

## **Regulatory Impact Statement**

**Title of Proposal: Road user charges: Improving compliance.**

### **Agency Disclosure Statement**

1. This Regulatory Impact Statement has been prepared by the Ministry of Transport (the Ministry).
2. It provides an analysis of options to improve compliance with road user charges (RUC).
3. The proposal is to strengthen the integrity of the road user charges system and to reduce revenue loss within the system.
4. Given the nature of the problem, which is avoidance and evasion of obligations to pay tax, there are constraints on the accuracy of the information available.
5. The Ministry relies on qualitative information in the form of complaints from industry and reports from the New Zealand Transport Agency (NZTA) and the New Zealand Police (the Police) that evasion of RUC is a problem.
6. Each year the Ministry undertakes a survey (in conjunction with the Police Heavy Vehicle Compliance Operation) that indicates that many millions of dollars revenue are not collected because of revenue leakage. The survey is not sufficiently accurate to provide a reliable estimate as to amounts lost. The NZTA considers that the Ministry's figure of \$30 million per annum evasion by heavy vehicles is conservative.
7. The value of the survey is that by repeating it over time the Ministry can assess the effectiveness of the management of the system and capture trends.
8. The key assumption that this paper is that many millions of dollars are not collected because of remediable weaknesses in the RUC system.
9. The policy options comply with the Government Statement on Regulation.

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## **Description of existing arrangements and the status quo**

10. Road user charges are paid by the users of diesel vehicles to cover their proportion of the costs of the National Land Transport Programme.
11. The Road User Charges Act 1977 (RUC Act) governs the collection of charges for road use from operators of diesel-powered vehicles and all vehicles with a gross laden weight greater than 3.5 tonnes. The system has not been significantly updated for many years.
12. Operators of light diesel vehicles and heavy vehicles (road users) are required to purchase RUC licences in advance by nominating the weight they expect to carry during the duration of the distance travelled under the licence. Road users are able to purchase supplementary licences to cover heavier than expected loads.
13. As the RUC system relies on pre-purchasing of licences of road users can purchase either deliberately or inadvertently RUC licences at a lower value than required under the law.
14. The current system manages this by imposing comparatively heavy fines for distance over runs on road users as a deterrent. The government can also request the district court to assess amounts of road user charges owing.
15. However, there are no duties placed on road users to keep records which would provide evidence of their transport activity and and their compliance with RUC provisions.

## **Problem definition**

16. The design of the RUC system makes it vulnerable to revenue leakage and it lacks the means to remedy the leakage problem. The legislation does not provide sufficient tools to identify evasion and to recover lost revenue. Without these we cannot make the improvements necessary to maintain and improve the credibility of the system.
17. Currently the cost of the licence is based on distance travelled and the weight of the vehicle as nominated by the operator at the time of purchase.
18. Opportunities exist for a road user to avoid paying the required amount by either underpaying for the weight carried or the distance travelled. RUC revenue leakage for heavy vehicles is conservatively estimated to be \$30 million per year.
19. The problem shows up as loss of revenue and reduction of the credibility of the system where honest payers are subsidising those who seek to avoid their obligations.
20. In addition to revenue leakage for heavy vehicles around a quarter of light vehicles are in arrears for their RUC payment at any one time based on a recent Research New Zealand Survey of light vehicle owners the NZTA estimates that there is approximately \$13 million outstanding at any one time due to late payment of RUC.

21. Distance recorders of light vehicles can be manipulated to conceal the true mileage of a vehicle. Based on the Research New Zealand survey results the Ministry estimates that between \$0.5 -2.5 million per annum could be lost through manipulation of distance recorders.
22. Other than roadside enforcement and subsequent investigations, there are few controls to ensure that all the revenue due to the Crown is collected. The assessment process under the district court is expensive for all parties and the district court has limited resources to apply to this activity.
23. The lack of record keeping duties means that users do not have to substantiate their purchases.

## **Objectives**

24. The objectives of the compliance proposals are to ensure that:
  - a. the RUC system maintains integrity and credibility and is fair to all vehicle operators
  - b. vehicle operators pay the correct amount of RUC due
  - c. RUC revenue leakage through avoidance and evasion is minimised
  - d. any underpaid RUC that is identified can be recovered efficiently and cost-effectively

## **Regulatory Impact Analysis**

### **Alternative option: Legislative status quo and non-regulatory measures**

25. Although there may be some scope to improve education and publicity, no non-regulatory measures were identified that would be capable of achieving the objectives of these changes.
26. Any administrative improvements which could be made by NZTA which is responsible for the collection of RUC and the Police are limited by the complexity and inflexibility of the existing framework.
27. The calculation of infringement fees requires specialist training which makes it difficult to increase on-road enforcement beyond a specialist group of police. Even with increased enforcement there would still be a lack of cost-effective recovery of charges through civil debt collection processes. Police on-road enforcement detects offences leading to the imposition of fines or infringement fees, but does not recover lost revenue.

## **Preferred option**

28. The Ministry's preferred option to reduce revenue leakage and permit accurate assessment and efficient collection of underpaid RUC is to amend the legislation. The proposed amendments fall into five categories:
- a) a requirement for operators to create and retain records
  - b) replace the district court assessment process for underpaid RUC with an appealable administrative process
  - c) changes to the compliance regime for light vehicles
  - d) other changes to improve compliance and assist enforcement
  - e) updating offences and penalties and introducing separate penalties for corporate and individuals.

