

In Confidence

Office of the Minister of Transport
Chair, Cabinet Business Committee

Road User Charges (Rates) Amendment Regulations 2020

Road User Charges Amendment Regulations 2020

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the:
 - 1.1. Road User Charges (Rates) Amendment Regulations 2020 (the RUC (Rates) Amendment Regulations)
 - 1.2. Road User Charges Amendment Regulations 2020 (RUC Amendment Regulations)

Executive Summary

2. Cabinet previously agreed to a 3.5 cent per litre increase of petrol excise duty (PED) in 2018, 2019 and 2020, with an equivalent increase in road user charges (RUC) [CAB-18-MIN-0115 refers] to provide the level of funding needed to meet the Government's transport investment commitments. These commitments are set out in the Government Policy Statement on land transport 2018 (GPS 2018), released in June 2018.
3. The increase in PED from 1 July 2020 has already been legislated through section 5 of the Excise and Excise-equivalent Duties Table (Budget Measures – Motor Spirits) Amendment Act 2019.
4. On 16 March 2020, following reference from the Cabinet Economic Development Committee (DEV) on 11 March 2020, Cabinet agreed [DEV-20-MIN-0031 and CAB-20-MIN-0100 refer]:
 - 4.1. that all rates of RUC be increased by 5.3 percent (subject to rounding), as set out in Appendix A to the paper under DEV-20-SUB-0031, with effect from 1 July 2020
 - 4.2. that the RUC rates currently set out in Parts 1 and 2 of the Specification of Road User Charges Notice 2019 issued by Waka Kotahi New Zealand Transport Agency be incorporated into the principal regulations (the Road User Charges (Rates) Regulations 2015)
 - 4.3. that an error in one of the existing rates in Schedule 5 of the RUC (Rates) Regulations 2015 be corrected.
5. In drafting the RUC (Rates) Amendment Regulations, it became apparent that an amendment was also required to the Road User Charges Regulations 2012 to provide for the RUC vehicle types set out in the Specification of Road User Charges Notice 2019 (the

Notice). This amendment supports Cabinet's decision to incorporate the RUC rates set out in the Notice into the Road User Charges (Rates) Regulations 2015 [CAB-20-MIN-0100 refers].

6. The RUC (Rates) Amendment Regulations and the RUC Amendment Regulations give effect to Cabinet's decision to increase RUC for 2020, incorporate RUC rates from the Notice into the Road User Charges (Rates) Regulations, and to correct an error in one of the existing rates.

Policy

7. RUC is one of the major contributors of revenue to the National Land Transport Fund (NLTF), which funds the delivery of the Government Policy Statement on land transport. The RUC system is used to raise revenue from the operators of vehicles that are not wholly powered by petrol. Rates of RUC are set in the Road User Charges (Rates) Regulations 2015 according to RUC vehicle types and weights prescribed in the Road User Charges Regulations 2012.
8. PED is the other major contributor of revenue to the NTLF. PED is levied on petrol imported into or produced in New Zealand.
9. Cabinet previously agreed to a 3.5 cent per litre increase of PED in 2018, 2019 and 2020, with an equivalent increase in RUC [CAB-18-MIN-0115 refers]. The increases are required to ensure there is sufficient revenue in the NLTF to fund the delivery of the Government Policy Statement on land transport 2018.
10. PED and RUC increased in 2018 and 2019.
11. The PED increases for 2020 are contained in section 5 of the Excise and Excise-equivalent Duties Table (Budget Measures –Motor Spirits) Amendment Act 2019 that will come into force on 1 July 2020.
12. This paper proposes the Road User Charges (Rates) Amendment Regulations 2020, to put in place the required RUC increases for 2020, consistent with Cabinet's decisions below. The Road User Charges (Rates) Amendment Regulations 2020 amend the Road User Charges (Rates) Regulations 2015.
13. On 16 March 2020, following reference from DEV, Cabinet agreed [DEV-20-MIN-0031 and CAB-20-MIN-0100 refer]:
 - 13.1. that all rates of RUC be increased by 5.3 percent (subject to rounding), as set out in Appendix A to the paper under DEV-20-SUB-0031, with effect from 1 July 2020
 - 13.2. that the RUC rates currently set out in Parts 1 and 2 of the Specification of Road User Charges Notice 2019 issued by Waka Kotahi New Zealand Transport Agency be incorporated into the principal regulations (the Road User Charges (Rates) Regulations 2015)
 - 13.3. that the rate in Schedule 5 of the Road User Charges (Rates) Regulations 2015, for each additional 1,000 kg more than 20,000 kg on a Type 1 (two-axle single tyre) vehicle, be corrected to the rate that would have applied had the 2018 rate been increased by 5.55 percent, and the 5.3 percent increase proposed for 2020 be applied, both with effect from 1 July 2020.

