

Chair
Cabinet Business Committee

LAND TRANSPORT (ROAD USER) AMENDMENT RULE 2011

Proposal

1. The purpose of this paper is to notify the Cabinet Business Committee (the Committee) of my intention to make the Land Transport (Road User) Amendment Rule 2011 (the amendment Rule), pursuant to the Land Transport Act 1998 (the Act).
2. This paper also seeks the agreement of the Committee to amend the Land Transport (Offences and Penalties) Regulations 1999 to enable enforcement of provisions of the amendment Rule.

Executive summary

3. The main objective of the amendment Rule is to reduce crashes and improve road safety at intersections, especially for pedestrians and cyclists. There are 12 proposed changes to the Rule. The major proposed change is to reverse the current give-way rules applying to vehicles at uncontrolled intersections. Other proposals in the amendment Rule are a consequence of either changing the give-way rules, are required to align road user requirements with recent changes to other Land Transport Rules, or to strengthen or clarify existing road user requirements.
4. Cabinet agreed to change the give-way rules in September 2010 [CAB Min (10) 34/6 refers]. A change to the give-way rules was identified as a road safety priority in *Safer Journeys – New Zealand’s Road Safety Strategy 2010-2020* (Safer Journeys). Public and stakeholder submissions during the development of Safer Journeys strongly supported a change to the give-way rules.
5. The yellow (public consultation) draft of the amendment Rule was released on 17 May 2011. Consultation closed on 24 June 2011, with 134 submissions received. Overall, submitters were supportive of the proposals in the draft amendment Rule. As a result of submissions, I have decided to improve some proposals and these changes are reflected in the final amendment Rule.
6. It is my intention that the amendment Rule will come into force on 1 October 2011, with the exception of the changes to the give-way rules, which will come into force on 25 March 2012. This implementation date will allow the NZ Transport Agency (NZTA) enough time to run an extensive publicity and education campaign before the give-way rules come into effect, and for road controlling authorities to make changes to intersection markings as appropriate.
7. Amendments to regulated offences and penalties regulations will be required to give effect to some provisions of the amendment Rule.

Background

8. The Minister of Transport is empowered to make land transport rules, pursuant to the Land Transport Act 1998, for a variety of purposes.
9. The Land Transport (Road User) Rule 2004 (the Road User Rule) specifies the traffic rules that road users are required to abide by on New Zealand's roads.
10. Cabinet agrees to an annual programme of transport rules, which sets out the rules that will be progressed in the coming financial year across the land, maritime and aviation sectors. The amendment Rule is included in the approved Transport Rules Programme for 2011/12 [CAB Min (11) 24/9 and EGI Min (11) 13/9 refers].
11. The amendment Rule gives effect to Cabinet's decision to change New Zealand's give-way rules in order to improve road safety at intersections. The other proposals in the amendment Rule are either a consequence of changing the give-way rules, are required to align road user requirements with recent changes to other Land Transport Rules, or to strengthen or clarify existing road user requirements.

The content of the Land Transport (Road User) Amendment Rule 2011

12. The amendment Rule contains 12 proposed amendments, two are changes to the give-way rules and the remaining 10 are minor proposals.

Changes to the give-way rules

13. The two changes to the give-way rules are to:
 - 13.1. require a driver when turning right at an intersection to give-way to all oncoming traffic travelling straight ahead or turning left, unless a traffic sign or traffic signal requires the other driver to stop or give-way