### *Benefits of proposal for the government*

29. The tangible benefit of these changes will be the reduction of RUC revenue leakage. The total RUC leakage for heavy vehicles is currently conservatively estimated at \$30 million. This includes both weight based evasion and distance based evasion.
30. The measures in this paper will be directed at those who defer payment or who manipulate their distance recorder to under-record the distance travelled. Other separate measures proposals in a separate proposal are directed at closing the door on weight-based evasion.
31. The proposal to simplify offences and penalties and the enforcement task of the Police allows the Police to conduct more inspections using existing resources.
32. Government can expect benefits from replacing the costly district court process with the new assessment process. The numbers of binding assessments will increase thereby having a more effective recovery system. The NZTA has not yet undertaken detailed costings but its aim is to manage the system under the same operational funding.
33. The intangible benefit for the government is a system that has greater credibility with the public.

### *Benefits of proposal for vehicle operators*

34. Several benefits would accrue to vehicle operators from these changes:
- a) a more level playing field for commercial vehicle operators, by ensuring all operators pay their fair share of land transport costs
  - b) reduction of cross subsidies from compliant road users to those who evade their payment obligations;
  - c) more straight-forward processes such as minor RUC offences being dealt with by infringement notices, avoiding court costs, and a less complex assessment process for underpaid RUC.

### *Costs of proposal*

35. The main effect of this proposal is to change the assessment process and move it from the district court to the Chief Executive of the Ministry of Transport (the Chief Executive). The NZTA under delegation from the Chief Executive will undertake the assessments. The NZTA personnel will also need to develop new skill sets for undertaking assessments.
36. The proposals will mean that a district court judge will no longer undertake inquiries into unpaid RUC. Inquiries are infrequent taking on average approximately two weeks for the substantive hearing apart from preliminary hearings. Currently around one inquiry a year is held.
37. There will be a right of appeal to the district court against the results of an assessment. It is not possible to quantify the numbers although in the first year or so there will probably be test cases. Longer term, these cases are expected to be infrequent.
38. The major compliance cost for the transport industry will be one-off transitional costs involved in vehicle operators becoming familiar with the new requirements and possibly obtaining professional advice in some cases. These costs can be minimised by effective communication with key stakeholder organisations such as the Road Transport Forum New Zealand and Bus and Coach Association New Zealand, permitting any new obligations or requirements to be well known and understood by vehicle operators before to their introduction. RUC fact sheets and other relevant information brochures will be updated to permit vehicle operators to access up-to-date information about their obligations.
39. The proposal that operators who hold transport services licences must hold records for seven years will have compliance costs. Costs should be mitigated where the holding of necessary records is already required for other taxation purposes.
40. The proposal that commercial vehicle operators, who are required to keep logbooks, retain these logbooks for three years creates an additional compliance cost. As logbooks are existing records, the cost involved is the storage of the logbooks for an additional two years.
41. There will be establishment costs for the government sector. These have not been costed but will be offset by moving away from a court inquiry and assessment process. The NZTA advises that it can meet the ongoing operational costs within current baselines but it has sought a one-off sum of \$1.485 million for implementation of all the RUC proposals of which this proposal is one component. This will cover project management, training communications programmes changes to the Motor Vehicle Register and transitional operating costs.
42. There is to be an inter-agency steering committee comprising the Ministry of Transport the NZTA and the New Zealand Police that will oversee the implementation. The cost of the committee is being borne by the participants from existing baselines.

## **Consultation**

43. The following parties have been consulted on the proposed legislative changes: NZ Transport Agency, New Zealand Police, Ministry of Justice, The Treasury and the Ministry of Economic Development. The Department of Prime Minister and Cabinet was informed.
44. To minimise compliance costs on transport users, especially heavy transport, these proposals were discussed and modified as a result of consultation (in 2007) with key industry stakeholders. Some of the original proposals were dropped; other proposals have been changed to minimise compliance costs. In 2010 the Ministry discussed the revised proposals with the Chief Executive of the Road Transport Forum who provided comment. The Road Transport Forum was unable to take a formal position at that time.

## **Conclusion and recommendations**

45. The Ministry recommends the legislative option which meets the policy objective. The alternative of remaining with the legislative status quo and introducing administrative improvements do not fully address the objectives of this policy.

## **Implementation**

46. [withheld]
47. The operational improvements will be implemented by the NZTA and the New Zealand Police in parallel with the other improvements that will be introduced in the RUC Bill. The implementation period will be completed on 1 July 2012.
48. The overall RUC proposals will mean savings in some areas for the NZTA and developing new resources in others. Implementation costs will be partly absorbed by the NZTA and partly covered by the one-off request in the financial proposal for implementation costs of all proposals.

## **Monitoring evaluation and review**

49. The effectiveness of these changes will be measured by an annual assessment of the amount of RUC revenue leakage taken from the New Zealand Police's Heavy Vehicle Compliance Measurement Operation.
50. The changes will need to be monitored over time because the current estimates of \$30 million for evasion will be limited in providing a baseline from which to assess the improvements. This is because the accompanying proposals to address weight based evasion will have already removed a substantial evasion component from the system.
51. Two years after the legislation comes into force the Ministry of Transport will provide a report to the Ministers of Transport and Finance on the effectiveness of the measures.