14. The RUC (Rates) Amendment Regulations will give effect to Cabinet's decisions by implementing, from 1 July 2020, an increase in all RUC rates of 5.3 percent (subject to rounding).
15. The RUC (Rates) Amendment Regulations will also give effect to Cabinet's decisions by incorporating the RUC rates set out in Parts 1 and 2 of the Notice and correcting an error in Schedule 5 of the Road User Charges (Rates) Regulations 2015.

Incorporating the RUC rates set out in Parts 1 and 2 of the Notice

16. Pursuant to section 90A of the Road User Charges Act 2012 (the Act), the RUC collector may, by notice in the *Gazette*, specify a RUC vehicle type and rate of road user charges payable, for a class of RUC vehicle that includes a vehicle or vehicle combination for which there is no RUC rate that applies.
17. On 28 June 2019, the RUC collector (the New Zealand Transport Agency) issued the Specification of Road User Charges Notice 2019 (the Notice) by notice in the *Gazette*. The Notice specifies 12 RUC vehicle types and rates of road user charges payable, for classes of vehicle for which there was currently no RUC rate that applied.
18. As set out above, Cabinet has agreed that the new RUC rates be incorporated into the Road User Charges (Rates) Regulations 2015. This will allow all RUC rates to be consolidated into a single statutory instrument, increasing transparency.
19. In drafting the RUC (Rates) Amendment Regulations, it has become apparent that amendments to the Road User Charges Regulations 2012 are also required to specify the new RUC vehicle types that correspond to the new RUC rates being incorporated into the Road User Charges (Rates) Regulations 2015.
20. Under section 11 of the Act, each vehicle that is required to pay road user charges must have a RUC vehicle type and a RUC weight. RUC vehicle types are prescribed by regulations made under section 89 of the Act. RUC vehicle types and RUC weight bands are set out in the Schedule to the Road User Charges Regulations 2012.
21. To give effect to Cabinet's decision to incorporate the RUC rates set out in Parts 1 and 2 of the Notice into the Road User Charges (Rates) Regulations 2015, I seek the Committee's approval to amend the Road User Charges Regulations 2012 to specify the RUC vehicle types that correspond to the new RUC rates.
22. The necessary amendments to the Road User Charges Regulations 2012 are set out in the RUC Amendment Regulations.

Correcting an error in Schedule 5 of the Road User Charges (Rates) Regulations 2015

23. When the Road User Charges (Rates) Regulations 2015 were amended in 2019, an increase of 5.55 percent was to be applied across all RUC rates. However due to an error the rate in Schedule 5, for each additional 1,000 kg more than 20,000 kg on a Type 1 (two-axle single tyre) vehicle was mistakenly increased by 55.5 percent. No vehicles were liable to pay this rate in the 2019/2020 year. This error is corrected in the RUC (Rates) Amendment Regulations attached.

Legislative Implications

24. The RUC (Rates) Amendment Regulations will amend the Road User Charges (Rates) Regulations 2015.

25. The RUC Amendment Regulations will amend the Road User Charges Regulations 2012.

Timing and 28-day rule

26. The timing of the new RUC rates for 2020 will align with the PED increases that will come into effect on 1 July 2020, as set out in section 5 of the Excise and Excise-equivalent Duties Table (Budget Measures – Motor Spirits) Amendment Act 2019.
27. Section 85 of the Road User Charges Act 2012 prescribes a 42-day period between notifying the new RUC rates in the *New Zealand Gazette* and those rates commencing. The Regulations have a proposed in-force date of 1 July 2020. Subject to Cabinet approval of the regulations, the RUC (Rates) Amendment Regulations and the RUC Amendment Regulations will be notified in the *New Zealand Gazette* on Thursday 30 April 2020.
28. No waiver of the 28-day rule is sought.

