

Road User Charges Bill

Government Bill

As reported from the Transport and
Industrial Relations Committee

Commentary

Recommendation

The Transport and Industrial Relations Committee has examined the Road User Charges Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill seeks to modernise and simplify the road user charges system, by changing the definition of vehicle weight for the purposes of road user charges. The proposed change is from a system based on actual gross weight, as specified by vehicle owners, to one based on maximum permissible on-road weight. This new definition would result in operators being charged according to their vehicles' carrying capacities, rather than the actual loads carried. The new system is intended to

- eliminate the scope for error and fraud in licence purchases
- reduce administrative complexity
- reduce compliance costs
- simplify enforcement

- change how additional licences are implemented. Additional licences are required for a road user charge vehicle to obtain overweight and high-productivity permits.
- provide an incentive for efficient use of heavy vehicles.

This commentary discusses the main issues we considered and explains the significant amendments we recommend to the bill.

Commencement

We recommend an amendment to clause 2 to stipulate that all the bill's provisions when enacted come into force no later than 1 August 2012, should any of them not be in force by that date. This clause as introduced provides for all the provisions in the bill to come into force on a date to be set by the Governor-General by Order in Council. The Regulations Review Committee advised us that all bills should have a fixed commencement date and that commencement by Order in Council should occur only in rare and exceptional circumstances.

RUC vehicle must have a distance recorder

We recommend amending clause 8, which requires a road user charge (RUC) vehicle to have a distance recorder, by inserting subclause (2A) to allow heavy RUC vehicles to be fitted with an odometer or another kind of distance recorder approved by the RUC collector if the vehicle is not fitted with an electronic distance recorder and it is impracticable to fix a hubodometer to the vehicle. We understand that it is impractical to use a hubodometer on some heavy vehicles.

RUC vehicle must have distance licence

We recommend that clause 9(2)(d), which requires a distance licence to specify the road user charge weight assigned to the RUC vehicle, be removed from the bill because this requirement is unnecessary. We also recommend that clause 9 be improved by adding that the distance licence must specify the maximum and minimum distance covered under the licence. Clause 9 as introduced provides that a road user charge vehicle must be operated with a distance licence, which specifies the characteristics of the vehicle to which the licence applies.

Certain RUC vehicles must have an additional licence

Clause 12 provides that vehicles that operate under overweight and high-productivity permits under the Land Transport Rule: Vehicle Dimensions and Mass 2002 (VDAM Rule 2002) must have an additional road user charge licence, which attracts an additional payment. We recommend replacing clause 12 with a new clause 12 to enable vehicle operators of certain RUC vehicles issued with overweight and high-productivity permits to either pay for an additional licence to the distance licence required for the vehicle under clause 9 or to obtain a distance licence specifically for RUC vehicle type H. These vehicles have a licence that incorporates the road user charges for the extra weight, making it unnecessary to continually re-purchase an additional licence when required. However, the requirement to purchase an additional licence or obtain a distance licence specifically for RUC vehicle type H would not apply where there was evidence that the RUC vehicle concerned was registered under an alternative payment scheme. We consider the flexibility of providing two options for operators paying additional road user charges to be desirable.

Display of road user charge licence

We recommend that the maximum penalties in clauses 19 and 25 for not displaying a road user charge licence, or having a licence obscured, be reduced from \$3,000 to \$1,000 for an individual and from \$15,000 to \$5,000 for a body corporate. We consider that penalties proposed in the bill as introduced for what are essentially administrative offences are too high.

RUC collector may issue assessment for unpaid road user charges

We recommend that clause 48(3) be amended so that an assessment for unpaid road user charges would be based on the road user charges rate that applied on the day the assessment was issued. As RUC rates change periodically, an assessment could relate to a period of time in which different RUC rates applied. In many cases, the RUC rate would be higher on the day the assessment was issued than on the day when the debt was incurred. We consider that new clause 48(3A) would act as an incentive to pay the RUC promptly.

RUC collector may take information from vehicle management system

We recommend that clause 57(b) be amended so that the RUC collector may retain only information taken from the vehicle management system regarding the distance travelled by the RUC vehicle. Clause 57 allows the RUC collector, for the purposes of issuing an assessment, to take information from a vehicle's onboard computer to establish the distance the vehicle has travelled.

Certain persons must make and retain records

We recommend amendments to clause 59 to remove any retrospective effect and reduce the time records need to be retained for the purpose of assessing a person's road user charges payment obligations. We were concerned about the scale of the records to be kept and the time they should be retained for.

Inspection of records

We recommend amendments to clause 60 to require the RUC collector to provide a receipt for records and other information removed from an operator; and to provide for the RUC collector to remove records for the purpose of copying where the collector considers it impracticable to do so at the place of inspection.

Obligation to pay penalty not suspended by appeal

We recommend an amendment to clause 67 so that the obligation to pay penalties is suspended while an assessment is under review. This clause as introduced provides that the obligation to pay a penalty and the right of the RUC collector to receive and recover the penalty continues while any review or appeal takes place. However, we understand it was not the Minister's intention for the obligation to pay penalties to continue while an assessment was under review. This would be particularly unfair, as the RUC collector does not have any statutory timeframe under which a review must be completed.

Proceedings for offences generally

We recommend an amendment to clause 68 to set the limitation period at five years, rather than two years as in the bill as introduced,

for specified offences, and one year for the remaining offences, to align with the changes being proposed in the Criminal Procedure (Reform and Modernisation) Bill currently before the House. Our proposed new clause 68(2) would override the general provision in section 14 of the Summary Proceedings Act 1957, which provides that information must be laid within six months of the suspected offence.

Licences for heavy RUC vehicles

We recommend inserting new clauses 80C and 81B relating to the exemption of RUC vehicles from road user charges. New clause 80C provides for a regulation to exempt vehicles or classes of vehicles from the charges. New clause 81B provides for the RUC collector to notify in the *Gazette* that a particular RUC vehicle is not liable for the road user charge. The Minister (under new clause 80C(2)) and the RUC collector (under new clause 81B(2)) would have to be satisfied that the vehicle or class of vehicles was unsuitable for regular road use, and that compliance costs were disproportionate to the likely road use of the vehicle or class of vehicles. These amendments provide a means of avoiding imposing unnecessary compliance costs on vehicles that travel only short distances, or that come to New Zealand temporarily, for example to help in natural disaster recovery.

Regulations

The majority recommends that the power in clause 81(1)(b) to exempt vehicles from road user charges be constrained. The Regulations Review Committee advised us that none of the Legislation Advisory Committee's recommended safeguards are included in clause 81(1)(b), in particular the imposition of express limits on any power. The majority also recommends other amendments to clause 81 relating to refunds for vehicles fitted with an electronic distance recorder, regulating information obtained from vehicle engine management systems, and prescribing the kilometre increments under which road user licences can be sold with some flexibility for different types of licences and circumstances.

Appendix

Committee process

The Road User Charges Bill was referred to us on 15 February 2011. The closing date for submissions was 24 March 2011. We received and considered 41 submissions from interested groups and individuals. We heard 20 submissions. We received advice from the Ministry of Transport, the New Zealand Transport Agency, and the New Zealand Police. The Regulations Review Committee reported to us on the bill's commencement by Order in Council contained in clause 2; and the regulation-making power to exempt vehicles from road user charges contained in clause 81(1)(b).

Committee membership

David Bennett (Chairperson)

Dr Jackie Blue

Darien Fenton

Hon Tau Henare

Chris Hipkins

Gareth Hughes

Hon Shane Jones

Allan Peachey (until 13 April 2011)

Jami-Lee Ross (from 13 April 2011)

Michael Woodhouse

Road User Charges Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

text inserted unanimously

~~text deleted by a majority~~

~~text deleted unanimously~~

Hon Steven Joyce

Road User Charges Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Road User Charges Act **2010**.
- 2 Commencement**
- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council. 5
- (2) One or more Orders in Council may be made appointing different dates for the commencement of different provisions and for different purposes.
- (3) To the extent that it is not brought into force under **subsection (1) or (2)**, the rest of this Act comes into force on **1 August 2012**. 10

Part 1
Preliminary provisions

- 3 Purpose**
The purpose of this Act is to— 15
- (a) continue the road user charges system by imposing charges on ~~heavy vehicles and certain other~~ RUC vehicles for their use of the roads that are in proportion to the costs that the vehicles generate:
- (b) modernise and simplify the road user charges system: 20
- (c) improve compliance with, and the recovery of, road user charges:
- (d) establish a framework for the electronic management of road user charges.
- 4 Overview** 25
- (1) This Act replaces the Road User Charges Act 1977.

- (2) **Part 1** provides for the commencement of the Act, states the purpose of the Act, defines certain terms used in the Act, and contains other preliminary provisions.
- (3) **Part 2** contains key provisions relating to the requirement to pay road user charges, the issue and display of a road user charges licence, the payment and refund of road user charges, and other matters. 5
- (4) **Part 3** relates to assessments of unpaid road user charges by the RUC collector and provides for appeals against those assessments. 10
- (5) **Part 4** relates to the enforcement of road user charges, repeals the Road User Charges Act 1977, revokes the Road User Charges Regulations 1978, makes consequential amendments, and contains transitional provisions.
- 5 Interpretation** 15
- (1) In this Act, unless the context otherwise requires,—
- additional licence** means a licence required under **section 12**
- administration fee** means an administration fee prescribed by regulations made under **section 81**
- Agency** means the New Zealand Transport Agency established under section 93 of the Land Transport Management Act 2003 20
- assessment** means an assessment for unpaid road user charges issued by the RUC collector under **section 48(1)**
- chief executive** means the chief executive of the Ministry 25
- combination vehicle** has the same meaning as in Part 2 of the ~~VDAM Rule 2002~~
- computer record** includes a computer printout or any other document produced by a device by means of which information is recorded or stored 30
- current**, in relation to a distance licence, means a licence where the maximum reading specified on the licence is more than the reading of the distance recorder fitted to the RUC vehicle
- distance licence** means a licence required under **section 9** 35

distance recorder, in relation to a RUC vehicle, means—

- (a) a hubodometer; or
- (b) an electronic distance recorder; or
- (c) an odometer that—
 - (i) records in kilometres or miles; and 5
 - (ii) is of a nature and accuracy sufficient to provide a reliable record of the distance travelled by the RUC vehicle; or
- (d) any other kind of distance recorder approved by the RUC collector that— 10
 - (i) records in kilometres; and
 - (ii) is of a nature and accuracy sufficient to provide a reliable record of the distance travelled by the RUC vehicle

electronic distance recorder means a distance recorder provided by an electronic system provider 15

electronic licence means a licence displayed electronically on, or in conjunction with, an electronic distance recorder

electronic system means a system involving the use of electronic equipment and other technology situated in, or fitted to, 20 a RUC vehicle and elsewhere that has the capacity to measure, monitor, collect, store, display, analyse, communicate, and report ~~data and~~ information relating to—

- (a) the identity, distance travelled by, and location of a RUC vehicle; and 25
- (b) the purchase and issue of an electronic licence for the RUC vehicle; and
- (c) the integrity, security, and normal operation of the system

electronic system provider means a person approved by the RUC collector under **section 38** to— 30

- (a) provide electronic distance recorders; and
- (b) issue electronic licences

enforcement officer has the same meaning as in section 2(1) of the Land Transport Act 1998 35

~~**engine management system**, in relation to a RUC vehicle, means an electronic control unit situated in the vehicle that—~~

- ~~(a) receives inputs from the engine of the RUC vehicle and other sources; and~~
- ~~(b) controls 1 or more functions of the RUC vehicle; and~~ 5
- ~~(c) stores data relating to the operation of the RUC vehicle or combination vehicle~~

~~**exempt vehicle** means a RUC vehicle specified in regulations made under **section 81** for which road user charges are not payable~~ 10

exempt vehicle means the following vehicles in respect of which road user charges are not payable:

- (a) a light electric vehicle for the duration of the period specified by Order in Council made under **section 80B**;
- (b) a vehicle prescribed by regulations made under **section 80C**; 15
- (c) a vehicle specified by notice in the *Gazette* under **section 81B**

fail, in relation to an electronic system,—

- (a) means a failure of the system to perform as intended in terms of accuracy, security, reliability, verifiability, or any other performance indicator; and 20
- (b) includes a permanent failure, a temporary failure, or the failure of the system on a particular occasion or in particular circumstances 25

gross vehicle mass, in relation to a RUC vehicle, has the same meaning as in Part 2 of the VDAM Rule 2002

GST means ~~good goods~~ and services tax payable under the Goods and Services Tax Act 1985

former Act means the Road User Charges Act 1977 30

heavy RUC vehicle means a motor vehicle or trailer with a gross vehicle mass of more than 3 500 kilograms

hubodometer means a distance recorder that—

- (a) is of a kind approved by the RUC collector under **section 43**; and 35
- (b) is fitted to the axle or wheel of a RUC vehicle in accordance with regulations made under **section 81**

light electric RUC vehicle means a RUC vehicle with—

- (a) a gross vehicle mass of 3 500 kilograms or less; and
- (b) motive power wholly or partly derived from an external source of electricity

light RUC vehicle—

- (a) means a motor vehicle with a gross vehicle mass of 3 500 kilograms or less and with motive power that is not wholly derived from petrol; and
- (b) includes a light electric RUC vehicle

mass has the same meaning as in section 2(1) of the Land Transport Act 1998

maximum reading, in relation to a licence, means a figure specified on the licence as the maximum reading

minimum reading, in relation to a licence, means a figure specified on the licence as the minimum reading

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

motor spirits has the same meaning as in section 79A of the Customs and Excise Act 1996

motor vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998

operate and **operator** have the same meanings as in section 2(1) of the Land Transport Act 1998

owner has the same meaning as in section 2(1) of the Land Transport Act 1998

permit means a permit issued by a road controlling authority under section 5 of Part 1 of the VDAM Rule 2002

petrol—

- (a) means any motor spirits (including motor spirits blended with other fuels) or compressed natural gas or liquefied petroleum gas on which excise duty or excise-equivalent duty is payable under the Customs and Excise Act 1996; but

(b) does not include diesel or electricity

reading, in relation to a distance recorder, means the reading of distance recorded on the distance recorder at any particular time

~~**records**, in relation to a RUC vehicle, means documents that record the use and maintenance of a RUC vehicle, including (without limitation) —~~ 5

~~(a) logbooks:~~

~~(b) financial records and invoices relating to expenditure on fuel and maintenance:~~ 10

~~(c) any permits issued under section 5 of Part 1 of the VDAM Rule 2002:~~

~~(d) invoices relating to cartage or use of the RUC vehicle:~~

~~(e) records indicating which vehicles carried particular loads:~~ 15

~~(f) waybills and manifests:~~

~~(g) time keeping records (excluding wage records)~~

records, in relation to a RUC vehicle or RUC vehicles, means the following documents that relate to the use and maintenance of the vehicle or vehicles: 20

(a) logbooks:

(b) records relating to maintenance of the vehicle or vehicles:

(c) invoices relating to expenditure on maintenance in relation to the vehicle or vehicles: 25

(d) invoices relating to expenditure on fuel in relation to the vehicle or vehicles:

(e) invoices relating to cartage by, or use of, the vehicle or vehicles:

(f) any permits issued under section 5 of Part 1 of the VDAM Rule 2002 in relation to the vehicle or vehicles: 30

(g) timekeeping records

Registrar of Motor Vehicles has the same meaning as **Registrar** in ~~section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986~~ Part 17 of the Land Transport Act 1998 35

registration plate—

- (a) ~~means a registration plate issued under the Transport Act 1962 or the Transport (Vehicle and Driver Registration and Licensing) Act 1986; and~~
- (b) ~~includes a trade plate and a personalised registration plate~~ 5

registration plate has the same meaning as in Part 17 of the Land Transport Act 1998

rental service licence has the same meaning as in section 2(1) of the Land Transport Act 1998 10

road includes—

- (a) a highway (whether or not it has been declared to be a State highway); and
- (b) a street

road user charges mean charges payable under this Act in respect of the distance travelled by a RUC vehicle on a road 15

RUC collector means—

- (a) the chief executive; or
- (b) the Agency, if appointed ~~by regulations made under section 81~~ under section 80A to be the RUC collector for the purposes of this Act 20

RUC information—

- (a) means information that is generated or collected by an electronic system provider for any purpose relating to the provision, by the electronic system provider, of services relating to road user charges; and 25
- (b) includes ~~(without limitation)~~ information relating to—
- (i) the identity and business address of a person who is operating a RUC vehicle and the name of the person who has purchased a RUC licence for a RUC vehicle: 30
 - (ii) the distance travelled by a RUC vehicle:
 - (iii) the location of a RUC vehicle for the purpose of verifying a refund for off-road travel:
 - (iv) the purchase of a RUC licence: 35
 - (v) a fault with an electronic distance recorder or tampering (including suspected tampering) with an electronic distance recorder

RUC licence or licence—

- (a) means a distance licence or an additional licence issued for a RUC vehicle; and
- (b) includes—
- (i) an identical copy of a licence in the form approved by the RUC collector under **section 20(2)**; 5
 - (ii) an electronic licence

RUC vehicle or vehicle—

- (a) means the following motor vehicles: 10
- (i) a motor vehicle or trailer with a gross vehicle mass of more than 3 500 kilograms;
 - (ii) a motor vehicle with a gross vehicle mass of 3 500 kilograms or less and with motive power that is not derived wholly from petrol; but 15
- (b) does not include an exempt vehicle

RUC vehicle—

- (a) means—
- (i) a heavy RUC vehicle; or
 - (ii) a light RUC vehicle; but 20
- (b) does not include an exempt vehicle

RUC vehicle type, in relation to a RUC vehicle, means the type prescribed by regulations made under **section 81** as being the RUC vehicle type for the purposes of this Act

RUC weight, in relation to a RUC vehicle, means the lesser of the— 25

- (a) gross vehicle mass for the RUC vehicle; or
- (b) maximum allowable mass for the RUC vehicle under ~~section 4 of Part 1~~ section 4.5(1) of Part 1 of the VDAM Rule 2002 30

State services has the same meaning as in section 2 of the State Sector Act 1988

timekeeping records means records containing the following information relating to each person who is involved in the use and maintenance of a RUC vehicle or RUC vehicles and who is an employee of the owner or operator of the RUC vehicle or RUC vehicles: 35

- (a) the name of the employee;

(b) the kind of work on which the employee is usually employed:

(c) where necessary for the purpose of calculating the employee's pay, the hours between which the employee is employed on each day, and the days of the employee's employment during each pay period: 5

(d) the method of calculating the employee's wages

trailer has the same meaning as in section 233(1) of the Land Transport Act 1998

transport service has the same meaning as in section 2(1) of the Land Transport Act 1998 10

transport service licence has the same meaning as in section 2(1) of the Land Transport Act 1998

VDAM Rule 2002 means Land Transport Rule: Vehicle Dimensions and Mass 2002 15

vehicle inspection means a warrant of fitness or certificate of fitness ~~conducted~~ carried out under Land Transport Rule: Vehicle Standards Compliance 2002

vehicle inspector means a person appointed under Land Transport Rule: Vehicle Standards Compliance 2002 to carry out ~~inspection and certification activities~~ warrant of fitness or certificate of fitness inspections and certifications 20

vehicle management system, in relation to a RUC vehicle, means an electronic control system situated in the vehicle that— 25

(a) receives inputs from the engine of the RUC vehicle; and

(b) may receive inputs from other sources or systems of the RUC vehicle; and

(c) controls 1 or more functions of the RUC vehicle; and

(d) stores data relating to the operation of the RUC vehicle 30

working day means a day of the week except a Saturday, Sunday, or a public holiday (as specified in the Holidays Act 2003).

(2) For the purposes of this Act, a trailer (whether attached to another motor vehicle or not) must be treated as a separate RUC vehicle, except for the purpose of issuing an additional licence. 35

6 Act binds the Crown

This Act binds the Crown.

Part 2
Road user charges

Subpart 1—Key provisions 5

7 Requirement to pay road user charges

Road user charges are payable in respect of the operation of a RUC vehicle.

8 RUC vehicle must have distance recorder

(1) A person must not operate a RUC vehicle unless, at all times, the vehicle is fitted with a properly working distance recorder as specified in **subsection (2) or (3)**. 10

(2) ~~A RUC vehicle with a gross vehicle mass of more than 3 500 kilograms~~ heavy RUC vehicle must be fitted with either—

(a) an electronic distance recorder that— 15

(i) is provided by an electronic system provider; and

(ii) is fitted in accordance with regulations made under **section 81**; and

(iii) accurately records the distance travelled by the RUC vehicle at all times; or 20

(b) a hubodometer that—

(i) is fitted in accordance with regulations made under **section 81**; and

(ii) accurately records the distance travelled by the RUC vehicle at all times. 25

(2A) However, in the case of a heavy RUC vehicle that is not fitted with an electronic distance recorder under **subsection (2)(a)**, the RUC collector may dispense with the requirement for the vehicle to be fitted with a hubodometer under **subsection (2)(b)**, if the RUC collector is satisfied that— 30

(a) because of the construction of the heavy RUC vehicle it is impracticable to affix a hubodometer to the vehicle; and

(b) the heavy RUC vehicle is fitted with an odometer or another kind of distance recorder approved by the RUC collector. 35

- (3) A RUC vehicle with a gross vehicle mass of 3 500 kilograms or less light RUC vehicle may be fitted with any kind of distance recorder that accurately records the distance travelled by the RUC vehicle at all times.
- (4) A person commits an offence if the person— 5
- (a) operates a RUC vehicle where the RUC vehicle is not fitted with a properly working distance recorder ~~as specified in **subsection (2) or (3)**~~; or
 - (b) operates a RUC vehicle where the electronic distance recorder or hubodometer fitted to the RUC vehicle has 10 not been provided by an electronic system provider or approved by the RUC collector (as the case may be); or
 - (c) operates a RUC vehicle where the hubodometer or electronic distance recorder fitted to the RUC vehicle is not 15 fitted in accordance with regulations made under **section 81**; or
 - (d) operates a RUC vehicle where the distance recorder fitted to the RUC vehicle is not accurately recording the distance travelled by the RUC vehicle.
- (5) A person who commits an offence against **subsection (4)** is 20 liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$3,000;
 - (b) in the case of a body corporate, to a fine not exceeding 25 \$15,000.

9 RUC vehicle must have distance licence

- (1) A person must not operate a RUC vehicle on a road unless a distance licence has been issued for the vehicle.
- (2) The distance licence must specify— 30
- (aa) the minimum and maximum distances covered by the licence; and
 - (a) the number or any other distinguishing mark shown on the registration plates of the RUC vehicle; and
 - (b) the serial number (if any) of the distance recorder fitted to the RUC vehicle; and 35
 - (c) the RUC vehicle type of the RUC vehicle; and
 - (d) ~~the RUC weight assigned to the RUC vehicle; and~~

- (e) any other information that is required to be specified on the licence by regulations made under **section 81**.
- (3) Despite **subsection (1)**, a person may operate a RUC vehicle on a road without having a distance licence issued for the vehicle if the RUC vehicle— 5
- (a) has an electronic distance recorder attached to it; and
- (b) is registered under an alternative payment scheme prescribed by regulations made under **section 81**.
- (4) A person commits an offence if the person, without reasonable excuse,— 10
- (a) operates a RUC vehicle on a road where the vehicle does not have a distance licence that complies with **subsection (2)**; or
- (b) operates a heavy RUC vehicle where the distance licence issued for the vehicle has expired in accordance with **section 80(2)** this Act. 15
- (5) A person who commits an offence against **subsection (4)** is liable on summary conviction,—
- (a) in the case of an individual, to a fine not exceeding \$3,000: 20
- (b) in the case of a body corporate, to a fine not exceeding \$15,000.

Compare: 1977 No 124 s 5

10 Reading of distance recorder must not exceed maximum reading 25

- (1) For the purposes of this Act, the reading of the distance recorder fitted to a RUC vehicle must be more than the minimum reading, but not more than the maximum reading, specified in the distance licence for the RUC vehicle.
- (2) A person commits an offence if the person operates a RUC vehicle on a road where the reading of the distance recorder fitted to the vehicle exceeds the maximum reading specified in the distance licence for the vehicle by more than 500 kilometres. 30
- (3) A person who commits an offence against **subsection (2)** is liable on conviction,— 35
- (a) in the case of an individual, to a fine not exceeding \$3,000:

- (b) in the case of a body corporate, to a fine not exceeding \$15,000.

11 RUC vehicle must have RUC vehicle type and RUC weight

The Agency must—

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- (a) assign a RUC vehicle type and RUC weight to a RUC vehicle; and
 (b) record the RUC vehicle type and RUC weight assigned to the RUC vehicle on a land transport register.

12 Certain RUC vehicles must have additional licence

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(1) This section applies to the following RUC vehicles:

- (a) a single vehicle issued with a permit;
 (b) a combination vehicle issued with a permit.

(2) In addition to the requirement to have a distance licence, the RUC vehicle must also have an additional licence or evidence (as prescribed by regulations made under **section 81**) of registration under an alternative payment scheme:

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(3) The additional licence or registration under an alternative payment scheme required by **subsection (2)** must—

- (a) cover the difference between—
 (i) the RUC vehicle's maximum allowable mass under section 4 of Part 1 of the VDAM Rule 2002; and
 (ii) the maximum mass specified in the permit issued for the RUC vehicle under section 5 of Part 1 of the VDAM Rule 2002; and

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(b) contain the information prescribed by regulations made under **section 81**; and

(c) be displayed in accordance with regulations made under that section.

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(4) A person commits an offence if the person, without reasonable excuse, operates a RUC vehicle to which this section applies on a road without an additional licence or registration under an alternative payment scheme.

(5) A person who commits an offence against **subsection (4)** is liable on conviction,—

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- (a) ~~in the case of an individual, to a fine not exceeding \$3,000;~~
- (b) ~~in the case of a body corporate, to a fine not exceeding \$15,000.~~

- 12** RUC vehicles issued with permit must have distance licence for RUC vehicle type H or additional licence 5
- (1) This section applies to the following RUC vehicles:
- (a) a single heavy RUC vehicle issued with a permit:
 - (b) a heavy RUC vehicle (a **towing vehicle**) towing 1 or more trailers issued with a permit that covers both the towing vehicle and the trailer or trailers. 10
- (2) A RUC vehicle to which this section applies must—
- (a) have a distance licence (as required by **section 9**) specifically for RUC vehicle type H; or
 - (b) have an additional licence as well as the distance licence required by **section 9**. 15
- (3) However, **subsection (2)** does not apply if there is evidence (as prescribed by regulations made under **section 81**) that the RUC vehicle is registered under an appropriate alternative payment scheme. 20
- (4) An additional licence specified in **subsection (2)(b)** must—
- (a) cover the difference between—
 - (i) the RUC vehicle's maximum allowable mass under section 4.5(1) of Part 1 of the VDAM Rule 2002; and 25
 - (ii) the maximum mass specified in the permit under which the RUC vehicle is operating; and
 - (b) contain the information prescribed by regulations made under **section 81** and be displayed in accordance with regulations made under that section. 30
- (5) A person commits an offence if the person, without reasonable excuse, operates a RUC vehicle to which this section applies on a road without a distance licence specifically for RUC vehicle type H, or an additional licence, or without evidence of being registered under an alternative payment scheme (as the case may be). 35

- (6) A person who commits an offence against **subsection (5)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$3,000;
- (b) in the case of a body corporate, to a fine not exceeding \$15,000. 5

Other offences relating to distance recorders

13 Offences relating to distance recorders

- (1) A person commits an offence if the person—
- (a) operates a RUC vehicle on a road if the person knows, or ought to have known, that the distance recorder fitted to the vehicle, or any equipment that is required for the operation of the distance recorder fitted to the vehicle, has been ~~altered or damaged or tampered with~~ in a manner that affects, or is likely to affect, the accuracy of the distance recorder; or 10 15
- (ab) operates a RUC vehicle on a road if the person knows, or ought to have known, that the distance recorder fitted to the vehicle has been tampered with in a manner that affects, or is likely to affect, the accuracy of the distance recorder; or 20
- (b) wilfully alters, damages, or tampers with a distance recorder fitted to a RUC vehicle, or any equipment that is required for the operation of the distance recorder fitted to the vehicle, in a manner that affects, or is likely to affect, the accuracy of the distance recorder; or 25
- (c) operates a RUC vehicle on a road if the person knows, or ought to have known, that the distance recorder fitted to the RUC vehicle has been modified or repaired except as authorised by this Act or by regulations made under **section 81**; or 30
- (d) modifies or repairs, or attempts to modify or repair, any part of a distance recorder fitted to a RUC vehicle except as authorised by this Act or by regulations made under **section 81.** 35
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$15,000:
- (b) in the case of a body corporate, to a fine not exceeding \$75,000.

Compare: 1977 No 124 s 23(1)(fc), (g)

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14 Offence relating to interference with operation of distance recorder

- (1) A person commits an offence if the person—
 - (a) operates any equipment in a RUC vehicle if the person knows, or ought to have known, the equipment will interfere with, or is likely to interfere with, the accurate operation of the distance recorder fitted to the vehicle: 10
 - (b) installs any equipment in a RUC vehicle that is designed to interfere with the accurate operation of the distance recorder fitted to the vehicle: 15
 - (c) possesses any equipment in a RUC vehicle that is designed to interfere with the accurate operation of the distance recorder fitted to the vehicle.
- (2) A person who commits an offence against **subsection (1)(a) or (b)** is liable on conviction,— 20
 - (a) in the case of an individual, to a fine not exceeding \$15,000:
 - (b) in the case of a body corporate, to a fine not exceeding \$75,000.
- (3) A person who commits an offence against **subsection (1)(c)** is liable on conviction,— 25
 - (a) in the case of an individual, to a fine not exceeding \$3,000:
 - (b) in the case of a body corporate, to a fine not exceeding \$15,000. 30

Subpart 2—Issue and display of RUC licence

15 Application for RUC licence

- (1) An application for a RUC licence must—
 - (a) be made in the manner specified by the RUC collector; 35
 - and

- (b) contain the information prescribed by regulations made under **section 81**.
- (2) In an application for a distance licence, the minimum reading to be specified on the licence must not be greater than the maximum reading specified on the last distance licence issued for the RUC vehicle. 5
- (3) A person commits an offence in respect of an application made under **subsection (1)**, if the person provides information that the person knows, or ought to have known, is incorrect in a material particular. 10
- (4) A person who commits an offence against **subsection (3)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$15,000;
- (b) in the case of a body corporate, to a fine not exceeding \$75,000. 15

Compare: 1977 No 124 s 8(1), (3)

16 Application must be accompanied by payment of road user charges

- (1) An application for a RUC licence under **section 15** must be accompanied by— 20
- (a) payment of the appropriate road user charges for the licence calculated in accordance with regulations made under **section 79**; and
- (b) the administration fee (if any). 25
- (2) However, **subsection (1)** does not apply if there is evidence (as prescribed by regulations made under **section 81**) that the RUC vehicle to which the application relates is registered under an appropriate alternative payment scheme. 30

Compare: 1977 No 124 s 9(1)

17 Issue of RUC licence

- (1) RUC licences may be issued by the RUC collector in the manner that the RUC collector thinks fit.
- (2) A distance licence must not relate to more than 1 RUC vehicle.

Compare: 1977 No 124 s 10(1)–(3)

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18 Form of licence

- (1) The RUC collector may approve RUC licences in printed format or to be displayed electronically.
- (2) A RUC licence approved under **subsection (1)** must—
- (a) contain the information prescribed ~~information specified in~~ regulations made under **section 81**: 5
 - (b) be notified in the *Gazette*.
- (3) After approving a licence under **subsection (1)**, the RUC collector must publish a copy of the licence, or in the case of an electronic licence, a facsimile of the display of the licence, 10
on an Internet site maintained by, or on behalf of, the RUC collector.

19 Display of RUC licence

- (1) A RUC licence must be displayed in accordance with regulations made under **section 81**. 15
- (2) A person commits an offence if the person operates a RUC vehicle on a road without displaying a RUC licence for the vehicle in accordance with **subsection (1)**.
- (3) A person who commits an offence against **subsection (2)** is liable on conviction,— 20
- (a) in the case of an individual, to a fine not exceeding ~~\$3,000~~ \$1,000;
 - (b) in the case of a body corporate, to a fine not exceeding ~~\$15,000~~ \$5,000.
- Compare: 1977 No 124 s 19(1) 25

20 Proof of purchase if RUC licence issued but not received by operator

- (1) This section applies if a RUC licence has been issued for a RUC vehicle under **section 17** but the operator of the vehicle has not received the licence. 30
- (2) Until the close of 7 days after the date on which the RUC licence was issued, an identical copy of the licence in a form approved by the RUC collector is sufficient evidence of the issue of the licence.
- Compare: 1977 No 124 s 19(3) 35

21 RUC licence must be produced on demand

- (1) The owner or operator of a RUC vehicle for which a RUC licence has been issued must produce the licence immediately on demand by an enforcement officer.
- (2) The owner or operator of a RUC vehicle commits an offence 5 if the owner or operator fails to comply with **subsection (1)**.
- (3) An owner or operator of a RUC vehicle who commits an offence against **subsection (2)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$3,000: 10
- (b) in the case of a body corporate, to a fine not exceeding \$15,000.

Compare: 1977 No 124 s 19(2)

22 Current distance licence to be provided to purchaser on sale of RUC vehicle

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- (1) A person who sells a RUC vehicle In order to prevent a seller of a RUC vehicle from passing on that person's liability for road user charges to the purchaser of the RUC vehicle, the seller must provide to the purchaser of the vehicle on, or before, the date of delivery of the vehicle a distance licence for the RUC vehicle that will be current when the vehicle is delivered. 20
- (2) **Subsection (1)** is in addition to any provision in any other enactment that requires a person to produce any other document before the sale of the RUC vehicle. 25
- (3) A person commits an offence if the person fails to comply with **subsection (1)**.
- (4) A person who commits an offence against **subsection (3)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$15,000: 30
- (b) in the case of a body corporate, to a fine not exceeding \$75,000.

Compare: 1977 No 124 s 10A

23 Offences relating to altering or defacing RUC licence

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- (1) A person commits an offence if the person—

- (a) alters or defaces a RUC licence; or
 (b) operates a RUC vehicle on a road where the RUC licence for the vehicle is altered or defaced.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,— 5
- (a) in the case of an individual, to a fine not exceeding \$15,000;
 (b) in the case of a body corporate, to a fine not exceeding \$75,000.
- Compare: 1977 No 124 s 23(1)(b)–(e) 10
- 24 Offence of displaying anything on RUC vehicle likely to be mistaken for RUC licence**
- (1) A person commits an offence if the person, without reasonable excuse, displays, or causes to be displayed, on a RUC vehicle anything (not being a RUC licence) that is likely to be mistaken for a RUC licence. 15
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$3,000; 20
 (b) in the case of a body corporate, to a fine not exceeding \$15,000.
- 25 Offence of operating RUC vehicle on road with RUC licence obscured**
- (1) A person commits an offence if the person operates a RUC vehicle on a road with a RUC licence for the vehicle that is obscured or not easily distinguishable. 25
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding ~~\$3,000~~ \$1,000; 30
 (b) in the case of a body corporate, to a fine not exceeding ~~\$15,000~~ \$5,000.

Subpart 3—Payment of road user charges

26 Road user charges are debt due to the Crown

If a RUC licence is issued under **section 17**, the amount of road user charges and the administration fee (if any) payable for the licence are, until paid in full to the RUC collector,— 5

- (a) a debt due to the Crown by the applicant for the RUC licence; and
- (b) recoverable by the RUC collector in a court of competent jurisdiction.

Compare: 1977 No 124 s 9(2) 10

27 Issue of RUC licence may be conditional on payment

If an applicant has a history of failing to pay the appropriate amount of road user charges at the time of making an application for a RUC licence, the issue of ~~a licence~~ the licence may be made conditional on the applicant— 15

- (a) paying the amount ~~owing~~ due for the licence by a method that is acceptable to the RUC collector; or
- (b) giving an appropriate security in respect of that amount.

Compare: 1977 No 124 s 10(7)

28 Penalty for late payment 20

- (1) If any road user charges for a licence remain unpaid ~~after 60 working days of 3 months after~~ the date on which they are payable, the person liable to pay the road user charges must pay an additional amount (a **penalty**) equal to 10% of the unpaid amount. 25

- (2) The RUC collector may recover the penalty from the person who owes the penalty in a court of competent jurisdiction.

- (3) A person liable to pay a penalty may apply in writing to the RUC collector for the whole, or any part, of the penalty to be cancelled. 30

- (4) The RUC collector may, if the RUC collector thinks it is appropriate in the circumstances of the case,—
 - (a) cancel the whole, or any part, of the penalty; or
 - (b) refund to the person who paid the penalty (either in whole or in part) the amount of the penalty, with or with- 35

out the cancellation of any part of the penalty that has not been paid.

- (5) A penalty under this section is in addition to any other penalty to which the person may be liable under this Act.

Compare: 1977 No 124 s 21A

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29 Road user charges to be paid into national land transport fund

The following must be paid into a Crown bank account and treated as land transport revenue for the purposes of the Land Transport Management Act 2003:

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- (a) all road user charges (except a refund made under **sub-part 4** and GST payable in respect of a licence):
- (b) a penalty imposed under this Act:
- (c) any unpaid road user charges assessed as payable under **section 48**.

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Compare: 1977 No 124 s 22

30 Payment of administration fees received under this Act

- (1) An administration fee received under this Act must be paid to the relevant prescribed recipient.

- (2) However, if there is no prescribed recipient to whom the administration fee is to be paid, the administration fee must be paid into a Crown bank account.

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- (3) In this section, **prescribed recipient** means a person specified in regulations made under **section 81** or in any other enactment as the person to whom the administration fee is payable.

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Compare: 1977 No 124 s 22AA

Subpart 4—Refund and waiver of road user charges

Refund of road user charges

31 Refund of road user charges for off-road travel

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- (1) A person may apply to the RUC collector for the refund of the appropriate amount of road user charges paid by the person for a RUC vehicle if—

- (a) the distance recorder fitted to the RUC vehicle has recorded distance travelled by the RUC vehicle while

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- it was not on a road or was on a road that the RUC collector is satisfied is not maintained by public funds (**off-road travel**); and
- (b) a distance licence relating to the RUC vehicle was current at the time. 5
- (2) An application under **subsection (1)** must—
- (a) be in ~~the~~ a form prescribed by the RUC collector; and
- (b) contain the information required by the RUC collector to substantiate the application and enable the refund to be made. 10
- (3) The RUC collector must, as soon as practicable after being satisfied as to the accuracy of the application and the quality of the information provided to substantiate the application, refund (or cause to be refunded) the appropriate amount of road user charges calculated in accordance with the following formula: 15

$$a \times b = c$$

where—

- a is the distance recorded by the distance recorder fitted to the RUC vehicle relating to off-road travel 20
- b is the road user charges per kilometre rate at the time the licence was purchased
- c is the amount of the refund.

Compare: 1977 No 124 s 16

32 Refund of distance licence charge where new distance licence issued 25

If 2 distance licences that relate to the same RUC vehicle both apply to a common distance, the RUC collector must, as soon as practicable after issuing the second licence refund (or cause to be refunded) to the holder of that licence an amount calculated according to the following formula: 30

$$a \times b = c$$

where—

- a is the distance in kilometres common to both licences
- b is the road user charges per kilometre rate for the licence issued first 35

c is the amount of the refund.

Compare: 1977 No 124 s 15

33 Surrender of RUC licence

(1) This section applies if—

- (a) a RUC vehicle has had its registration cancelled in accordance with ~~the Transport (Vehicle and Driver Registration and Licensing) Act 1986~~ Part 17 of the Land Transport Act 1998; or 5
- (b) the RUC collector is satisfied, in respect of a RUC licence for a RUC vehicle, that— 10
- (i) a mistake has been made in the application for the licence; or
- (ii) the distance recorder, or a registration plate, specified on the RUC licence has been removed from the RUC vehicle and a replacement RUC licence has been purchased; or 15
- (c) the RUC collector, ~~in the RUC collector's absolute discretion,~~ is satisfied, in respect of the licence relating to a RUC vehicle, that for any other reason this section should apply. 20

(2) The holder of the RUC licence may surrender the licence to the RUC collector.

(3) The RUC collector must, as soon as practicable after a licence has been surrendered under **subsection (2)**, refund (or cause to be refunded) to the holder of the licence the amount of road user charges paid for the licence calculated in accordance with the following formula: 25

$$(a - b) \times c = d$$

where—

- a is the maximum reading specified on the licence 30
- b is the reading of the RUC vehicle's distance recorder at the time the application is made
- c is the road user charges per kilometre rate at the time the licence was purchased
- d is the amount of the refund. 35

Compare: 1977 No 124 s 17

34 RUC collector may waive or refund road user charges if satisfied charge is excessive

- (1) This section applies if, on application by the owner of a RUC vehicle, the RUC collector is of the opinion that the RUC vehicle type for the RUC vehicle will, or is likely to, result in payment of road user charges that are excessive in the circumstances. 5
- (2) The RUC collector may, in the RUC collector's absolute discretion, waive part of the road user charges payable for the RUC licence for the RUC vehicle. 10
- (3) In forming an opinion under **subsection (1)**, the RUC collector may only have regard to the road wear that is likely to be caused by the RUC vehicle.
- (4) If, in respect of an application under **subsection (1)**, the owner has paid all of the road user charges for the licence, the RUC collector may refund that part of the road user charges for the licence considered to be excessive. 15

Compare: 1977 No 124 s 9(3)

Other provisions relating to refunds

35 Application for refund or waiver to be verified 20

- (1) The RUC collector may, before or after a refund or waiver of road user charges is made in accordance with any of **section 31 to 34**, require the applicant to produce for inspection any document or other information in the applicant's possession or control that the RUC collector considers relevant to the application for refund or waiver. 25
- (2) The RUC collector may take extracts from, make copies of, or remove any documents or other information for the purpose of copying them that are produced under **subsection (1)**.
- (3) If any document or other information is removed under **subsection (2)**, the RUC collector must return the document or other information as soon as practicable to the applicant. 30
- (4) The RUC collector may require the applicant for a refund or waiver to verify any information contained in any document or other information produced by the applicant under **subsection (1)** and may— 35

- (a) refuse to act on any information that is not verified to the RUC collector's satisfaction; and
- (b) recover any refund or cancel any waiver if the refund or waiver was made in reliance on incorrect or unverified information.

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Compare: 1977 No 124 ss 17A, 23(1)(ea)

36 Further provisions relating to refunds

(1) Despite any other provision of this Act,—

- (a) no refund may be made for an amount that is less than \$20: 10
- (b) in calculating the amount of a refund payable for a licence, the RUC collector must allow for—
 - (i) any refund paid or payable for the licence under any other provision of this Act:
 - (ii) any debt due by the applicant to the Crown for road user charges under this Act: 15
- (c) if an application for a refund is based wholly or in part on an alleged hubodometer failure,—
 - (i) the RUC collector may, by notice in writing, require the operator of the RUC vehicle to which the hubodometer relates to produce the hubodometer for inspection at a place appointed for the purpose by the RUC collector; and 20
 - (ii) the hubodometer must be retained by the applicant until the RUC collector has made a decision regarding the refund; and 25
 - (iii) no refund may be given if the hubodometer cannot be produced on demand:
- (d) all money refunded or waived in error, whether of fact or of law, under any provision of this Act is recoverable by the RUC collector as a debt due to the Crown: 30
- (e) if a refund is calculated by reference to the road user charges per kilometre for the licence and that rate of charge has been altered in the period between the time the licence was purchased and the time of making the application for a refund, the refund must be calculated by reference to the rate of charge that applied at the time the licence was purchased. 35

- (2) Road user charges must not be refunded under **section 31, 32, or 33** after the expiry of 2 years from the date of issue of the licence for which the application for a refund is made, unless—
- (a) the application is made to the RUC collector before the expiry of that 2-year period; or
- (b) the RUC collector otherwise determines in any particular case.
- (3) Only 1 refund application per RUC licence may be made under **section 31**, unless the RUC collector otherwise determines in any particular case.

Compare: 1977 No 124 s 18(a)–(c), (cb)–(e)

37 Cancellation of debts

If the RUC collector is satisfied that the person held liable for a debt relating to unpaid road user charges was not the person responsible for incurring the debt, the RUC collector may cancel the person's liability for all or part of the debt.

Subpart 5—Electronic system providers

38 RUC collector may approve electronic system provider

- (1) The RUC collector may, on application in writing, approve an electronic system provider to—
- (a) provide electronic distance recorders; and
- (b) issue electronic licences.
- (2) Before granting an approval under **subsection (1)**, the RUC collector must be satisfied that—
- (a) the applicant's electronic system is secure and reliable; and
- (b) any electronic distance recorder provided by the applicant—
- (i) is fit for the purpose; and
- (ii) meets any requirements ~~set out~~ specified in regulations made under **section 81**.
- (3) An approval under **subsection (1)**—
- (a) must be notified in the *Gazette*; and
- (b) may be on the terms and conditions that the RUC collector thinks fit; and

- (c) may be varied or revoked by the RUC collector by notice in writing to the electronic system provider concerned.
- (4) The RUC collector may, by notice in the *Gazette*, issue a code of practice to assist electronic system providers in complying with the requirement in **subsection (2)(b)(i)** for an electronic distance recorder to be fit for the purpose. 5
- (5) If a code of practice is issued under **subsection (4)**, the RUC collector must make a copy of the code of practice available on an Internet site maintained by, or on behalf of, the RUC collector. 10

39 **Obligation of electronic system provider to report tampering**

- (1) An electronic system provider who knows, or has reasonable grounds to suspect, that any electronic system has been, or ~~ap-~~ pears to may have been, tampered with must, within 5 working days of becoming aware of the tampering or suspected tampering, report the matter to the RUC collector. 15
- (2) A report under **subsection (1)** must—
- (a) be made in the form approved by the RUC collector for the purpose; and 20
- (b) contain any information required by the electronic system provider's approval under **section 38**.
- (3) ~~If an electronic system provider knows, or has reasonable grounds to suspect, that an electronic system has been tampered with, the electronic system provider must not disclose to any person other than the RUC collector—~~ 25
- (a) ~~that the electronic system provider has that knowledge or suspicion; or~~
- (b) ~~any information from which the person to whom the disclosure is made could reasonably infer that the electronic system provider has that knowledge or suspicion.~~ 30
- (4) If an electronic system provider has made a report to the RUC collector under **subsection (1)** in relation to any tampering or suspected tampering with any electronic system, the electronic system provider must not disclose to any person other than the RUC collector— 35

- (a) that the electronic system provider has made that report;
or
- (b) any information from which the person to whom the disclosure is made could reasonably infer that the electronic system provider has made that report. 5
- (5) In this section, **tamper**, in relation to an electronic system, means—
- (a) engage in conduct that results in, or is likely to result in,—
- (i) the system being altered; or 10
- (ii) the system or any part of the system being used in a way that is not in accordance with the conditions of the electronic system provider’s approval under **section 38**; or
- (iii) any road user charges data that the system uses internally being altered; or 15
- (b) engage in conduct with the intention of causing the electronic system to—
- (i) fail to collect RUC information; or
- (ii) fail to record distances travelled by a RUC vehicle correctly; or 20
- (iii) fail to store or report RUC information or to store or report RUC information correctly.
- 40 Disclosure and management of RUC information by electronic system provider** 25
- (1) This section applies if a person has failed to produce records or other information under **section 60(1)** in relation to a RUC vehicle, or if the RUC collector has reasonable grounds to believe that the records or other ~~documents produced are~~ information produced is false, inaccurate, or misleading. 30
- (2) An electronic system provider must, on written request by the RUC collector, disclose any RUC information to the RUC collector that is, or may be, required for the purposes of issuing an assessment under **section 48(1)**.
- (3) The provisions in **Schedule 1** apply to the management of RUC information by an electronic system provider. 35

Offences

- 41 Offences relating to electronic system providers**
- (1) An electronic system provider commits an offence if the electronic system provider,—
- (a) without reasonable excuse, fails to report to the RUC collector any tampering or suspected tampering with an electronic system as required by **section 39(1)**; or
- (b) knowingly provides false or misleading information to the RUC collector.
- (2) An electronic system provider who commits an offence against **subsection (1)** is liable on conviction to a fine not exceeding \$75,000. 5
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- 42 Offences relating to electronic distance recorders**
- (1) A person commits an offence if the person operates a RUC vehicle on a road while displaying a thing (not being an electronic distance recorder) that the operator knows, or ought to have known, is likely to be mistaken for an electronic distance recorder. 15
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,— 20
- (a) in the case of an individual, to a fine not exceeding \$15,000;
- (b) in the case of a body corporate, to a fine not exceeding \$75,000.
- Subpart 6—Hubodometers 25
- 43 RUC collector may approve hubodometer**
- (1) The RUC collector may approve hubodometers for the purposes of this Act.
- (2) An approval under **subsection (1)**— 30
- (a) must be notified in the *Gazette*; and
- (b) may be on the terms and conditions that the RUC collector thinks fit; and
- (c) may be varied or revoked by the RUC collector by notice in the *Gazette*.

- (3) The RUC collector must maintain a list of hubodometers approved under **subsection (1)** on an Internet site maintained by, or on behalf of, the RUC collector.

44 Restrictions on fitting of hubodometer

- (1) A person must not, without the consent of the RUC collector, fit a hubodometer to a RUC vehicle for the purposes of this Act if the person knows, or ought to have known, that—
- (a) the hubodometer has previously been fitted to the RUC vehicle; and
 - (b) the RUC vehicle has been operated after the removal, loss, or displacement of the hubodometer from the RUC vehicle.
- (2) A person must not, without the consent of the RUC collector, fit a hubodometer to a RUC vehicle for the purposes of this Act if the person knows, or ought to have known, that—
- (a) the hubodometer has previously been fitted to another motor vehicle for the purposes of this Act; and
 - (b) the other motor vehicle is still registered under ~~Part 4 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986~~ Part 17 of the Land Transport Act 1998.
- (3) A person commits an offence if the person contravenes **subsection (1) or (2)**.
- (4) A person who commits an offence against **subsection (3)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$15,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$75,000.

Compare: 1977 No 124 ss 22A, 23(1)(fa)

45 Removal and retention of hubodometer or licence by enforcement officer

- (1) An enforcement officer may for the purposes of any criminal proceedings remove, or require the removal of, a hubodometer from a RUC vehicle for the purpose of inspection to determine whether the hubodometer—
- (a) has been tampered with or modified; or

- (b) is faulty or inaccurate; or
- (c) has an obscured distance reading; or
- (d) does not have a serial number, has an obscured serial number, or has a serial number that is identical to that of another hubodometer of the same make. 5
- (2) An enforcement officer may seize and retain—
- (a) a hubodometer removed from a RUC vehicle under **subsection (1)** if the enforcement officer has reasonable grounds to believe that any of the circumstances in that subsection apply: 10
- (b) a licence displayed on a RUC vehicle, or produced to the enforcement officer by the operator of the vehicle, if the enforcement officer has reasonable grounds to believe that the licence—
- (i) has been altered or forged; or 15
- (ii) does not comply with **section 9(2) or 10(1)**; or
- (iii) has expired in accordance with **section 80(2) this Act**; or
- (iv) is otherwise invalid.
- (3) If a hubodometer or licence is seized and retained by an enforcement officer under **subsection (2)**, the operator of the RUC vehicle from which the hubodometer or licence was removed may cause the RUC vehicle to be moved for a distance not exceeding 500 kilometres as may be necessary for the purpose of obtaining a replacement hubodometer or licence (or both). 20 25
- (4) An enforcement officer who believes on reasonable grounds that a hubodometer fitted to a RUC vehicle does not comply with any requirements of this Act or regulations made under **section 81** may give the owner or operator of the RUC vehicle a notice stating that the vehicle must be fitted, within a distance not exceeding 500 kilometres, with a replacement hubodometer that accurately records the distance travelled by the vehicle. 30
- 46 RUC collector may seize and retain hubodometer and licence** 35
- For the purposes of issuing an assessment under **section 48(1)**, the RUC collector may seize and retain—

- (a) a hubodometer fitted to a RUC vehicle, or a hubodometer removed from a RUC vehicle by an enforcement officer under **section 45**, if the RUC collector has reasonable grounds to believe that the hubodometer—
- (i) has been tampered with or modified; or 5
 - (ii) is faulty or inaccurate; or
 - (iii) has an obscured distance reading; or
 - (iv) does not have a serial number, has an obscured serial number, or has a serial number that is identical to that of another hubodometer of the same make; and 10
- (b) a RUC licence displayed on a RUC vehicle, or produced to an enforcement officer under **section 21**, if the RUC collector has reasonable grounds to believe that the licence— 15
- (i) has been altered or forged; or
 - ~~(ii) is expired or otherwise invalid for the RUC vehicle.~~
 - (ii) has expired in accordance with this Act; or
 - (iii) is otherwise invalid. 20

Compare: 1962 No 135 s 69D

Offences

47 Offences relating to hubodometers

- (1) A person commits an offence if the person—
- (a) operates a RUC vehicle on a road where the hubodometer fitted to the vehicle does not have a serial number, has an obscured serial number, or has a serial number that is identical to that of another hubodometer of the same make; or 25
 - (b) operates a RUC vehicle on a road where the distance reading of the hubodometer fitted to the vehicle is obscured; or 30
 - (c) operates, without the prior written consent of the RUC collector, a RUC vehicle on a road where the hubodometer fitted to the vehicle is under-recording the distance travelled because it is designed for a different tyre size than the tyre fitted to the wheel on which the hubodometer is fitted. 35

- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$3,000;
- (b) in the case of a body corporate, to a fine not exceeding \$15,000. 5

Compare: 1977 No 124 s 23(1)(fb)

Part 3

Assessment of unpaid road user charges

Subpart 1—RUC collector may issue assessment for unpaid road user charges 10

48 RUC collector may issue assessment for unpaid road user charges

- (1) If the RUC collector forms the opinion that the owner or operator of a RUC vehicle is liable for any unpaid road user charges in respect of the RUC vehicle, the RUC collector may issue an assessment to the owner or operator for the amount of unpaid road user charges. 15
- (2) In forming an opinion under **subsection (1)**, the RUC collector may use— 20
- (a) any information provided voluntarily by the owner or operator of the RUC vehicle; or
- (ab) any RUC information disclosed to the RUC collector by an electronic system provider under **section 40(2)**; or
- (b) any information stored in down-loaded from the RUC vehicle's engine vehicle management system obtained and retained under **section 57**; or 25
- (c) any distance recorder information recorded during a vehicle reported to the RUC collector by a vehicle inspector following an inspection of the RUC vehicle under **section 58(1)** or provided by an enforcement officer; or 30
- (d) any information provided during an inspection of records under **section 60** or business records under **section 61** relating to the RUC vehicle; or 35
- (e) any information already held by the RUC collector relating to the RUC vehicle.

- (3) The RUC collector must inform the owner or operator of the RUC vehicle who is issued with an assessment of—
- (a) the reasons for the assessment; and
 - (b) how the assessment was calculated (including calculations for each individual RUC vehicle); and 5
 - (c) the right to seek a review of the assessment under **section 50**.
- (3A) For the purposes of **subsection (3)(b)**, the assessment must be calculated using the rate of road user charges in force on the date on which the assessment is issued. 10
- (4) The owner or operator of a RUC vehicle who is issued with an assessment must—
- (a) pay the unpaid road user charges specified in the assessment within ~~40 working days~~ 2 months of the date specified on the assessment, unless the owner or operator has entered into an instalment arrangement under **section 55** in respect of the unpaid amount; or 15
 - (b) notify the RUC collector, within 10 working days of the date specified on the assessment, that the owner or operator requests a review under **section 50**. 20
- (5) An owner or operator of a RUC vehicle who is issued with an assessment is not required to pay any unpaid road user charges for any period more than 6 years immediately before the date specified on the assessment.

Amendment of assessment 25

49 RUC collector may amend assessment

- (1) The RUC collector may, at any time, amend an assessment issued under **section 48(1)**, if the RUC collector considers it necessary in order to ensure that the assessment is correct, even though any amount of unpaid road user charges specified in the assessment may have been paid. 30
- ~~(2) If an amended assessment has the effect of imposing any fresh liability or increasing any existing liability, the RUC collector must issue a new assessment under **section 48(1)** to the owner or operator liable to pay the unpaid road user charges.~~ 35
- (2) If an amended assessment has the effect of—

- (a) reducing or cancelling any liability for unpaid road user charges, the RUC collector must give notice of that reduction or cancellation to the owner or operator liable to pay the unpaid road user charges:
- (b) imposing any fresh liability or increasing any existing liability for unpaid road user charges, the RUC collector must issue a new assessment under **section 48(1)** to the owner or operator liable to pay the unpaid road user charges. 5
- (3) If an amended assessment has the effect of reducing or cancelling any liability of the owner or operator that has already been paid, the RUC collector must, within ~~7 days~~ 5 working days of the date specified on the notice issued under **section (2)(a)**, refund the difference between— 10
- (a) the amount specified in the original assessment issued to the operator under **section 48(1)**; and 15
- (b) the amount specified in the amended assessment under **subsection (1)**.
- (4) To avoid doubt, the amount to be refunded under **subsection (3)** includes— 20
- (a) any penalty that has already been paid in relation to the original assessment under **section 52**;
- (b) any interest paid in relation to that amount, if an instalment arrangement has been entered into under **section 55**. 25
- Compare: 1994 No 166 s 113

Review of assessment

50 Review of assessment

- (1) The owner or operator of a RUC vehicle who is issued with an assessment under **section 48(1)**, or a person authorised by the owner or operator in writing, may apply to the RUC collector for a review of the assessment on the grounds that— 30
- (a) the assessment is incorrect in a material particular; or
- (b) the owner or operator of the RUC vehicle was not the person responsible for incurring the unpaid road user charges. 35
- (2) An application for review must—

- (aa) be in writing; and
- (a) include the full name, telephone number, and address of the applicant; and
- (b) if the applicant is not the owner or operator to whom the assessment was issued, include a written authorisation from the owner or operator for the applicant to act on the owner or operator's behalf; and 5
- (c) specify the grounds for review; and
- (d) provide any evidence that may be required to substantiate the grounds for review. 10
- (3) If the RUC collector receives an application for a review, the RUC collector must, within 3 working days of receiving the application, confirm receipt of the application and specify the date on which the application was received.
- (4) The RUC collector must, within 20 working days of receiving an application for a review (or any longer period that the RUC collector considers to be necessary or appropriate), arrange for an appropriately qualified independent person to review the assessment within a time frame specified by the RUC collector, taking into account any evidence provided under **subsection (2)(d)** by the applicant. 15 20
- (5) ~~On completion of a review, the RUC collector must give notice to the person confirming, withdrawing, increasing, or reducing the amount of—~~
- (a) ~~the assessment of unpaid road user charges; or~~ 25
- (b) ~~any penalty imposed in relation to the assessment of unpaid road user charges.~~
- (6) ~~If, as a result of a review, the RUC collector increases the amount of the original assessment of unpaid road user charges, the RUC collector must issue a new assessment under **section 48(1)** to the owner or operator of the RUC vehicle.~~ 30
- (5) If, following a review under **subsection (4)**, the RUC collector—
- (a) confirms, reduces, or cancels the assessment of any unpaid road user charges, the RUC collector must give notice of that confirmation, reduction, or cancellation to the person who applied for the review within 10 working days of the decision. 35

- (b) increases the amount of the original assessment of unpaid road user charges, the RUC collector must issue a new assessment under **section 48(1)** to the owner or operator of the RUC vehicle.
- (6) For the purposes of **subsection (5)(b)**, the new assessment must be calculated using the rate of road user charges in force on the date on which the original assessment was issued. 5
- 51 Unpaid road user charges specified in assessment debt due to the Crown**
- The amount of unpaid road user charges specified by the RUC collector in the assessment issued under **section 48(1)** and any penalty imposed in relation to that assessment under **section 52 or 53** are— 10
- (a) a debt due to the Crown; and
- (b) recoverable by the RUC collector in a court of competent jurisdiction. 15

Penalties

- 52 Penalty for failure to pay after assessment**
- (1) A person who fails to pay any unpaid road user charges specified in an assessment issued under **section 48(1)** must pay an additional amount (a **penalty**) as follows: 20
- (a) for an amount that remains unpaid ~~after 40 working days of 2 months after~~ the date specified on the assessment, 10% of the unpaid amount; and
- (b) for an amount that remains unpaid after ~~60 working days of 3 months after~~ the date specified on the assessment, 10% of the unpaid amount and the penalty imposed under **paragraph (a)**. 25
- (2) However, **subsection (1)** does not apply if—
- (a) the person has applied for a review of the assessment under **section 50**; or 30
- (b) the person has entered into an instalment arrangement under **section 55** and the RUC collector is satisfied that the person is meeting the person's obligations under the arrangement. 35

52A Penalty for failure to pay after receipt of notice under section 50(5)(a)

- (1) This section applies to a person who—
- (a) has received a notice under **section 50(5)(a)** confirming or reducing the amount of the person's liability for unpaid road charges following a review under that section; and 5
 - (b) fails to pay the amount of unpaid road user charges specified in the notice.
- (2) The person must pay an additional amount (a **penalty**) as follows: 10
- (a) for an amount that remains unpaid after 1 month of the date specified on the notice given under **section 50(5)(a)**, 10% of the unpaid amount; and
 - (b) for an amount that remains unpaid after 2 months of the date specified on the notice given under **section 50(5)(a)**, 10% of the unpaid amount and the penalty imposed under **paragraph (a)**. 15

53 Penalty for failure to pay after review of assessment

A person who fails to pay any unpaid road user charges specified in a new assessment issued under **section 50(6)** must pay an additional amount (a **penalty**) as follows:

- (a) for an amount that remains unpaid after 40 working days of the date specified on the new assessment, 10% of the unpaid amount; and 25
- (b) for an amount that remains unpaid after 60 working days of the date specified on the new assessment, 10% of the unpaid amount and the penalty imposed under **paragraph (a)**.

53 Penalty for failure to pay after issue of new assessment 30

- (1) This section applies to a person who—
- (a) has been issued with a new assessment for unpaid road user charges following a review as provided in **section 50(5)(b)**; and
 - (b) fails to pay the amount of unpaid road user charges specified in the new assessment. 35

- (2) The person must pay an additional amount (a **penalty**) as follows:
- (a) for an amount that remains unpaid after 2 months of the date specified on the new assessment, 10% of the unpaid amount; and 5
- (b) for an amount that remains unpaid after 3 months of the date specified on the new assessment, 10% of the unpaid amount and the penalty imposed under **paragraph (a)**.
- 54 RUC collector may cancel penalty**
- (1) A person who has become liable to pay a penalty under **section 52, 52A, or 53** may apply in writing to the RUC collector for the whole, or any part, of the penalty to be cancelled. 10
- (2) The RUC collector may, if the RUC collector thinks it is appropriate in the circumstances of the case,—
- (a) cancel the whole, or any part, of the penalty; or 15
- (b) refund to the person who paid the penalty (either in whole or in part) the amount of the penalty, with or without the cancellation of any part of the penalty that has not been paid.
- Recovery of unpaid road user charges and penalties* 20
- 54A Recovery of unpaid road user charges and penalties**
- An amount of unpaid road user charges specified by the RUC collector in the assessment issued under **section 48(1)** and any penalty imposed in relation to that amount under **section 52, 52A, or 53** are— 25
- (a) a debt due to the Crown; and
- (b) recoverable by the RUC collector in a court of competent jurisdiction.
- Instalment arrangements* 30
- 55 Instalment arrangements**
- (1) A person issued with an assessment under **section 48(1)** may request the RUC collector to enter into an arrangement where the person agrees to pay the amount specified in the assessment by instalment (an **instalment arrangement**). 35

- (2) On receiving a request under **subsection (1)**, the RUC collector may—
- (a) accept the request if the RUC collector considers it necessary or desirable to do so in order to maximise recovery of unpaid road user charges; or 5
 - (b) seek further information from the person who made the request; or
 - (c) make a counter-offer to the person who made the request; or
 - (d) refuse the request. 10
- (3) The RUC collector may refuse a request for an instalment arrangement under **subsection (2)(d)** if the RUC collector is satisfied on reasonable grounds that—
- (a) entering into an instalment arrangement would not maximise the recovery of unpaid road user charges from the person; or 15
 - (b) the person who made the request is able to pay all of the unpaid road user charges immediately; or
 - (c) the request is frivolous or vexatious; or
 - (d) the person who made the request has not met ~~his or~~ her the person's obligations under a previous instalment arrangement. 20
- (4) The RUC collector may cancel an instalment arrangement with a person if—
- (a) it was entered into on the basis of false or misleading information provided by the person; or 25
 - (b) the person is not meeting the person's obligations under the arrangement.
- (4A) To avoid doubt, if an instalment arrangement is cancelled under **subsection (4)** the amount of any outstanding unpaid road user charges at the time of cancellation— 30
- (a) remains in force; and
 - (b) may be recovered by the RUC collector in accordance with **section 54A**.
- (5) A person who has entered into an instalment arrangement with the RUC collector under **subsection (1)** may request a renegotiation of the arrangement at any time and, if a request for renegotiation of the instalment arrangement is made, **subsection (2)** applies to that request. 35

- (6) An interest charge may be applied to any payments made under an instalment arrangement entered into under this section at the rate determined under section 120E(1)(a) of the Tax Administration Act 1994.

Other provisions

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56 Validity of assessments

An assessment made by the RUC collector under **section 48(1)** is not invalid merely because of a failure by the RUC collector to comply with—

- (a) **section 49(3)**; or
 (b) **50(3) and (4)**.

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Compare: 1994 No 166 s 114

57 RUC collector may take information from engine vehicle management system

For the purpose of issuing an assessment under **section 48(1)**, the RUC collector may—

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- (a) apply an electronic device to a RUC vehicle to download information from the vehicle's engine vehicle management system; and

- (b) ~~take information from the engine management system relating to the distance travelled by the RUC vehicle.~~

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- (b) retain information taken from the vehicle management system, but only as far as the information relates to the distance travelled by the RUC vehicle.

58 Vehicle inspection records

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- (1) If, during a vehicle inspection of a RUC vehicle, a vehicle inspector finds that the reading on the distance recorder for the vehicle exceeds the maximum reading of the vehicle's distance licence, the vehicle inspector must report that finding to the RUC collector.

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- (2) If the RUC collector receives information from a vehicle inspector under **subsection (1)**, the RUC collector may rely on that information for the purpose of issuing an assessment under **section 48(1)**.

*Records***59 Certain persons must make and retain records**

- (1) This section applies to a person who holds, or has held, a transport service licence (other than a rental service licence) ~~in the period of 7 years before the commencement of this Act.~~ 5
- (2) The person must—
- (a) keep records in relation to each RUC vehicle that the person owns or operates; and
 - ~~(b) retain those records for the purposes of this Act,—~~
 - ~~(i) in the case of logbooks, for a period of 3 years from the date of the last entry that the person made with respect to the RUC vehicle: 10~~
 - ~~(ii) in all other cases, for a period of 7 years from the date of the last entry; and~~
 - (b) retain those records for the purposes of this Act,— 15
 - (i) in the case of an entry in a logbook in respect of a RUC vehicle or RUC vehicles, for a period of 1 year from the date of entry: 20
 - (ii) in the case of any permit issued under section 5 of Part 1 of the VDAM Rule 2002 in respect of the RUC vehicle or vehicles, 1 year from the date of expiry of the permit: 25
 - (iii) in the case of records for maintenance in respect of the RUC vehicle or RUC vehicles, 2 years from the date of the record: 25
 - (iv) in the case of invoices for fuel and maintenance in respect of the RUC vehicle or RUC vehicles, for a period of 6 years from the date of the invoice: 30
 - (v) in the case of invoices relating to cartage by, or use of, the RUC vehicle or RUC vehicles, 6 years from the date of the invoice: 30
 - (vi) in the case of an entry in timekeeping records, 6 years from the date of the entry; and
 - (c) produce the records for inspection if required by the RUC collector under **section 60.** 35
- (3) Records required to be kept under **subsection (2)** may not be used as evidence in a prosecution for a work time or logbook offence under the Land Transport Act 1998, except as provided for under Part 4B of the Land Transport Act 1998.

- (4) ~~To avoid doubt, the record-keeping and retention requirements specified in this section are in addition to the record-keeping and retention requirements specified in Part 4B of the Land Transport Act 1998 (work time and logbooks).~~
- (5) A person commits an offence if the person, without reasonable excuse, fails to comply with **subsection (2)**. 5
- (6) A person who commits an offence against **subsection (5)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$25,000; 10
- (b) in the case of a body corporate, to a fine not exceeding \$100,000.

60 Inspection of records or other information

- (1) For the purpose of issuing an assessment under **section 48(1)**, or otherwise ascertaining whether the provisions of this Act have been, or are being, complied with by any person to whom this Act applies, the RUC collector may require that person to produce for inspection any records or other information in that person's possession or control (including records required to be kept by a transport service operator under **section 59**) that are relevant to the use and maintenance of a RUC vehicle. 15 20
- (2) ~~The RUC collector may take extracts from, make copies of, or remove any records or other information for the purpose of copying them that are produced under this section or accessed under **section 61**:~~ 25
- (2) The RUC collector may, in relation to any records or other information produced under **subsection (1)**,—
- (a) take extracts from the records or other information;
- (b) make copies of the records or other information at the place of inspection; 30
- (c) remove the records or other information if the RUC collector is satisfied that it is impracticable to copy the records or other information at the place of inspection.
- (3) If the RUC collector removes any records or other information under **subsection (2) (2)(c)**, the RUC collector must— 35

- (aa) issue a receipt for the records or other information to the person from whom the records or other information was taken; and
- (a) return the records or other information as soon as practicable; and 5
- (b) for as long as the records or other information is held by the RUC collector, allow the ~~owner of the records or other information~~ person from whom the records or other information was taken, at any reasonable time, to inspect, and obtain copies of, the records or other information at the premises where the records or other information is held. 10
- (4) A person commits an offence if the person knowingly produces false records or information under **subsection (1)**.
- (5) A person who commits an offence against **subsection (4)** is liable on conviction,— 15
- (a) in the case of an individual, to a fine not exceeding \$15,000;
- (b) in the case of a body corporate, to a fine not exceeding \$75,000. 20
- 61** ~~**Access to records held by third parties**~~ **Access to business records held by third parties in relation to RUC vehicle**
- (1) This section applies if a person has failed to produce records or other information under **section 60(1)** in relation to a RUC vehicle, or if the RUC collector has reasonable grounds to believe that the records or other ~~documents produced are~~ information produced is false, inaccurate, or misleading. 25
- (2) The RUC collector may request any person who has serviced, maintained, supplied, or contracted for the use of the RUC vehicle to produce that person's business records in relation to that RUC vehicle for the purpose of— 30
- (a) verifying the records or other information produced under **section 60(1)**; or
- (b) establishing the RUC vehicle's use and maintenance history. 35
- (2A) The RUC collector may, in relation to any business records produced under **subsection (2)**,—
- (a) take extracts from the business records:

- (b) make copies of the business records at the place of inspection.
- (c) remove the business records if the RUC collector is satisfied that it is impracticable to copy the records at the place of inspection. 5
- (3) The RUC collector may retain any business records produced under **subsection (2)**, and, if any records are retained, the RUC collector must—
- (aa) issue a receipt for the business records to the person from whom the records were taken; and 10
- (a) return the business records as soon as practicable; and
- (b) for as long as the business records are held by the RUC collector, allow the owner of the records person from whom the business records were taken, at any reasonable time, to inspect and obtain copies of the records at 15 the premises where the records are held.
- (4) A person commits an offence if the person, without reasonable excuse, fails to comply with **subsection (2)**.
- (5) A person who commits an offence against **subsection (4)** is liable on conviction to a fine not exceeding \$15,000. 20

Subpart 2—Appeal against review of assessment

62 Appeal to District Court against review of assessment

- (1) A person may appeal to a District Court against a notice issued by the RUC collector under **section 50(5)**. 25
- (2) If an appeal is made under **subsection (1)**, the District Court must determine whether an assessment issued by the RUC collector under **section 48(1)** and the outcome of the review of that assessment by the RUC collector under **section 50(5)** is appropriate. 30

62 Appeal to District Court against notice issued under section 50(5)(a)

- (1) A person may appeal to a District Court against a notice issued by the RUC collector under **section 50(5)(a)** that confirms or reduces an assessment of unpaid road user charges. 35

- (2) If an appeal is made under **subsection (1)**, the District Court must determine whether the notice issued by the RUC collector is appropriate.

63 Procedure for appeal

- (1) An appeal under **section 62** must be brought no later than 28 5
days after the date on which the appellant was notified under
this Act of the review decision appealed against.
- (2) In considering an appeal,—
- (a) a District Court may hear all evidence tendered and rep- 10
resentations made by, or on behalf of, any party to the
appeal that the court considers relevant to the appeal,
whether or not that evidence would be otherwise admis-
sible in the Court; and
- (b) the court may—
- (i) confirm, reverse, or modify the decision appealed 15
against, and make the orders and give the direc-
tions to the RUC collector that may be necessary
to give effect to the court’s decision; or
- (ii) refer the matter back to the RUC collector with 20
directions to reconsider the whole or any part of
the matter.
- (3) Except as provided in this section, the appeal must be made
and determined in accordance with the District Courts Act
1947 and the District Courts Rules 2009.
- (4) Subject to **sections 64 and 65**, the decision of the District 25
Court on an appeal under **section 62** is final.

Compare: 1989 No 74 s 59

Further appeals

64 Appeal to High Court on question of law

- (1) A party to an appeal under **section 62** who is dissatisfied with 30
the decision of the District Court on the ground that it is wrong
in law may appeal to the High Court on that question of law.
- (2) The High Court Rules and sections 74 to 78 of the District
Courts Act 1947, with all necessary modifications, apply to

an appeal under **subsection (1)** as if it were an appeal under section 72 of that Act.

Compare: 1989 No 74 s 60

65 Further appeals to Court of Appeal or Supreme Court

- (1) With the leave of the court appealed to, a party to an appeal under **section 64** may appeal to the Court of Appeal or the Supreme Court against any ~~determination~~ decision of the High Court in the appeal. 5
- (2) On an appeal under this section, the Court of Appeal or the Supreme Court has the same power to adjudicate on the proceedings as the High Court had. 10
- (3) **Subsection (1)** is subject to section 14 of the Supreme Court Act 2003 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court). 15

66 ~~Decision on review~~ Notice issued under section 50(5)(a) to continue in force pending appeal

A ~~decision of~~ notice issued by the RUC collector under **section 50(5)** section 50(5)(a) confirming or reducing an amount of unpaid road user charges continues in force pending the determination of the appeal under **section 62, 64, or 65**, and no person is excused from complying with a provision of this Act on the grounds that an appeal is pending. 20 25

67 ~~Obligation to pay penalty not suspended by appeal~~

- (1) The ~~obligation to pay and the right to receive and recover any penalty imposed under **section 52 or 53** are not suspended by any review or appeal.~~
- (2) If an appellant is successful in a review or an appeal, the RUC collector must refund to the appellant— 30
- (a) the amount of road user charges that the appellant paid but was not required to pay; and
- (b) the amount of any penalty that the appellant paid but was not required to pay. 35

- (3) ~~The RUC collector must pay interest on any refunded road user charges and any refunded penalty at a rate to be determined under section 120E(1) to (3) of the Tax Administration Act 1994.~~
- (4) For the purpose of establishing the applicable interest rate 5
under **subsection (3)**, the formula in section 120E(1) of
the Tax Administration Act 1994 applies with the following
modifications:
- (a) ~~t is the refunded road user charges and any refunded
penalty; and~~ 10
- (b) ~~r is the RUC collector's paying rate, which is deemed
to be the same as the Commissioner's paying rate as
defined in section 120C(1) of the Tax Administration
Act 1994.~~

67 **Obligation to pay penalty not suspended by appeal** 15
The obligation to pay and the right to receive and recover a
penalty imposed under **section 52, 52A, or 53** are not sus-
pended by any appeal under this subpart.

67A **RUC collector must refund overpayment of road user
charges** 20

- (1) If a person has received a notice under **section 50(5)(b)** that
reduces or cancels the person's liability for unpaid road user
charges or the person is successful in an appeal under **section
62, 64, or 65**, the RUC collector must refund to the person—
- (a) any amount of road user charges that the person has paid 25
but was not required to pay (an **overpayment**); and
- (b) the amount of any penalty paid in respect of the over-
payment.
- (2) The RUC collector must pay interest on any refunded overpay-
ment and any refunded penalty at a rate to be determined under 30
section 120E(1) to (3) of the Tax Administration Act 1994.
- (3) For the purpose of establishing the applicable interest rate
under **subsection (2)**, the formula in section 120E(1) of
the Tax Administration Act 1994 applies with the following
modifications: 35
- (a) t is the refunded overpayment and any refunded penalty;
and

- (b) r is the RUC collector's paying rate, which is deemed to be the same as the Commissioner's paying rate as defined in section 120C(1) of the Tax Administration Act 1994.

Part 4

5

Enforcement and other matters

Subpart 1—Enforcement

67B Interpretation

In this subpart,—

infringement fee, in relation to an infringement offence, means the amount prescribed by regulations made under section 81 as the infringement fee for the offence 10

infringement notice means an infringement notice issued under section 139(1) of the Land Transport Act 1998 in respect of an infringement offence under this Act 15

infringement offence means—

(a) an offence against section 10(2):

(b) an offence against any other provision of this Act that is prescribed as an infringement offence for the purposes of this Act by regulations made under section 81 20

specified offence means an offence against this Act where a person is liable on conviction,—

(a) in the case of an individual, to a fine of \$15,000 or more:

(b) in the case of a body corporate, to a fine of \$75,000 or more. 25

Proceedings for offences generally

68 Proceedings for offences generally

(1) An offence against this Act is punishable on summary conviction.

(2) Despite section 14 of the Summary Proceedings Act 1957, an information for an offence against this Act may be laid at any time within 2 years after the time when the matter giving rise to the information arose. 30

(2) Despite section 14 of the Summary Proceedings Act 1957, an information for— 35

- (a) a specified offence may be laid at any time within 5 years after the time when the matter giving rise to the information arose.
- (b) for any other offence against this Act may be laid within 1 year after the time when the matter giving rise to the information arose. 5

69 Evidence in proceedings

- (1) A document certified by the RUC collector to be a record held for the purposes of this Act is prima facie evidence—
- (a) in any appeal against a decision made under **section 62** or any subsequent appeal under **section 64 or 65**; 10
- (b) in any proceedings for an offence against this Act.
- (2) For the purposes of **subsection (1)**, a record held for the purposes of this Act includes—
- (a) a copy of a licence issued under this Act; and 15
- (b) a computer record held for the purposes of this Act.
- Compare: 1977 No 124 s 23A

70 Admissibility of certain statements

- (1) Despite any enactment or rule of law, a statement referred to in **subsection (2)** made to an enforcement officer by the driver of a RUC vehicle— 20
- (a) may be given in evidence by the enforcement officer; and
- (b) is admissible in any proceedings for an offence against this Act as evidence of the offence. 25
- (2) The statements are—
- (a) the identity of the driver's employer;
- (b) a statement relating to a matter that must by any enactment be specified in a logbook. 30
- Compare: 1977 No 124 s 23B

Defences

71 Defences

- (1) It is a defence in proceedings for an offence of operating a RUC vehicle when the distance licence displayed on the RUC

- vehicle ~~specifies the wrong~~ does not display the correct RUC vehicle type of the vehicle if the defendant proves that—
- (a) the RUC vehicle was fitted with a lifting axle that was not transmitting a portion of the weight of the RUC vehicle to the roadway at the time of the offence; and 5
 - (b) the RUC vehicle was unladen, except for normal operating gear; and
 - (c) the lifting axle was capable of being altered by the fitted device so as to transmit to the roadway a portion of the RUC weight of the RUC vehicle; and 10
 - (d) if the lifting axle had been transmitting a portion of the weight of the RUC vehicle to the roadway at the time of the offence, the RUC vehicle type number specified on the licence would have been correct for the RUC vehicle. 15
- (2) For the purposes of **subsection (1)**, a lifting axle is an axle that is fitted with a device to alter the distribution of weight between the axles of a heavy ~~motor~~ RUC vehicle.
- (3) It is a defence in proceedings for an offence of operating a RUC vehicle without a properly working distance recorder under **section 8(4)(a) or 13(1)(a)** if the defendant proves that— 20
- (a) a distance recorder was fitted to the RUC vehicle at the time; and
 - (b) it was not possible to obtain and fit a properly working distance recorder to the RUC vehicle, or to repair the distance recorder fitted to the RUC vehicle, during the period between the time ~~of the damage to, or malfunction of, the distance recorder fitted to the RUC vehicle~~ the distance recorder was damaged, altered, or stopped properly working and the time when the alleged offence was committed; and 25 30
 - (c) a properly working distance recorder was fitted to the RUC vehicle, or the distance recorder fitted to the RUC vehicle was repaired, as soon as practicable after the commission of the alleged offence. 35

- (4) **Subsection (3)** does not apply where the reason that the distance recorder stopped properly working is due to tampering by the defendant.

Compare: 1977 No 124 s 23(2A), (3C), (3D), (4)

Search warrants

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72 Power to issue search warrant in respect of alleged offence

- (1) A search warrant may be issued under section 198 of the Summary Proceedings Act 1957 in respect of an alleged specified offence that—
- (a) has been committed; or 10
 - (b) is suspected to have been committed; or
 - (c) is believed to be intended to be committed.
- (2) **Subsection (1)** applies even though the offence is not punishable by imprisonment.
- (3) If a search warrant is issued under section 198 of the Summary Proceedings Act 1957, as provided for by **subsection (1)**, the following provisions of that Act apply as far as they are applicable and with any necessary modifications: 15
- (a) section 198B (which relates to computer access assistance): 20
 - (b) section 199 (which relates to the disposal of things seized).
- (4) It is declared that a person who, under section 199 of the Summary Proceedings Act 1957 (as applied by **subsection (3)**), has custody of any thing seized under a warrant provided for by **subsection (1)** may disclose any information contained in or derived from the thing only— 25
- (a) for the purposes of section 199 of that Act (as so applied); or
 - (b) for the purposes of investigating or prosecuting an offence; or 30
 - (c) for the purpose of an appeal or other application that relates to an offence; or
 - (d) for the purposes of complying with any enactment or any order or direction of a court of competent jurisdiction. 35

- (5) In this section, **specified offence** means an offence against this Act where a person is liable on conviction,—
- (a) in the case of an individual, to a fine of \$15,000 or more;
 - (b) in the case of a body corporate, to a fine of \$75,000 or more.

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73 Offence relating to disclosing information acquired during inspection of records or search

- (1) A person commits an offence if the person, except in the performance of the person's duties, knowingly discloses any information acquired during—
- (a) an inspection of records under **section 60 or 61**; or
 - (b) a search authorised under **section 72**.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$25,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$100,000.

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15

Infringement offences

74 Interpretation

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In this section and **sections 75 to 78**,—

infringement fee, in relation to an infringement offence, means the amount prescribed by regulations made under **section 81** as the infringement fee for the offence

infringement notice means an infringement notice issued under section 139(1) of the Land Transport Act 1998 in respect of an infringement offence under this Act

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infringement offence means—

- (a) an offence against **section 10**; and
- (b) an offence against any other provision of this Act that is declared, by regulations made under **section 81**, to be an infringement offence for the purposes of this Act.

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75 Infringement offences

- (1) If a person is alleged to have committed an infringement offence, the person may either—

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- (a) be proceeded against summarily under the Summary Proceedings Act 1957; or
- (b) be ~~served~~ issued with an infringement notice as provided by in section 76.
- (2) Despite anything in section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to lay an information is not necessary where an infringement offence is proceeded with summarily. 5
- 76 Issue of infringement notice and reminder notices** 10
Sections 139 and 140 of the Land Transport Act 1998 apply with any necessary modifications to the issue of an infringement notice or a reminder notice for an infringement offence under this Act.
- 77 Infringement fees**
(1) The infringement fee payable for an infringement offence is the fee prescribed for the offence by regulations made under **section 81**. 15
- (2) To avoid doubt, in the case of an infringement offence against **section ~~40~~ 10(2)**, the person must pay the fee prescribed by the regulations made under **section 81**. 20
- (3) All infringement fees received under this Act or recovered under the Summary Proceedings Act 1957 must be paid into a Crown bank account. 20
Compare: 1998 No 110 s 43(3)
- 78 Courts may impose appropriate fines for infringement offences** 25
(1) This section applies to an infringement offence, except an offence against **section ~~40~~ 10(2)**.
(2) A court may impose a fine for the infringement offence that is not more than the maximum fine prescribed for that offence, whether the fine imposed is more than, the same as, or less than the prescribed infringement fee for that offence. 30
Compare: 1998 110 s 43A

Subpart 2—Other matters

Regulations

- 79 Regulations specifying rates of road user charges**
- (1) The Governor-General may, by Order in Council, make regulations specifying rates of road user charges (inclusive of GST) for the distance travelled by a RUC vehicle for the purposes of this Act. 5
- (2) Regulations made under **subsection (1)** may specify different rates for—
- (a) different RUC vehicle types and RUC weights; and 10
- (b) distance licences and additional licences.
- (3) Regulations made under **subsection (1)**—
- (a) come into force 42 days after the date of their notification in the *Gazette*, or on any later date that may be specified in the order, unless, in the case of an increase to any existing rate, the increase relates only to the GST payable on the rate of road user charges; and 15
- (b) must be presented to the House of Representatives no later than 16 sitting days after the date on which they are made. 20
- (4) Regulations made under **subsection (1)**,—
- (a) if made on or before 30 June in any year, expire on the close of 31 December of that year unless they are expressly confirmed by an Act of Parliament passed during that year; and 25
- (b) if made on or after 1 July in any year, expire on the close of 31 December in the following year unless they are expressly confirmed by Act of Parliament passed before the end of that following year.
- (5) If any regulations expire by virtue of **subsection (4)(a) or (b)**, any road user charges collected under those regulations in excess of the road user charges otherwise payable must, except as far as any other provision is made by an Act of Parliament, be refunded. 30
- (6) The repeal of any Act of Parliament passed for the purpose of expressly validating or confirming regulations made under **subsection (1)** does not, unless there is any express provision 35

to the contrary, affect the validity or confirmation of the Order in Council.

Compare: 1977 No 124 s 20

80 Licence for ~~certain motor vehicles~~ heavy RUC vehicle invalid 1 month after road user charges rate increased 5

(1) This section applies if a road user charges rate is increased by regulations made under **section 79(1)**, unless the increase relates only to the GST payable on the ~~road user charges~~ rate.

(2) Despite any other provision of this Act, a licence for a heavy RUC vehicle ~~whose gross vehicle mass is more than 3 500 kilograms~~ that is issued before the increase comes into force is no longer valid after the expiry of 1 month from the date of the increase. 10

Compare: 1977 No 124 s 21

80A Appointment of RUC collector 15

The Governor-General may, by Order in Council, appoint the Agency as the RUC collector for the purposes of this Act instead of the chief executive.

80B Exemption relating to light electric vehicles

(1) The Governor-General may, by Order in Council, specify the period during which road user charges are not payable in respect of light electric vehicles. 20

(2) An order under **subsection (1)**—

(a) must specify the date on which the exemption expires;
and 25

(b) may, from time to time, be amended to provide for a later date.

Compare: 1977 No 124(1)(ga), (1A)

80C Regulations relating to other exempt vehicles

(1) The Governor-General may, by Order in Council, made on the recommendation of the Minister, make regulations prescribing exempt vehicles or classes of exempt vehicles in respect of which road user charges are not payable. 30

- (2) The Minister must not recommend the making of regulations under **subsection (1)** unless the Minister is satisfied that—
- (a) the exemption is necessary because the purpose or design of the RUC vehicle or class of RUC vehicles means that the vehicle or class of vehicles is unsuitable for regular road use; and 5
 - (b) requiring road user charges to be paid in respect of the vehicle or class of vehicles would impose compliance costs that are disproportionate to the amount of likely road use by the vehicle or class of vehicles. 10

Compare: 1977 No 124(1)(ga)

81 Other regulations

- (1) ~~The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:~~
- Appointing RUC collector* 15
 - (a) ~~appointing the Agency as the RUC collector for the purposes of this Act instead of the chief executive:~~
 - Exempt vehicles*
 - (b) ~~prescribing exempt vehicles (including, without limitation, light electric RUC vehicles) for which road user charges are not payable:~~ 20
 - RUC licence*
 - (c) ~~specifying the persons who may apply for a licence under **section 15**:~~
 - (d) ~~prescribing circumstances in which the RUC collector may issue a RUC licence despite the road user charges or part of the road user charges payable for the licence not having been paid:~~ 25
 - (e) ~~prescribing the information that must be contained in an application for a RUC licence:~~ 30
 - (f) ~~specifying the information that must be included on a RUC licence:~~
 - (g) ~~prescribing the administration fee payable in respect of a RUC licence, including prescribing different fees payable for different types of RUC licence and different payment methods:~~ 35

- Display of RUC licence*
- (h) specifying requirements for the display of a licence for the purposes of **section 49**, including specifying different display requirements for different classes of RUC vehicle or different forms of licence: 5
- Payments*
- (i) requiring an applicant to provide the RUC collector with a completed bank authority, on a form provided by the RUC collector or by a bank, directing a specified bank to effect an automatic transfer of funds to a Crown bank account, if an applicant wishes to make a payment under this Act in that manner: 10
- (j) specifying alternative regimes for paying road user charges for RUC vehicles fitted with an electronic distance recorder: 15
- (k) specifying forms of evidence of registration under an alternative payment scheme for RUC vehicles fitted with an electronic distance recorder:
- (l) prescribing the recipient to whom an administration fee (if any) is payable under this Act: 20
- Electronic system providers*
- (m) regulating the collection, storage, use, or disclosure of information relating to road user charges that is held by an electronic system provider in addition to the provisions specified in this Act: 25
- Distance recorders*
- (n) specifying requirements relating to distance recorders, including prescribing the manner of fitting and maintaining a distance recorder (other than an electronic distance recorder or a hubodometer): 30
- (o) regulating the replacement of distance recorders (other than an electronic distance recorder or a hubodometer):
- (p) prohibiting or restricting certain actions in respect of distance recorders (other than an electronic distance recorder or a hubodometer) for the purposes of this Act: 35

- Electronic distance recorders*
- (q) specifying requirements relating to electronic distance recorders, including prescribing the manner of fitting and maintaining electronic distance recorders: 5
 - (r) regulating the replacement of electronic distance recorders: 5
 - (s) prohibiting or restricting certain actions in respect of electronic distance recorders for the purposes of this Act: 5
- Hubodometers* 10
- (t) specifying requirements relating to hubodometers, including prescribing the manner and fitting of hubodometers: 10
 - (u) regulating the replacement of hubodometers: 10
 - (v) prohibiting or restricting certain actions in respect of hubodometers for the purposes of this Act: 15
- Offences*
- (w) prescribing infringement offences for the purposes of this Act: 20
 - (x) setting the infringement fee payable for an infringement offence, which— 20
 - (i) may not exceed \$3,000, for an offence against **section 40** involving a RUC vehicle with a gross vehicle mass of more than 3 500 kilograms: 25
 - (ii) may not exceed, for any other infringement offence,— 25
 - (A) \$1,000 in the case of an individual; or
 - (B) \$2,000 in the case of a body corporate: 25
- General*
- (y) defining RUC vehicle types for the purposes of this Act and bands of RUC weight for each RUC vehicle type: 30
 - (z) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect: 30
- (2) Regulations made under **subsection (1)(b)** relating to light electric RUC vehicles— 35
 - (a) must specify a date on which the exemption expires; and 35

~~(b) may be amended to provide for a later date.~~

Compare: 1977 No 124 s 24

81 Other regulations

The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes: 5

- RUC vehicle types and RUC weight bands*
- (a) prescribing RUC vehicle types for the purposes of this Act and bands of RUC weight for each RUC vehicle type:
- RUC licences* 10
- (b) specifying the persons who may apply for a licence under **section 15**:
- (c) prescribing the information that must be contained in an application for a RUC licence:
- (d) prescribing the circumstances in which the RUC collector may issue a RUC licence despite the road user charges or part of the road user charges payable for the licence not having been paid: 15
- (e) specifying the information that must be included on a RUC licence: 20
- (f) prescribing the administration fee payable in respect of a RUC licence, including prescribing different fees payable for different types or forms of RUC licence and different payment methods:
- (g) prescribing distance amounts (in kilometres) in which a RUC licence may be sold, including different amounts for different types or forms of licence: 25
- Display of RUC licence*
- (h) specifying requirements for the display of a licence, including specifying different display requirements for different classes of RUC vehicle or different types or forms of licence: 30
- Payments*
- (i) prescribing the methods of payment of road user charges, including different methods of payment for different types or forms of licence: 35

- (j) prescribing alternative payment schemes for paying road user charges for RUC vehicles issued with an electronic distance recorder, including prescribing different alternative payment schemes for different RUC vehicles: 5
- (k) specifying forms of evidence of registration under an alternative payment scheme for RUC vehicles fitted with an electronic distance recorder:
- (l) prescribing the recipient to whom an administration fee (if any) is payable under this Act: 10
- Refunds*
- (m) prescribing methods for refunding road user charges paid in respect of RUC vehicles fitted with an electronic distance recorder which may be in addition to or in place of the provisions specified in this Act: 15
- Electronic system providers*
- (n) regulating the collection, storage, use, or disclosure of information relating to road user charges that is held by an electronic system provider in addition to the provisions specified in this Act: 20
- Distance recorders*
- (o) prescribing matters in relation to, or specifying requirements for, hubodometers, electronic distance recorders, odometers, or any other kind of distance recorder approved by the RUC collector, including— 25
- (i) prescribing the manner of fitting and maintaining a hubodometer, electronic distance recorder, odometer, or other kind of distance recorder:
- (ii) regulating the replacement of a hubodometer, electronic distance recorder, odometer, or other kind of distance recorder: 30
- (iii) prohibiting or restricting certain actions in respect of a hubodometer, electronic distance recorder, odometer, or other kind of distance recorder: 35

- Information down-loaded from vehicle management system*
- (p) regulating the management of information down-loaded and retained by the RUC collector from a vehicle management system under **section 57**: 5
- Infringement offences*
- (q) prescribing infringement offences for the purposes of this Act:
- (r) setting the infringement fee payable for an infringement offence, which— 10
- (i) for an offence against **section 10(2)** involving a heavy RUC vehicle, may not exceed \$3,000; and
- (ii) for any other infringement offence, may not exceed—
- (A) \$1,000 in the case of an individual; or 15
- (B) \$2,000 in the case of a body corporate:
- General*
- (s) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect. 20

Compare: 1977 No 124 s 24

81A Transitional regulations

- (1) The Governor-General may, by Order in Council, make regulations—
- (a) prescribing transitional and savings provisions concerning the coming into force of this Act, which may be in addition to or in place of the provisions of this Act: 25
- (b) providing that, subject to any conditions that may be specified in the regulations, during a specified transitional period,— 30
- (i) specified provisions of this Act (including definitions) do not apply:
- (ii) specified terms have the meaning given to them by the regulations:
- (iii) specified provisions repealed or amended or re- 35
voked by this Act are to continue to apply:

- (c) providing for any other matters necessary for facilitating or ensuring an orderly transition from the provisions of the former Act to the provisions of this Act.
- (2) No regulations made under this section may be made, or continue in force, later than 1 year after the date on which this section comes into force. 5

Exemption of particular RUC vehicles

81B RUC collector may exempt particular RUC vehicles

- (1) The RUC collector may, by notice in the *Gazette*, specify any particular RUC vehicle in respect of which road user charges are not payable. 10
- (2) The RUC collector must not give a notice under **subsection (1)** unless the RUC collector is satisfied that—
- (a) the exemption is necessary because the purpose or design of the particular RUC vehicle means that it is unsuitable for regular road use; and 15
- (b) requiring road user charges to be paid in respect of the particular RUC vehicle would impose compliance costs that are disproportionate to the amount of likely road use by the vehicle. 20
- (3) A notice under **subsection (1)**—
- (a) expires on the date that is 5 years after the date on which it was made; and
- (b) must state—
- (i) the registration number of the particular RUC vehicle (or any other alternative unique identifier for the vehicle) and the make and model (if known) of the particular RUC vehicle; and 25
- (ii) the reason for the exemption (including why the exemption is appropriate). 30

Delegations

82 Chief executive may delegate functions, duties, or powers to person outside Ministry

- (1) This section applies if the chief executive is exercising the functions, duties, or powers of the RUC collector under this Act. 35

- (2) The chief executive may, with the written consent of the Minister, delegate any of the chief executive's functions, duties, or powers as the RUC collector to a person who is not an employee of the Ministry.
- (3) Despite **subsection (2)**, the chief executive may, without the written consent of the Minister, delegate any of the chief executive's functions, duties, or powers as the RUC collector to—
- (a) the Agency; or
 - (b) any person or class of persons employed in the State services.
- (4) A delegation under **subsection (2) or (3)** may be—
- (a) made on any terms and conditions that the chief executive thinks fit; and
 - (b) made to—
 - (i) a specified person or class of persons; or
 - (ii) the holder or holders for the time being of a specified office or specified class of offices; and
 - (c) for a specific period or an indefinite period; and
 - (d) revoked at any time by notice to the delegate.
- (5) A person or class of persons, or the holder or holders for the time being of a specified office or class of offices, to whom any functions, duties, or powers are delegated under this section may perform those functions and duties, or exercise those powers, in the same manner and with the same effect as if they had been imposed or conferred on that person directly by this Act and not by delegation.

Compare: 1977 No 124 s 23D(1), (2)-(4), (6)

83 Further provisions relating to delegation

- (1) A person to whom any functions, duties, or powers are delegated under **section 82(2)** may,—
- (a) with the written consent of the chief executive, delegate to any person employed within the State services those functions, duties, or powers of the RUC collector approved by the chief executive;
 - (b) with the written consent of the Minister, delegate to any other person those functions, duties, or powers of the RUC collector approved by the Minister.

- (2) A delegation under **section 82** does not affect—
- (a) the performance of any function or duty, or the exercise of any power, by the chief executive as the RUC collector; or
 - (b) the responsibility of the chief executive for the actions of a person acting under the delegation. 5
- (3) A person purporting to act under any delegation under **section 82** must, if reasonably requested to do so, produce evidence of the person's authority to act under the delegation. 10
Compare: 1977 No 124 s 23D(2A), (7)

Notice requirements

84 Notice requirements

- (1) **Part 1 of Schedule 2** applies to a notice given under this Act by the RUC collector.
- (2) **Part 2 of Schedule 2** applies to a notice given under this Act to the RUC collector. 15

Subpart 3—Consequential amendments,
repeal and revocation, and transitional and
savings provisions

85 Consequential amendments to other enactments 20

The enactments listed in **Schedule 3** are consequentially amended in the manner indicated in that schedule.

86 Repeal and revocation

- (1) The Road User Charges Act 1977 (1977 No 124) is repealed.
- (2) The Road User Charges Regulations 1978 (SR 1978/30) are revoked. 25

87 Transitional and savings provisions

- (1) A licence issued under section 10 of the Road User Charges Act 1977 and in force immediately before the commencement of this Act for a motor vehicle with a gross laden weight of 3 500 kilograms or less must be treated as if it were issued under **section 17** of this Act. 30

- (2) A licence issued under section 10 of the Road User Charges Act 1977 and in force immediately before the commencement of this Act for a motor vehicle with a gross laden weight of more than 3 500 kilograms must, until the licence expires in accordance with **section 80(2)** of this Act, be treated as if it were issued under **section 17** of this Act. 5
- (3) An electronic distance recorder approved under regulation 6A of the Road User Charges Regulations 1978 and in use immediately before the commencement of this Act must be treated as if it were approved under **section 38** of this Act. 10
- (4) A hubodometer manufactured under a brand name specified in the definition of hubodometer in regulation 2 of the Road User Charges Regulations 1978 and in use immediately before the commencement of this Act must be treated as if it were approved by the RUC collector under **section 43** of this Act. 15
- (5) Any road user charges that are assessable or payable under the Road User Charges Act 1977 in relation to the period of 6 years immediately before the commencement of this Act must, despite the repeal of that Act, be treated as remaining in force and proceedings for the recovery of those road user charges may be enforced, continued, or completed as if this Act had not been passed. 20
- (6) An inquiry commenced under section 18A of the Road User Charges Act 1977 that is pending or in progress immediately before the repeal of that section by this Act may be continued or completed (as the case may be) as if this Act had not been passed. 25
- (7) An assessment for any unpaid road user charges made under section 18C or 18D of the Road User Charges Act 1977 must, despite the repeal of those provisions, be treated as remaining in force and proceedings for the recovery of those road user charges may be enforced, continued, or completed in accordance with those provisions, as if this Act had not been passed. 30
- (8) All proceedings in respect of an offence committed or alleged to have been committed under the Road User Charges Act 1977 may be enforced, continued, or completed (as the case may be) as if this Act had not been passed. 35

Transitional and savings provisions

- 87** **Transitional and savings provisions relating to licences issued under former Act**
- (1) On and from the commencement of **section 17** of this Act, a distance licence issued for a light RUC vehicle under section 10 of the former Act and in force immediately before that commencement must be treated as if it were issued under **section 17**. 5
- (2) On and from the commencement of **section 17** of this Act, a distance licence issued for a heavy RUC vehicle under section 10 of the former Act and in force immediately before that commencement— 10
- (a) continues in force for 1 month after that commencement; and
- (b) must be treated as if it were issued under **section 17**. 15
- (3) On and from the commencement of **section 17** of this Act, an authorisation granted to a person to issue a licence under section 10(3) of the former Act and in force immediately before that commencement must be treated as if it were granted under **section 17**. 20
- (4) If, after the commencement of **section 48** of this Act, a distance recorder for a RUC vehicle is reading in excess of the maximum reading specified on the distance licence for the vehicle, an assessment may be issued by the RUC collector under **section 48(1)** for any portion of the unpaid road user charges that were incurred under the former Act in respect of the vehicle as if all of the unpaid road user charges had been incurred under this Act. 25
- 88** **Transitional and savings provisions relating to electronic distance recorders and hubodometers approved under former Act** 30
- (1) On and from the commencement of **section 38** of this Act, an electronic distance recorder approved under regulation 6A of the Road User Charges Regulations 1978 and in use immediately before that commencement must be treated as if it were an electronic distance recorder provided by an electronic system provider under **section 38**. 35

- (2) On and from the commencement of **section 43** of this Act, a hubodometer manufactured under a brand name specified in the definition of hubodometer in regulation 2 of the Road User Charges Regulations 1978 and in use immediately before that commencement must be treated as if it were approved by the RUC collector under **section 43**. 5

89 Other transitional and savings provisions

- (1) Any road user charges that are assessable or payable under the former Act in relation to the period of 6 years immediately before the commencement of **Part 3** of this Act must, despite the repeal of the former Act, be treated as remaining in force and proceedings for the recovery of those road user charges may be enforced, continued, or completed as if this Act had not been passed. 10
- (2) An inquiry commenced under section 18A of the former Act that is pending or in progress immediately before the repeal of that section by this Act may be continued or completed (as the case may be) as if this Act had not been passed. 15
- (3) An assessment for any unpaid road user charges made under section 18C or 18D of the former Act must, despite the repeal of those provisions, be treated as remaining in force and proceedings for the recovery of those road user charges may be enforced, continued, or completed in accordance with those provisions, as if this Act had not been passed. 20
- (4) All proceedings in respect of an offence committed or alleged to have been committed under the former Act may, despite the repeal of those provisions, be enforced, continued, or completed (as the case may be) as if this Act had not been passed. 25
-

Schedule 1

s 40(3)

**Duties relating to management of road
user charges RUC information by
electronic system providers**

- 1 Duties of electronic system providers relating to collection of RUC information** 5
- (1) An electronic system provider must collect and store RUC information.
- (2) An electronic system provider must—
- (a) clearly identify the RUC information it collects; and 10
- (b) keep the RUC information separate from other commercial information.
- (3) In this clause, **other commercial information** means information relating to any telematics services or location-based services, including associated communication services that are provided to the transport operator by an electronic system provider that are not road user charges services. 15
- 2 Duties of electronic system provider relating to use and disclosure of RUC information**
- (1) An electronic system provider must not use or disclose RUC information collected under **clause 1** except as required or authorised by or under this Act or any other enactment. 20
- (2) An electronic system provider must take reasonable steps to ensure that the ~~road user charges~~ RUC information it collects is protected against unauthorised access or use, misuse, loss, modification, or unauthorised disclosure. 25
- (3) An electronic system provider must on request from a transport operator disclose RUC information relating to the transport operator to that transport operator.
- (4) **Subclause (3)** is subject to **section 39(4)** (which provides that an electronic system provider must not disclose that it has made a report to the RUC collector as required by that section). 30

3 Disclosure of road user charges RUC information to RUC collector

- (1) An electronic system provider must, on request and on the receipt of payment of a reasonable fee by the RUC collector, supply to the RUC collector any specified traffic or transport information required by the RUC collector for transport network planning purposes. 5
- (2) The information supplied under **subclause (1)** must—
- (a) be in a form approved by the RUC collector; and
 - (b) be supplied only in aggregate form and in a way that ~~will~~ does not identify any specific transport operator or electronic system provider. 10

4 Policy relating to management of RUC information

- (1) An electronic system provider must prepare, and make publicly available, a document that sets out its policies on the management of RUC information. 15
- (2) An electronic system provider must include in its contract of service with a transport operator details of the policy referred to in **subclause (1)**.
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Schedule 2
Notice requirements

s 84

Part 1

Notice given by RUC collector

- | | | |
|----------|---|----------|
| 1 | Notice given by RUC collector | 5 |
| (1) | This clause applies if this Act requires the RUC collector to give a notice to a person. | |
| (2) | The notice must be in writing and may be given— | |
| (a) | to either— | |
| (i) | the person; or | 10 |
| (ii) | a representative authorised to act on behalf of the person; and | |
| (b) | using one of the methods specified in subclause (3) . | |
| (3) | The methods are— | |
| (a) | by personal delivery to a person that is not a body corporate: | 15 |
| (b) | by personal delivery to a person that is a body corporate, if the personal delivery is made to the person's office during working hours: | |
| (c) | by an electronic means of communication to the person, if the RUC collector complies with the Electronic Transactions Act 2002: | 20 |
| (d) | by post— | |
| (i) | to the street address of the person's usual or last known place of residence; or | 25 |
| (ii) | to the street address of any of the person's usual or last known places of business; or | |
| (iii) | to any other address, if the addressee has notified the RUC collector that the person accepts notices at that address. | 30 |
| (4) | For the purposes of subclause (3)(d) , a notice given by post is treated as having been given at the time the notice would have been delivered in the ordinary course of the post. | |

Part 2

Notice given to RUC collector

2 Notice given to RUC collector

- (1) This section applies if this Act requires a person to give a notice to the RUC collector. 5
- (2) The notice must be in writing and sent—
- (a) to an address designated by the RUC collector by notice in the *Gazette*; and
 - (b) using one of the methods specified in **subclause (3)**.
- (3) The methods are— 10
- (a) by personal delivery, if the delivery is made during working hours; or
 - (b) by electronic means of communication, if the person complies with the Electronic Transactions Act 2002; or
 - (c) by post to the street address or post office box number 15 for the office.
- (4) For the purposes of **subclause (3)(c)**, a notice given by post is treated as having been given at the time the notice would have been delivered in the ordinary course of the post.
-

Schedule 3**s 85****Consequential amendments to other enactments****Part 1****Amendments to other Acts**

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Canterbury Earthquake Response and Recovery Act 2010

Section 6(4)(r): revoke and substitute:

“~~(r) the Road User Charges Act 2010:~~”.**Canterbury Earthquake Recovery Act 2011 (2011 No 12)**

Section 71(3)(s): repeal and substitute:

10

“(s) the Road User Charges Act 2010:”.**Fire Service Act 1975 (1975 No 42)**

Definition of **motor vehicle** in section 47B: omit “any motor vehicle with a gross laden weight (as defined in section 2(1) of the Road User Charges Act 1977) exceeding 3.5 tonnes” and substitute “a heavy RUC vehicle (as defined in section 5(1) of the Road User Charges Act **2010**) with a gross vehicle mass exceeding 3 500 kilograms”.

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Goods and Services Tax Act 1985 (1985 No 141)

Section 5(6B): omit “section 9 of the Road User Charges Act 1977” and substitute “**section 17** of the Road User Charges Act **2010**”.

20

Government Roading Powers Act 1989 (1989 No 75)

Definition of **fees and charges** in section 2(1): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Land Transport Act 1998 (1998 No 110)

Definition of **heavy motor vehicle** in section 2(1): repeal and substitute:

25

“heavy motor vehicle—

“(a) means a motor vehicle (other than a motorcar that is not used, kept, or available for the carriage of passengers for hire or reward) having a gross laden weight exceeding 3 500 kg; and

30

Part 1—*continued***Land Transport Act 1998 (1998 No 110)**—*continued*

“(b) includes a heavy RUC vehicle as defined in **section 5(1)** of the Road User Charges Act **2010**”.

Definition of **land transport documents** in section 2(1): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

5

Paragraph (a) of the definition of **land transport register** in section 2(1): insert “or the Road User Charges Act **2010**” after “Railways Act 2005”.

Section 30ZH(1): omit “12 months” in each place where it appears and substitute in each case “36 months”.

10

Section 30ZH: insert after subsection (1):

~~“(1A) Despite anything in **subsection (1)**, if the logbook only contains entries for vehicles with a gross mass of 3 500 kg or less, the driver must only retain the logbook for a period of 12 months.”~~

15

Section 30ZH: insert after subsection (1):

“(1A) Despite anything in **subsection (1)**, if the logbook only contains entries for a light RUC vehicle (as defined in **section 5(1)** of the Road User Charges Act **2010**), the driver must only retain the logbook for a period of 12 months.”

20

Section 113(1)(a): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Section 125(1)(c): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Section 146(1): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010** (or any regulations made under that Act)”.

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Section 147(1): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010** (or any regulations made under that Act)”.

30

Section 147(7): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010** (or any regulations made under that Act)”.

Section 167(1)(e)(iii): repeal.

Part 1—*continued***Land Transport Act 1998 (1998 No 110)**—*continued*

Section 168(1)(a): omit “the Road User Charges Act 1977,”.

Section 168(6): repeal.

Section 208(1)(a): omit “; or” and substitute “:” and add:

“(iv) the Road User Charges Act **2010**; or”.

Section 218(4): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Section 218(4): omit “(other than rates of road user charges), which regulation is made under the Transport Act 1962, the Road User Charges Act 1977” and substitute “under the Transport Act 1962”.

Section 223(1): omit “Road User Charges Act 1977” in each place where it appears and substitute in each case “Road User Charges Act **2010**”.

Land Transport Management Act 2003 (2003 No 118)

Paragraph (a) of definition of **fees and charges** in section 5(1): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Section 6(a): omit “with Schedule 3 of the Road User Charges Act 1977” and substitute “regulations made under **section 79** of the Road User Charges Act **2010**”.

Section 6(a): omit “Schedule 3 of the Road User Charges Act 1977, any additional charges under section 21A of that Act, and any assessments under section 18C or 18D of that Act” and substitute “regulations made under **section 79** of the Road User Charges Act **2010** and any assessments for unpaid road user charges under **Part 3** of that Act”.

Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104)

Section 3(b): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010** (or any regulations made under that Act)”.

Section 15(1)(b): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Part 1—*continued***New Zealand Railways Corporation Act 1981 (1981 No 119)**

Section 119A: omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Privacy Act 1993 (1993 No 28)

Third column of item relating to New Zealand Transport Agency records in Schedule 5: omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”. 5

Summary Proceedings Act 1957 (1957 No 87)

Definition of **traffic offence** in section 100A(1): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”. 10

Transport Act 1962 (1962 No 135)

Section 68E: repeal:

Section 69D: repeal:

Section 196B(1): repeal:

Part 4 of Schedule 2: repeal. 15

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

Schedule 3: omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Part 2

Amendments to regulations 20

Consumer Information Standards (Used Motor Vehicles) Regulations 2008 (SR 2008/112)

Schedule 2: omit “Road User Charges Act 1977 to have a road user” and substitute “Road User Charges Act **2010** to have a road user charges”. 25

Part 2—*continued***Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Regulations 2004 (SR 2004/238)**

Definition of **licensed vehicle** in regulation 3(1): omit: “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”. 5

Land Transport Rule: Vehicle Dimensions and Mass 2002

Section 5.1(3): omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Section 5.1(4)(b): omit “Road User Charges Act 1977, have a current licence issued under that Act for the actual gross weight of the vehicle” and substitute “Road User Charges Act **2010**, have a current licence issued under that Act (including any licence required by section 12 of that Act)”. 10

Section 5.2(7)(c): omit “Road User Charges Act 1977, have a current licence issued under that Act for the actual gross weight of the vehicle” and substitute “Road User Charges Act **2010**, have a current licence issued under that Act (including any licence required by section 12 of that Act)”. 15

Part B of Schedule 2: omit “~~section~~ Ref. 5.1(1)(b)” and substitute “Ref. 5.2(6)(a)”. 20

Land Transport Rule: Work Time and Logbooks 2007

Definition of **distance recorder** in Part 2: omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”.

Definition of **road user charges** in Part 2: omit “Road User Charges Act 1977” and substitute “Road User Charges Act **2010**”. 25

Item relating to distance record in Part 4—Using the log book form: omit “Hubodometer” and substitute “electronic distance recorder or hubodometer”.

Road User Charges Bill

Legislative history

25 November 2010
15 February 2011

Introduction (Bill 261–1)
First reading and referral to Transport and Industrial
Relations Committee