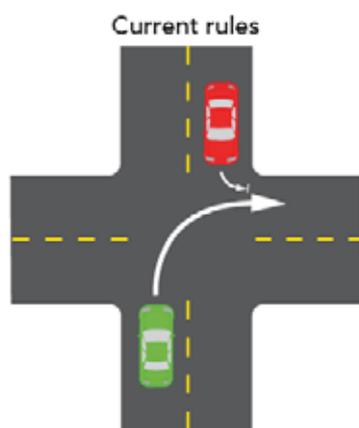


Figure 1 Vehicle turning right has priority at uncontrolled intersection

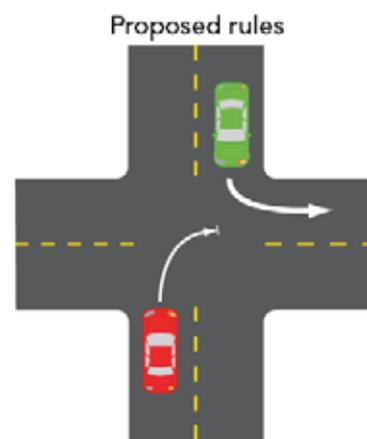


Figure 2 Vehicle turning left has priority at uncontrolled intersection

- 13.2. require all traffic from a terminating road at an uncontrolled T-intersection to give-way to all traffic travelling on a continuing road. The amendment Rule also introduces a similar provision applying to drivers exiting a driveway

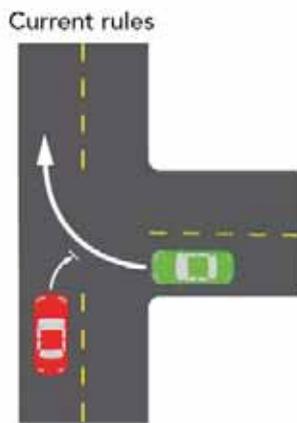


Figure 3 Vehicle turning right from terminating road has priority at uncontrolled T-intersection

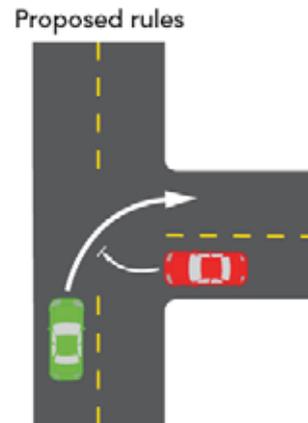


Figure 4 Vehicle turning right from through road has priority at uncontrolled T-intersection

14. The current give-way rules place complex demands upon road users, which results in compromised road safety at intersections. Intersection crashes currently account for 20 percent of fatal and serious injury crashes. The majority of fatal intersection crashes occur in rural areas, but the majority of serious injury crashes are in urban areas. The number of intersection crashes involving pedestrians hit by turning traffic has increased by 79 percent since 2000.
15. The proposed changes to the give-way rules will result in less complex decision-making at intersections. It is estimated that changing the give-way rules will result in a reduction of about seven percent of relevant intersection crashes, with a resulting saving of one life, 13 serious injuries and 84 minor injuries a year.
16. A possible risk is that there will be an increase in crashes at intersections immediately following the implementation of the new give-way rules. However, when Victoria, Australia, made a similar change to the give-way rules in 1993, the predicted increase in crashes did not eventuate. It is considered that this risk can be mitigated by a good publicity campaign (as proposed), which was considered to be a key reason behind the successful transition in Victoria.

Ten other proposals in the amendment Rule

17. The other minor provisions of the amendment Rule are to:
- 17.1. allow riders of motorcycles, mopeds and cycles (unless excluded by signage) using a bus lane that is controlled by a 'B' (bus) signal to proceed on a white 'B' signal and to comply with a yellow or red 'B' signal

