencement.

- 9.2. clarify that the fee for the identification of a vehicle as an immigrant's vehicle under both the Frontal Impact Rule and the Light-Vehicle Brakes Rule is payable when the application is made.

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

10. The proposed regulations will come into force on 17 January 2020 which, assuming they are made on or before 16 December 2019, will be at least 28 days after they are notified in the *New Zealand Gazette*.

### **Compliance**

11. The proposed regulations comply with:
- 11.1. the principles of the Treaty of Waitangi;
  - 11.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 11.3. the principles and guidelines set out in the Privacy Act 1993;
  - 11.4. relevant international standards and obligations;
  - 11.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

### **Regulations Review Committee**

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

### **Certification by Parliamentary Council**

13. The Land Transport (Offences and Penalties) Amendment Regulations (No 2) 2019 and the Land Transport (Certification and Other Fees) Amendment Regulations 2019 have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

### **Impact Analysis**

14. A Regulatory Impact Assessment and Cost Benefit Analysis were prepared in accordance with the necessary requirements, and were submitted at the time that Cabinet approval was sought for the policy relating to the regulations on 18 February [DEV-19-MIN-0002 and CAB-19-MIN-0033 refer].

### **Publicity**

15. The New Zealand Transport Agency will publicise the proposed regulations in its explanatory material implementing the rule change.

### **Proactive Release**

16. I propose to release this paper proactively subject to appropriate redactions within 30 business days of final decisions being made.

## Consultation

17. Consultation with the public and industry on the proposed fees and offences and penalties took place as part of consultation on the Rule.
18. The Treasury, the Ministry of Justice, the New Zealand Police, the Parliamentary Counsel Office and the New Zealand Transport Agency were consulted on the paper. The Department of Prime Minister and Cabinet were informed.
19. The Minister of Transport agrees with the submission of this paper.

## Recommendations

20. The Associate Minister for Transport recommends that the Committee:
  1. **note** that on 13 February 2019, the Cabinet Economic Development Committee [DEV-19-MIN-0002 and CAB-19-MIN-0033] agreed to mandate, with exceptions, Anti-lock Braking Systems (ABS) for motorcycles, noted the intention of the Associate Minister of Transport to implement this by amending Land Transport Rule: Light-vehicle Brakes 2002 and also agreed that the new requirements would be supported by application fees and offences, and penalties consistent with the existing regime for other classes of vehicle;
  2. **note** that the Land Transport (Offences and Penalties) Amendment Regulations (No 2) 2019 and the Land Transport (Certification and Other Fees) Amendment Regulations 2019 will give effect to the decision relating to fees, offences and penalties referred to in paragraph 1 above;
  3. **authorise** the submission to the Executive Council of the Land Transport (Offences and Penalties) Amendment Regulations (No 2) 2019 and the Land Transport (Certification and Other Fees) Amendment Regulations 2019;
  4. **note** that the Land Transport (Offences and Penalties) Amendment Regulations (No 2) 2019 and the Land Transport (Certification and Other Fees) Amendment Regulations 2019 come into force on 17 January 2020.

Authorised for lodgement  
Hon Julie Anne Genter  
Associate Minister of Transport