

Land Transport and Road User Charges Legislation Amendment Bill

Government Bill

Explanatory note

General policy statement

The road user charges (RUC) system has recently been subject to major reform through the Road User Charges Act 2012 (the **RUC Act**). Most aspects of the new system are working well, but there is a need to correct some minor anomalies with the RUC Act that affect a small number of vehicles and their owners.

The Land Transport and Road User Charges Legislation Amendment Bill is an omnibus Bill that amends the Land Transport Act 1998 and the RUC Act. Changes to the Land Transport Act 1998 are required to support proposed changes to the RUC Act. The Bill will be divided at the committee of the whole House stage into 2 separate Bills.

New regulation-making power to exempt vehicles from RUC that are not required to be registered

In general, unregistered vehicles are not allowed to be used on the road. But this does not apply to vehicles that are exempt from registration or that are not required to be registered under the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011, or to unregistered vehicles operated under trade plates.

Under the RUC Act, unregistered RUC vehicles are subject to RUC unless they belong to a class of vehicle that is defined as being exempt under the RUC Act.

It is not possible to issue RUC distance licences for unregistered RUC vehicles because distance licences are issued against a vehicle's registration number. Operators of unregistered RUC vehicles cannot be compliant with the RUC Act when travelling on roads. Because the amount of RUC revenue that would be collected for these vehicles is low, it is not cost-effective to set up new systems to collect RUC. The Bill proposes to amend the RUC Act to enable regulations to be made exempting RUC vehicles from RUC that are not required to be registered.

New annual charge, in lieu of RUC, for some RUC vehicles that are exempt from RUC

Most RUC vehicles that are exempt from RUC make very little use of roads and make a sufficient contribution to the costs they impose on the road network through the vehicle licence fee. However, some vehicles exempt from RUC are likely to impose higher costs on the road network than are covered by the standard licence fee (\$43.50 for most vehicles). For instance, tractors operated over 40 kilometres per hour on road, or the use of a single trade plate on multiple unregistered heavy RUC vehicles.

In such cases, the imposition of an additional annual charge for a trade plate or a vehicle licence is a cost-effective alternative to RUC. The Bill proposes to amend the Land Transport Act 1998 to enable an annual charge in lieu of RUC to be collected through the registration and vehicle licensing system, where deemed appropriate.

New offence provisions to support enforcement of conditions on exemptions from RUC granted under section 40 of RUC Act

Owners of light RUC vehicles that are operated almost exclusively off-road can apply to the RUC collector for an exemption from RUC under section 40 of the RUC Act.

Exemptions granted under section 40 are subject to conditions prescribed by regulations made under section 89 of the RUC Act. For instance, an exempt light RUC vehicle can be operated no further

than 10 kilometres from the nearest boundary of the property where it is normally kept.

However, there are no offence provisions relating to the breach of conditions associated with section 40.

The Bill proposes to amend the RUC Act to add offence provisions to support the enforcement of conditions associated with exemptions granted under section 40. The proposed penalties have been set to be commensurate with penalties associated with other offences of similar seriousness under the RUC Act. Once an offence is created in the RUC Act, existing provisions will enable regulations to be made to provide an infringement fee option for breaches of conditions.

Seven minor technical amendments to RUC Act to improve operation of RUC system

Seven issues have been identified that impair the effective functioning of the new RUC system.

- Section 12 (RUC vehicles issued with permit must have distance licence for RUC vehicle type H or additional licence) of the RUC Act does not adequately provide for temporary vehicle combinations that are not covered by existing RUC rates (for example, vehicle combinations put together specifically to move a large object such as a wind turbine). Because temporary combinations are not covered by existing RUC rates, it is not possible for the operator of such combinations to purchase an additional licence for additional weight carried. The Bill proposes to amend section 12 to provide for a defence for not having an additional licence for a combination vehicle where—
 - no RUC rate is set in regulations for the combination; and
 - each vehicle in the combination has the required distance licence applicable to that vehicle; and
 - a permit has been issued under the Land Transport Act 1998 to move an overweight load; and
 - the operator of the combination carries written evidence of an agreement between the operator and the RUC collector to pay additional RUC in respect of the combin-