- 17.2. clarify that the requirement not to exceed 20km/h when passing a stationary school bus applies when a bus is displaying a school bus sign, and extend the current requirement for drivers to limit their speed to 20km/h when passing a stationary school bus to also include a stationary school bus on which a school bus sign with flashing lights is activated
- 17.3. include the use of a new pay-parking symbol ('P\$') into the Road User Rule to align with the Land Transport Rule: Traffic Control Devices 2004 (the Traffic Control Devices Rule). This symbol means that parking is permitted subject to payment of a fee
- 17.4. replace the term 'taxi' with 'small passenger service vehicle' in subclauses 6.20(3) and 8.6(c) of the Road User Rule to align with other transport legislation
- 17.5. amend clause 7.11 in the Road User Rule so that, from 1 October 2011, there must be a start date and an expiry date on medical certificates issued by medical practitioners for the purpose of excluding a vehicle occupant from being restrained by a seat belt or child restraint
- 17.6. clarify the Road User Rule so that a bus driver is not obliged to ensure that his or her passengers are restrained by a suitable child restraint or seatbelt, if fitted, when the vehicle is being operated on the road
- 17.7. align the Road User Rule with the requirements in the Traffic Control Devices Rule that specify the maximum length of time for which a school bus driver is allowed to operate a school bus sign that incorporates flashing lights
- 17.8. clarify the Road User Rule so that drivers approaching a pedestrian crossing controlled by a school patrol, are required to stop only when a school patrol sign is extended, which is consistent with the school patrol rules set out in clause 3.9 of the Road User Rule
- 17.9. update the definition of 'parking' in the Road User Rule to align with the Traffic Control Devices Rule
- 17.10. amend the definition of 'school bus' in the Road User Rule so that a bus transporting school children on a school trip, and in which a seat is available for all passengers, is not required to be a 'school bus' and will not be subject to the 80km/h speed restriction on the open road and school bus sign requirements that apply to school buses

Consequential amendments to regulations

18. To enforce some of the proposals in the amendment Rule, specific offences, fines and penalties must be established or amended. Therefore, consequential amendments to the Land Transport (Offences and Penalties) Regulations 1999 are required. These consist of the creation of three new offences and associated penalties and editorial amendments to the description of Rules in existing offence provisions.

19. These penalties proposed for the offences are consistent with the existing penalty regime for breaches of the Road User Rule and, in the case of subclause 8.4(3)(flashing lights on school buses), the Traffic Control Devices Rule.
20. The new provisions needed in the Offences and Penalties Regulations are detailed below.
 - 20.1. Insert a new item in Schedule 1 of the offences regulations, in respect of the new 4.2(4) T-intersection give-way requirement¹. It is recommended that there be a maximum fine of \$1,000 on summary conviction or an infringement fee of \$150, plus (in either case) 20 demerit points, which is consistent with other similar offences in the Road User Rule.
 - 20.2. Insert a new item in Schedule 1 of the offences regulations in respect of the new 4.4(2) exiting driveways requirement². It is recommended that there be a maximum fine of \$1,000 on summary conviction or an infringement fee of \$150, plus (in either case) 20 demerit points, which is consistent with other similar offences in the Road User Rule.
 - 20.3. Insert a new item in Schedule 1 of the offences regulations, in respect of subclause 8.4(3), the new restriction on when the driver of the school bus may operate the flashing lights on the specified school bus sign³. It is recommended that there be a maximum fine of \$500 on summary conviction or an infringement fee of \$150 consistent with the equivalent offence in the Traffic Control Devices Road User Rule.
21. The amendments that are needed to the existing regulations are detailed below.
 - 21.1. Amend the reference to subclause 3.2(1)(c) of the Road User Rule⁴ in Schedule 1 of the offences regulations, by substituting “right” for “left” and “left” for “right.”
 - 21.2. Amend the reference to subclauses 3.6(2) and 3.6(4) of the Road User Rule in Schedule 1 of the offences regulations, to include reference to the rider of a cycle, moped, or motorcycle lawfully using the bus lane controlled by the ‘B’ signal.⁵
 - 21.3. Amend the reference to subclause 4.2(2A) of the Road User Rule in Schedule 1 of the offences regulations, by substituting “right-turning” for “left-turning” and “left-turning” for “right-turning.”⁶
 - 21.4. Amend the reference to subclause 4.2(2A) of the Road User Rule in Schedule 2 of the offences regulations, by substituting “right-turning” for “left-turning” and “left-turning” for “right-turning.”

¹ See paragraph 13.2 above.

² See paragraph 13.2.

³ See paragraph 17.7.

⁴ This relates to giving way at traffic signals when vehicles turn on a ‘green’ signal.

⁵ See paragraph 17.1.

⁶ This relates to giving way when vehicles are controlled by the same type of sign, or in the absence of signs.

22. The amendment Rule is due to come into force on 1 October 2011 and 25 March 2012 for the change to the give-way rules. However, the consequential amendments to the regulations for the minor proposals will not come into force until 20 October 2011. It is not expected that this delay will cause problems, and the NZ Police have advised that they normally have a 'phasing in' period for any law changes.