Compliance

29. The RUC (Rates) Amendment Regulations and the RUC Amendment Regulations comply with each of the following:
- 29.1. the principles of the Treaty of Waitangi;
 - 29.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 29.3. the principles and guidelines set out in the Privacy Act 1993;
 - 29.4. relevant international standards and obligations;
 - 29.5. Legislation Guidelines (2018 edition).

Regulations Review Committee

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

Certification by Parliamentary Counsel

31. The Parliamentary Counsel Office has certified the RUC (Rates) Amendment Regulations and the RUC Amendment Regulations as being in order for submission to Cabinet.

Impact Analysis

32. An impact analysis was prepared by the Ministry of Transport in accordance with the necessary requirements and was submitted at the time Cabinet policy approval was sought.

Publicity

33. The RUC (Rates) Amendment Regulations and the RUC Amendment Regulations will be notified in the *New Zealand Gazette*. The New Zealand Transport Agency will arrange for the publicity of the resulting increase to road user charges rates. The Ministry of Transport will also publish relevant information on its website.

Proactive release

34. I intend to proactively release this paper subject to appropriate redactions under the Official Information Act 1982.

Consultation

35. The Ministry of Transport consulted the Treasury and Waka Kotahi the New Zealand Transport Agency in the development of the policy proposals.
36. The Department of the Prime Minister and Cabinet has been informed.
37. Consultation was carried out with caucus, New Zealand First, and the Green Party on the proposed RUC rate increases prior to consideration at Cabinet Economic Development Committee on 11 March 2020, and Cabinet on 16 March 2020. No concerns were raised.

Recommendations

I recommend that the Cabinet Business Committee:

1. **note** that in June 2018 Cabinet agreed to a 3.5 cents per litre increase in petrol excise duty in 2018, 2019 and 2020, with an equivalent increase in road user charges (RUC) [CAB-18-MIN-0115];
2. **note** that an increase in petrol excise duty from 1 July 2020 has already been legislated [LEG-19-MIN-0052];
3. **note** that on 16 March 2020 Cabinet, following reference from the Cabinet Economic Development Committee [DEV-20-MIN-0031 and CAB-20-MIN-0100 refer]:
 - 3.1. agreed that all rates of RUC be increased by 5.3 percent (subject to rounding), as set out in Appendix A to the paper under DEV-20-SUB-0031, with effect from 1 July 2020
 - 3.2. agreed that the RUC rates currently set out in Parts 1 and 2 of the Specification of Road User Charges Notice 2019 issued by Waka Kotahi New Zealand Transport Agency be incorporated into the principal regulations (the Road User Charges (Rates) Regulations 2015)
 - 3.3. agreed that the rate in Schedule 5 of the Road User Charges (Rates) Regulations 2015, for each additional 1,000kg more than 20,000 kg on a Type 1 (two-axle single tyre) vehicle, be corrected to the rate that would have applied had the 2018 rate been increased by 5.55 percent, and the 5.3 percent increase proposed for 2020 be applied, both with effect from 1 July 2020
4. **note** that to give effect to the decision referred to in paragraph 3.2 above, an amendment to the Road User Charges Regulations 2012 is required
5. **agree** to amend the Road User Charges Regulations 2012 to include the RUC vehicle types and RUC vehicle weight bands currently set out in Parts 1 and 2 of the Specification of Road User Charges Notice 2019, including any consequential amendments
6. **note** that the Road User Charges (Rates) Amendment Regulations 2020 and the Road User Charges Amendment Regulations 2020 will give effect to the decisions referred to in paragraph 3 above

7. **authorise** the submission to the Executive Council of the:
 - 7.1. Road User Charges (Rates) Amendment Regulations 2020
 - 7.2. Road User Charges Amendment Regulations 2020
8. **note** that the Road User Charges (Rates) Amendment Regulations 2020 and the Road User Charges Amendment Regulations 2020 come into force on 1 July 2020, the same date as the already-legislated increase to petrol excise duty.

Authorised for lodgement

Hon Phil Twyford
Minister of Transport