- ation that includes the registration numbers of the vehicles forming the combination; and
- the operator is able to produce the written agreement to an enforcement officer on request; and
 - the registration numbers of the vehicles in the combination match the registration numbers contained in the agreement.
- The current wording of section 19 (display of RUC licence) of the RUC Act effectively limits the display of a RUC distance licence to a vehicle's windscreen. This can make it difficult for police to inspect RUC distance licences and for vehicle operators to comply with display requirements. The Bill proposes to amend section 19 to cover alternative methods of display or carriage of a RUC licence.
 - When claiming a refund under section 32 (surrender of RUC licence) of the RUC Act, vehicle owners must surrender to the RUC collector the physical RUC distance licence that the refund pertains to before the refund can be paid. Because the RUC collector has access to electronic records of distance licences, it does not require the vehicle owner to physically surrender the distance licence to process a refund. This is an unnecessary compliance cost and the Bill proposes to remove this requirement.
 - Section 79 (power to issue search warrant in respect of alleged offence) of the RUC Act currently links to application provisions for search warrants contained in the Summary Proceedings Act 1957 (section 198). These provisions are to lapse on 30 June 2014 as a result of the enactment of the Search and Surveillance Act 2012. The Bill proposes to remove the link to section 198 of the Summary Proceedings Act 1957 and link instead to the Search and Surveillance Act 2012.
 - From time to time, a small number of RUC vehicles or combinations of vehicles that enter the New Zealand vehicle fleet do not fall within the definitions of vehicle types or combinations of vehicle types specified in the Road User Charges Regulations 2012 and the Road User Charges (Rates) Regulations 2012 (for instance, vehicles that are experimental in nature such as where designers experiment with the length of a com-

combination vehicle and steerable trailers to achieve the most efficient loading while complying with swept path requirements). Some of these vehicles may not remain in the fleet for long, while others may be retained in the fleet and will be provided for in the regulations when they are next amended.

The Bill proposes to amend the RUC Act to give the RUC collector power to issue a RUC licence with a charge calculated by the RUC collector for an individual vehicle or individual combination of vehicles in situations where the vehicle or vehicles do not fall within any vehicle type or combination for which rates are set by regulations.

The Bill makes this power subject to the RUC collector applying the same methodology as is used to set prescribed RUC rates. Operators will be able to seek a review of the charge imposed.

- The Bill also proposes to align the RUC collector's powers to impose a penalty for failure to pay RUC after receipt of a notice under section 55(5)(a) of the RUC Act with the requirements of section 61 of that Act. Section 57 of the RUC Act will be amended to exclude this penalty if a person has entered into an instalment arrangement under section 61 of that Act and the RUC collector is satisfied that the person is meeting the obligations under the arrangement.
- Regulations made under section 89 (other regulations) to give effect to section 40 (exemptions relating to light RUC vehicle operated almost exclusively off-road) are required to identify the classes of light RUC vehicles that are eligible for an exemption. However, the policy intent is that the exemption is available to all light RUC vehicles and not just individual classes of light RUC vehicle. The Bill proposes to amend sections 89 and 40 to clarify that the exemption is available to all light RUC vehicles that are operated almost exclusively off-road.

Regulatory impact statement

The Ministry of Transport produced a regulatory impact statement on 25 March 2013 to help inform the main policy decisions taken by the Government relating to the content of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.transport.govt.nz/about/functions/Documents/Regulatory-Impact-Statement-Land-Transport-Road-User-Charges-Amendment-Bill-2013.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to Land Transport Act 1998

Clause 3 provides that this Part amends the Land Transport Act 1998.

Clause 4 inserts a *new section 269A* (additional fee for certain RUC vehicles) to authorise an additional fee to be prescribed and collected under the Land Transport Act 1998 for RUC vehicles that are exempt from RUC.

Clause 5 amends section 270 (fees and charges identified as land transport revenue) to provide that the additional fees prescribed under *new section 269A* are to be treated as land transport revenue.

Part 2

Amendments to Road User Charges Act 2012

Clause 6 provides that this Part amends the Road User Charges Act 2012.

Clause 7 makes an amendment to section 12 that is consequential to *new section 12A* as inserted by *clause 8*.

Clause 8 inserts *new section 12A*, which provides for payment of road user charges by way of agreement with the RUC collector in relation to a temporary combination of vehicles for which there is no prescribed rate of road user charges.

Clause 9 amends section 19 (display of RUC licence) to permit RUC licences to be carried (instead of displayed) in accordance with regulations.

Clause 10 amends section 32 (surrender of RUC licence) to remove the requirement that a RUC licence has to be surrendered before a refund can be paid, if the RUC collector is satisfied that subsection (1) applies, which specifies the circumstances when a RUC licence ceases to have effect.

Clause 11 inserts *new section 38A* (exemption of RUC vehicles not required to be registered), which authorises regulations to be made to exempt RUC vehicles from the obligation to pay RUC if they are exempt from or not required to be registered under the Land Transport Act 1998, including unregistered vehicles operated under trade plates.

Clause 12 amends section 40 (exemption relating to light RUC vehicle operated almost exclusively off-road) to make it an offence to breach any condition of an exemption granted under that section.

Clause 13 amends section 57 (penalty for failure to pay after receipt of notice under section 55(5)(a)) to clarify that where a person has entered into an instalment arrangement under section 61, the penalty provisions under section 57(2) do not apply.

Clause 14 replaces section 79 (power to issue search warrant in respect of alleged offence). *New section 79* updates the power to obtain search warrants with reference to the Search and Surveillance Act 2012.

Clause 15 makes amendments to section 80 that are consequential to *new section 79*.

Clause 16 makes amendments to section 89 that are consequential to the amendments in *clause 9* and that also permit regulations to specify that an application for an exemption can be made in respect of all light RUC vehicles.

Clause 17 inserts *new clauses 90A and 90B*. These authorise the RUC collector to specify, by notice in the *Gazette*, rates of road user charges for a vehicle or combination of vehicles that is not covered by existing RUC vehicle types or weights as prescribed in regulations. The new sections set out how the RUC collector is to calculate

the appropriate rates and how a vehicle owner can seek a review of a rate set.

Hon Gerry Brownlee

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Land Transport and Road User Charges Legislation Amendment Act **2013**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Amendments to Land Transport Act 1998

- 3 Principal Act**
This **Part** amends the Land Transport Act 1998 (the **principal Act**). 5
- 4 New section 269A inserted (Additional fee for certain RUC vehicles)**
After section 269, insert:
“269A Additional fee for certain RUC vehicles
“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, prescribe an additional fee payable in respect of— 10
“(a) all RUC vehicles (within the meaning of the Road User Charges Act 2012) that are operated on road and that are exempt from paying road user charges under section 38 or **38A** of that Act; or 15
“(b) 1 or more classes of RUC vehicles that are operated on road and that are exempt from paying road user charges under section 38 or **38A** of that Act.
“(2) The additional fee— 20
“(a) is to be treated as land transport revenue for the purposes of the Land Transport Management Act 2003; and
“(b) is to be set having regard to—
“(i) the extent of the use of the vehicles on road; and
“(ii) the likely costs that the vehicles generate when used on road; and 25
“(c) is payable in addition to the fee payable in respect of an application for the licence for a motor vehicle or for the issue of trade plates (as the case may be).
“(3) An additional fee prescribed under **subsection (1)** may be set at different levels for different classes of vehicles (whether licensed or operating under trade plates).” 30
- 5 Section 270 amended (Fees and charges identified as land transport revenue)**
In section 270(1),— 35
(a) after “section 269”, insert “or **269A**”; and

- (b) after “identified”, insert “or to be treated”.

Part 2
Amendments to Road User Charges Act
2012

- 6 Principal Act** 5
This **Part** amends the Road User Charges Act 2012 (the **principal Act**).
- 7 Section 12 amended (RUC vehicles issued with permit must have distance licence for RUC vehicle type H or additional licence)** 10
In section 12(5), after “additional licence,”, insert “or in accordance with an agreement under **section 12A**.”
- 8 New section 12A inserted (Agreement to pay road user charges in relation to combination of vehicles)** 15
After section 12, insert:
- “12A Agreement to pay road user charges in relation to combination of vehicles**
- “(1) This section specifies the requirements for an agreement to pay road user charges for the purposes of section 12(5).
- “(2) The requirements are that— 20
- “(a) the agreement is between the owner or operator of the vehicles concerned and the RUC collector; and
- “(b) the agreement relates to 2 or more vehicles (identified in the agreement by their registration numbers) combined to operate together temporarily; and 25
- “(c) each vehicle concerned has a distance licence; and
- “(d) any permit required under the Land Transport Act 1998 in relation to the combined operation of the vehicles has been issued; and
- “(e) under the agreement, the owner or operator agrees to 30
provide information to the RUC collector under section 53(2) as soon as practicable after the completion of the operation of the vehicles concerned.”

9 Section 19 amended (Display of RUC licence)

- (1) In the heading to section 19, after “**Display**”, insert “**or carriage**”.
- (2) In section 19(1), after “displayed”, insert “or carried”.
- (3) In section 19(2), after “displaying”, insert “or carrying”. 5

10 Section 32 amended (Surrender of RUC licence)

In section 32(3), replace “a licence has been surrendered under subsection (2)” with “being satisfied that subsection (1) applies in relation to a RUC licence”.

11 New section 38A inserted (Exemption of RUC vehicles not required to be registered) 10

After section 38, insert:

“38A Exemption of RUC vehicles not required to be registered

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify the following RUC vehicles as vehicles in respect of which road user charges are not payable: 15
 - “(a) all RUC vehicles that are exempt from registration under the Land Transport Act 1998; or
 - “(b) 1 or more classes of RUC vehicles that are exempt from registration under the Land Transport Act 1998. 20
- “(2) For the purposes of **subsection (1)**, vehicles that are operated in circumstances in which no liability arises from their not being registered are to be treated as vehicles that are exempt from registration under the Land Transport Act 1998.” 25

12 Section 40 amended (Exemption relating to light RUC vehicle operated almost exclusively off-road)

- (1) Replace section 40(3)(a) with:
 - “(a) is, under regulations made under section 89(1), a light RUC vehicle for which an exemption may be granted; and” 30
- (2) In section 40(6), replace “subsection (4)” with “subsection (5)”.
- (3) After section 40(6), insert:

- “(7) A person commits an offence who operates, or permits to be operated, a light RUC vehicle in breach of any condition of an exemption granted under this section in relation to the vehicle.
- “(8) A person who commits an offence against **subsection (7)** is liable on conviction,— 5
- “(a) in the case of an individual, to a fine not exceeding \$1,000;
- “(b) in the case of a body corporate, to a fine not exceeding \$5,000.”
- 13 Section 57 amended (Penalty for failure to pay after receipt of notice under section 55(5)(a)) 10**
After section 57(2), insert:
- “(3) However, subsection (2) does not apply if the person has entered into an instalment arrangement under section 61 and the RUC collector is satisfied that the person is meeting the person’s obligations under the arrangement.” 15
- 14 Section 79 replaced (Power to issue search warrant in respect of alleged offence)**
Replace section 79 with:
- “**79 Power to issue search warrant in respect of alleged offence 20**
- “(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a search warrant in relation to a place, vehicle, or other thing if, on application made by a constable in the manner provided in subpart 3 of Part 4 of that Act, he or she is satisfied that there are reasonable grounds— 25
- “(a) to suspect that an offence has been, is being, or will be committed against this Act; and
- “(b) to believe that the search will find evidential material in respect of the offence in the place, vehicle, or other thing. 30
- “(2) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.
- “(3) Despite **subsection (2)**, sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.” 35

- 15 Section 80 amended (Offence relating to disclosing information acquired during inspection or search)**
- (1) In the heading to section 80, delete “or search”.
- (2) Replace section 80(1) with:
- “(1) A person commits an offence if the person, except in the performance of the person’s duties, knowingly discloses any information acquired during an inspection of records or other information under section 66 or 67.” 5
- 16 Section 89 amended (Other regulations)**
- (1) In section 89(g),— 10
- (a) replace “display of” with “display or carriage of”; and
- (b) replace “display requirements” with “display or carriage requirements”.
- (2) Replace section 89(l)(i) with:
- “(i) that an exemption may be granted for any light RUC vehicle or for 1 or more classes of light RUC vehicles as specified in the regulations.” 15
- 17 New sections 90A and 90B and cross-heading inserted**
- After section 90, insert:
- “*RUC collector specifying rates of road user charges*” 20
- “90A RUC collector may, in certain cases, specify rate of road user charges**
- “(1) This section applies if—
- “(a) a vehicle is a RUC vehicle or combination vehicle; and 25
- “(b) the vehicle or combination vehicle requires a licence; and
- “(c) in the rates of road user charges specified in regulations under section 85, there is no rate that applies to the vehicle or combination vehicle. 30
- “(2) The RUC collector may by notice in the *Gazette* specify a RUC vehicle type and rate of road user charge payable in respect of the class of RUC vehicle that includes that vehicle.
- “(3) In specifying a rate of road user charge under **subsection (2)**, the RUC collector must use the same methodology as used for 35

the rates of road user charges specified in regulations made under section 85.

“(4) Section 85(4) and (5) applies to a rate of road user charge specified under this section as if the reference to regulations made under subsection (1) of that section were a reference to a notice in the *Gazette* under **subsection (2)** of this section. 5

“**90B RUC collector to issue assessment for vehicles in respect of which rate specified under section 90A**

“(1) After specifying a rate of road user charge under **section 90A**, the RUC collector must issue to the owner or operator of the vehicle or combination vehicle concerned an assessment of the amount of road user charges payable (including GST payable in respect of those charges). 10

“(2) The provisions of this Act apply, with any necessary modifications, to an assessment issued under this section as if it were an assessment issued under section 53(1).” 15