Consultation

23. I am satisfied that the NZTA has publically notified and consulted on this amendment Rule on my behalf in accordance with section 161(2) of the Land Transport Act 1998. The NZTA has:
- 23.1. published a notice of intention to make the amendment Rule in metropolitan daily newspapers on 14 May 2011 and in the *New Zealand Gazette* on 19 May 2011 and invited submissions (the period for making a submission closed on 24 June 2011)
 - 23.2. published a public consultation draft on its website and made copies available to 1,300 groups and individuals who registered an interest in the proposed amendment Rule, relevant stakeholder organisations, government departments and agencies, libraries and transport organisations
24. 134 submissions were received on the yellow draft. Submissions were mainly supportive of the proposals, and comments received have allowed officials to identify improvements to some proposals in the amendment Rule.
25. Local Government New Zealand and four of the seven road controlling authorities that submitted on the yellow draft commented that the implementation costs for the give-way rule changes are likely be higher than anticipated. They asked for financial assistance from the NZTA in order to implement the changes (intersection improvement and/or local education campaigns). However, the NZTA believes that the costs to local authorities are likely to be small and most intersections will not require immediate change. The NZTA intends to work with road controlling authorities to assist with coordination of local publicity campaigns and to offer advice and guidance to ensure consistent management of issues prior to and post implementation on 25 March 2012.
26. One of the changes as a result of public consultation is to proposal seven of the yellow draft, 'time limits on medical certificates for those excluded from wearing a seatbelt'.
27. In the yellow draft, I had proposed to place a two-year time limit on a medical certificate that allows a vehicle's occupant to be excluded from being restrained by a seatbelt or child restraint while travelling in the vehicle due to a medical condition.
28. The main concerns raised by submitters during public consultation were that this proposal should differentiate between temporary and permanent medical conditions and that the two-year time limit was too long for most children's medical conditions.

29. As a result of public consultation, I have agreed to change this proposal in the amendment Rule, to require that medical practitioners determine the time limit on certificates, as they are best placed to fully understand the implications of the medical condition for seat belt use. The amendment Rule now requires a medical certificate, issued on or after 1 October 2011, to have a date of issue and specify the period for which it is valid.
30. I have also agreed to change proposal four of the yellow draft, which proposed to extend the current 20km/h speed limit that applies to motorists passing a school bus, to situations in which a flashing school bus sign that is fitted to a bus is being operated. Through the process of refining the amendment Rule and following public consultation some technical and enforcement issues with this proposal became apparent.
31. It is now thought that the 20km/h speed limit should only apply to situations when the bus has stopped and the flashing lights are operated, and not be extended to situations where flashing lights are operated up to 20 seconds before the bus has stopped and up to 20 second after the bus has moved away. Extending the requirement would create compliance and enforcement issues for the motorist as slowing to 20 km/h when passing a school bus with the lights activated may be a considerable distance (more than 200 metres) from the place where it stops to pick up or set down children, and does not provide additional safety as the point of danger is where the bus stops.
32. The policy intent, to create a 'safety cocoon' for school children, would still apply as the flashing lights will still act as a warning to motorists that a school bus is operating and that there is likely to be school children about. The proposed change to the amendment Rule will extend the current requirement for drivers to limit their speed to 20km/h when passing a stationary school bus, to also include a stationary school bus on which a school bus sign with flashing lights is activated. The NZ Police are in support of the proposed change.
33. The amendment Rule has been clarified so that the requirement not to exceed 20km/h when passing a stationary school bus also applies when a bus is displaying a school bus sign.
34. An editorial change has also been made to subclause 4.2(3) to further clarify which give-way rule takes precedence at an uncontrolled intersection. This change was not publicly consulted on but has come to officials attention as needing further clarification for road users. As a result of changing the give-way rules, conflicting duties arise for motorists at uncontrolled intersections where more than one give-way rule applies. In order to address this situation, it is proposed that the amendment Rule states that the specific provisions about giving way when turning right and turning at a T-intersection (subclauses 4.2(2) and 4.2(4)) have precedence over the general provision of giving way to your right (subclause 4.2(3)).
35. Other minor wording and technical changes were also made to the amendment Rule following public consultation.

Departmental Consultation

36. The following government agencies were consulted in the development of this paper:
- 36.1. the Ministries of Economic Development, Education, Health, Social Development, Justice and Youth Development, Te Puni Kokiri, the Treasury, the Departments of Labour and of Internal Affairs, New Zealand Police, and the Accident Compensation Corporation
 - 36.2. the Department of the Prime Minister and Cabinet was informed
37. Local Government New Zealand was also consulted.

Implementation

38. The amendment Rule will come into force on 1 October 2011 (28 days after the amendment Rule is *Gazetted*), with the exception of the changes to the give-way rules which will come into force on Sunday 25 March 2012. It is proposed that the change to the give-way rules take effect at 5am on Sunday morning rather than midnight Saturday in order to avoid Saturday night traffic and taxi use.
39. The NZTA is developing an advanced communications and implementation plan in order to mitigate any risk of confusion that may arise when the change to the give-way rules is implemented. \$1.2 million has been budgeted for a national public information campaign.
40. The NZTA is currently in discussion with its advertising agency on the final form of this campaign, however, it is anticipated that television, radio, press and online channels will be used to ensure all road users are targeted. A nationwide household leaflet drop is also likely to be used depending on the advice of the advertising agency. Table 1 details the NZTA's estimate of the breakdown in costs for the public information campaign.

Table 1: NZTA's estimate of the breakdown of costs for publicity campaign

Communication medium	\$ (thousands)
Television media, 45-60 second timeslots	520,000
Radio advertising	150,000
Press/print	100,000
Google search campaign	30,000
Other online advertising	100,000
Household drop (of leaflets)	100,000
Production of all creative material	200,000
Total:	\$1.2 million

41. To avoid confusion it is anticipated that the public information campaign will begin 10 days before 25 March 2012. The campaign will continue for approximately one week after the date of change. This timing has been proposed to avoid public debate and minimise the risk of people starting to use the new give-way rules too early. The timing is also based on the experience in Victoria, Australia, where a similar change was made.

42. The campaign will focus on the date of change and will explain what the changes are. A key element will be visual/video/audio explanations (and translations if appropriate) so that all members of the public can access information in suitable formats.
43. From when the Rule is signed, a dedicated NZTA website page and 0800 number will be set up that the public can access. The website and information for the NZTA's contact centre will be updated as 25 March 2012 draws closer.
44. The NZTA will also be working with local councils and providing them with guidance and resources for local campaigns to ensure consistency of timing and messages.
45. Further communication is planned for when the other Road User Rule provisions come into force on 1 October 2011, but no mass advertising is planned at this stage.

Financial implications

Implementation costs

46. The cost of implementing the change to the give-way rules was identified when Cabinet considered the policy paper 'Completing Safer Journeys First Actions' [CAB Min (10) 34/6 refers] in September 2010.
47. Changing the give-way rules will cost the NZTA up to \$1.2 million in conducting a publicity campaign. These costs have been allocated through reprioritisation within the National Land Transport Programme. The reprinting of publications (*The official New Zealand road code*, licence tests, factsheets, and pamphlets targeting overseas visitors and new migrants) will be paid for through existing budgets. Further costs of up to \$1 million may be incurred by local road controlling authorities for any discretionary improvements to maximise traffic efficiency under the new give-way rules. Road controlling authorities will determine whether any specific work is required as a result of the changes and this will be funded through a reprioritisation of their existing budgets.
48. The 10 other minor proposals in the amendment Rule are expected to have minimal, if any, financial implications.

Human rights implications

49. The proposed amendment Rule is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. It complies with the Privacy Act 1993 and the principles of the Treaty of Waitangi.

Legislative implications

50. To give effect to some of the proposals in the amendment Rule, specific offences, fines and penalties must be established or amended. Therefore, consequential amendments to the Land Transport (Offences and Penalties) Regulations 1999 are required.

Consistency with Government Statement on Regulation

51. I have considered the analysis and advice of my officials and I am satisfied that the regulatory proposals recommended in this paper:
- 51.1. are required in the public interest
 - 51.2. will deliver the highest net benefits of the practical options available
 - 51.3. are consistent with our commitments in the Government statement “Better Regulation, Less Regulation”

Regulatory Impact Analysis

52. The Treasury has advised that a Regulatory Impact Statement (RIS) is not required for this paper. There are no substantive policy decisions within this paper as Cabinet has already agreed to the changes to the give-way rules, and the other policy decisions are minor or consequential. Regulatory impact analysis was undertaken and provided to Cabinet when it took the policy decisions relating to the changes to the give-way rules [CAB Min (10) 34/6].

Disability perspective

53. The NZTA will seek to communicate the change to the give-way rules in appropriate formats to those with disabilities.
54. As part of public consultation, the Royal New Zealand Foundation of the Blind (RNZFB) expressed concern that the proposed changes to the give-way rules be communicated in appropriate formats to those with vision impairments. The RNZFB offered to assist the NZTA in the preparation of information on the changes. The NZTA will work with the RNZFB to ensure that the changes are communicated to all road users, including those with vision impairments.

Publicity

55. I will publicly announce the changes after I sign the amendment Rule. The NZTA will manage the publicity and education campaign centred around the change to the give-way rules.

Recommendations

56. It is recommended that the Committee:
1. **note** that the Minister of Transport intends to make the Land Transport (Road User) Amendment Rule 2011 (the amendment Rule);
 2. **note** that the amendment Rule was included in the approved Transport Rules Programme for 2011/12;
 3. **note** that Cabinet approved the change to the give-way rules in September 2010 when it considered 'Completing Safer Journeys First Actions' [CAB Min (10) 34/6 refers];
 4. **note** that the main objective of the amendment Rule is to improve road safety at intersections by changing the give-way rules. Other objectives of the amendment Rule are either a consequence of changing the give-way rules, are required to align road user requirements with changes to Land Transport Rule: Traffic Control Devices 2004, and/or to strengthen or clarify existing road user requirements;
 5. **note** that the amendment Rule was publicly consulted on in May/June 2011, and as a result of submissions, the Minister of Transport has agreed to amend proposals 4 and 7 of the yellow draft as well as other minor technical changes to the amendment Rule, including an editorial change to subclause 4.2(3) to clarify the order of precedence of give way provisions;
 6. **note** that the amendment Rule will come into force on 1 October 2011, 28 days after it is *Gazetted*, with the exception of the changes to the give-way rules, which will come into force on 25 March 2012, in order to give the NZ Transport Agency sufficient time for an extensive education and publicity campaign to be carried out;
 7. **note** that the change to the give-way rules will take effect at 5am on Sunday 25 March 2012;
 8. **note** that to give effect to some of the proposals, consequential amendments to the Land Transport (Offences and Penalties) Regulations 1999 are required;
 9. **note** that the consequential amendments to the Land Transport (Offences and Penalties) Regulations 1999 (with the exception of the amendments as a result of the change to the give-way rules) will come into force on 20 October 2011, after the amendment Rule comes into force;
 10. **agree** that breach of subclause 4.2(4) of the Land Transport (Road User) Rule 2004 should be an offence under the Land Transport (Offences and Penalties) Regulations 1999, with a maximum fine on summary conviction of \$1,000, or an infringement fee of \$150, plus (in either case) 20 demerit points;
 11. **agree** that breach of subclause 4.4(2) of the Land Transport (Road User) Rule 2004 should be an offence under the Land Transport (Offences and Penalties)

Regulations 1999, with a maximum fine on summary conviction of \$1,000, or an infringement fee of \$150, plus (in either case) 20 demerit points;

12. **agree** that breach of subclause 8.4(3) of the Land Transport (Road User) Rule 2004 should be an offence under the Land Transport (Offences and Penalties) Regulations 1999, punishable by a maximum fine on summary conviction of \$500, or an infringement fee of \$150.

Hon Steven Joyce
Minister of Transport

Dated: