

## **Regulatory Impact Statement**

### **Road User Charges Bill 2010 – Inclusion of a new exemption criterion to cover situations where a light RUC vehicle is used predominantly off the road.**

## **Agency Disclosure Statement**

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Transport.

### *Limits on options analysed*

Because the Road User Charges Bill 2010 (RUC Bill) has already been introduced to Parliament and is entering its final stages, the consideration of options was restricted to a variant to what is contained in the RUC Bill itself rather than the full range of potential options.

### *Limits on analysis undertaken*

This proposal has been developed at short notice. It has not been possible to undertake a cost/benefit analysis and the analysis reflects the Ministry best estimate, at a high level, of the cost and benefits in relation to the objectives.

### *Consistency with matters in the Government Statement on Regulation*

In the timeframes for developing a response to the need for an additional exemption criterion covering light RUC vehicles my officials have been unable to undertake proper regulatory impact analysis of the proposal in this paper. Consequently I cannot confirm that it is consistent with the commitments in our Government Statement on Regulation, but I believe it is necessary for us to act on the issue now regardless, due to the risks presented by the existing criteria for exemption contained in the RUC Bill and the need to address them now before the RUC Bill receives its third reading.

Ian Stuart (Senior Adviser)

15 September 2011

## High Level Summary

### Status quo

Exemptions from having to pay RUC are granted to vehicles that predominantly do not travel on public roads. Due to administrative complexity and costs, the payment of RUC are not warranted in these cases as the costs relative to the amount of RUC involved is high. Exemptions from having to pay RUC are covered by three pieces of legislation:

- The Road User Charges Act 1977
- Road User Charges Regulations 1978
- Land Transport Management (Apportionment and Refund of Excise Duty and Excise Equivalent Duty) Regulations 2004

The approach to granting exemptions from purchasing a RUC licence is a set of grounds containing a mix of approaches identifying:

- types of RUC vehicles, or
- the uses of a vehicle (such as agricultural operations), and/or
- the occupation of the owner

In addition, some exemptions have conditions attached to limit the nature of on-road travel. For instance, travelling no more than 21 kilometres of public highway during any one trip.

There are approximately 60,000 vehicles that are exempt from having to pay RUC. The vast majority of these vehicles are diesel vehicles. Because an exemption can be granted based on the use of a vehicle and/or occupation of the owner, vehicle owners need to apply for an exemption and the RUC Collector<sup>1</sup> has to make a determination whether or not to grant the exemption. Vehicle owners who have not been granted an exemption from paying RUC can still apply for a refund for travel done off public roads.

Enforcement of RUC exemptions is shared between the RUC collector and the NZ Police. There are no offences or penalties associated with having an exemption when owners or operators should be paying RUC, or not adhering to the conditions of an exemption. The consequence of submitting a false application or not adhering to the conditions of an exemption is loss of exempt status.

Parliament is currently considering the RUC Bill which will replace the RUC Act 1977. The RUC Bill seeks to modernise and simplify the RUC system, including the granting of exemptions.

The RUC Bill has an exemption regime that is based on describing those vehicles that will be exempt from RUC rather than the being based on the use the vehicle is put to. Under clause 80C by Order in Council the Minister of Transport can make regulations prescribing exempt vehicles or classes of exempt vehicles as long as the Minister is satisfied that:

---

<sup>1</sup>The New Zealand Transport Agency

- 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 is unsuitable for regular road use; and
- requiring RUC 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.

## Problem definition

A principle underpinning the RUC system is that vehicles subject to RUC should only pay RUC for travel done on public roads and not travel done elsewhere. The difficulty with adhering to the principle is the practical challenge of establishing what travel each individual vehicle does on and off public roads and charging an appropriate amount of RUC.

The problem with the mixed approach to granting exemptions is that:

- use and/or occupational status are not necessarily a good indicator of whether or not a vehicle predominantly travels off-road
- it is difficult to manage and enforce the exemptions as many of the vehicles with exemptions are suitable for regular road use and are essentially indistinguishable from other vehicles on the road
- due to difficulties with enforcement there are examples where the exemption is abused, meaning honest payers subsidise those who wish to evade RUC and deprive the government of revenue

The proposed approach contained in the RUC Bill seeks to address these concerns and represents an improvement over the current mixed approach to exemptions. It is a better approach than the mixed approach as:

- vehicle type is a better indicator of likely on-road travel and distance of travel on-road than activity and therefore a better proxy for actual on-road travel likely to occur
- it is easier and less costly to administer and enforce with exemptions automatically being granted and restricted to vehicles that are not suitable for regular road use and therefore unlikely to do much travel on public roads
- there is less potential for abuse of the system, as a vehicle is either exempt or not

The difficulty with the proposed approach in the RUC Bill is that it will likely result in a lot of vehicles, principally light RUC vehicles<sup>2</sup> suitable for regular road use, not being eligible for an exemption despite being driven predominantly off-road. Although the owners of these vehicles can still seek a refund for travel done off public roads, they have to maintain records and complete multiple refund forms which may be a costly undertaking. On balance the potential compliance costs imposed on owners of these vehicles and the administration costs of administering refunds may outweigh the administrative and enforcement cost savings, and additional RUC revenue generated.

---

<sup>2</sup>Includes all vehicles whose motive power is not wholly derived from petrol and petrol vehicles whose gross vehicle weight is over 3.5 tonnes.

## Objectives

To support the modernisation and simplification of the RUC system, regulations covering exemptions from having to pay RUC should:

- be simple and easy to understand
- keep administration and enforcement costs to a minimum
- reduce unnecessary compliance costs on owner and operators of vehicles not driven predominantly on public roads relative to the amount of RUC that would be collected
- not jeopardise RUC revenue levels
- support the integrity and credibility of the RUC system as a whole by being fair to all vehicle owners

## Regulatory Impact Analysis

### Options

Two options have been identified for comparison against the status quo.

*Option One: Limited exemptions as currently outlined in the RUC Bill (the Refund Option)*

The approach under this option is to restrict the scope of exemptions granted and err on the side of requiring more vehicle owners to seek refunds for travel done off-road.

*Option Two: Wider exemptions*

The approach under this option is to retain the proposed approach outlined in the RUC Bill, but include one additional criterion covering light RUC vehicles that do not meet the existing criteria (ie they are suitable for regular road use).<sup>3</sup>

To reduce the risk of false applications being made under the new criterion the option also includes:

- an offence and penalty provision
- ability of the RUC collector to audit exemptions granted under this criterion and the ability to revoke the exemption and issue an assessment of unpaid RUC

---

<sup>3</sup>It is considered that heavy RUC vehicles are adequately covered by the first two criteria. The potential road damage and larger amounts of RUC revenue at risk if heavy RUC vehicles suitable for regular road use could also apply for exemptions is likely to be considerably larger than the compliance costs imposed on applying for refunds.

## Analysis

There are approximately 500,000 light RUC vehicles operating in New Zealand. We estimate that about 10,000 of these vehicles are used predominantly off the road.

Although light RUC vehicles are eligible for refunds we have had anecdotal information that owners “do not always bother” to apply for a refund.

It is difficult to predict in this case what behavioural changes might eventuate.

The following table sets out the analysis of the two options against the objectives. Due to tight timeframes it has not been possible to do a more thorough analysis.

<b>Objectives</b>	<b>Status Quo</b>	<b>Option One - Limited exemptions (the Refund option)</b>	<b>Option Two Wider exemptions (inclusion of a wider range of light RUC vehicles)</b>
Simple and easy to understand	Inconsistent and difficult to understand due to a range of factors including no clear rationale for why one activity is exempt and another is not.	<b>Positive impact</b> – criteria are easy to understand and will result in a list of vehicles that are either exempt or not	<b>Neutral to positive impact</b> – Positive in relation to heavy RUC vehicles as vehicles will be either exempt or not. Less certain outcome in relation to light RUC vehicles as each application for an exemption will need to be judged on its own merits, which in turn will require additional criteria in regulation to implement.
Keep administration and enforcement costs to a minimum	Administration and enforcement costs high. Anecdotal there is evidence that some exempt vehicles are using public roads far more than their exemption allows. Difficult to assess without the ability to track individual vehicle movements.	<b>Neutral to positive impact</b> – Less costly to administer and enforce as exemption is based on vehicle type where a vehicle is either exempt or not. Exemptions are automatic, no application or assessment of application required. Vehicle types easy to identify. That said, there may be more applications for refunds that increase administration costs.	<b>Neutral to positive impact</b> – Positive in relation to heavy RUC vehicles as exemptions based on vehicle type. Uncertain in relation to light RUC vehicles where exemption is by application and not automatic and greater potential for abuse of exemption as vehicles suitable for regular road use placing pressure on enforcement costs.

<b>Objectives</b>	<b>Status Quo</b>	<b>Option One - Limited exemptions (the Refund option)</b>	<b>Option Two Wider exemptions (inclusion of a wider range of light RUC vehicles)</b>
Reduce unnecessary compliance costs on owner and operators of vehicles not driven predominantly on public roads relative to the amount of RUC that would be collected	Compliance burden in relation to having to apply for an exemption or having to apply for a refund. The latter burden is likely to be higher and concentrated to certain sectors not adequately covered by existing exemptions.	<b>Negative impact</b> – due to a tighter scope for granting exemptions, more vehicle owners will need to apply for refunds for travel done off-road.	<b>Negative to neutral impact</b> – potentially negative for heavy RUC vehicles due to tighter scope for granting exemptions. Likely to be neutral in relation to light RUC vehicles – depends on the final design of regulations and what light RUC vehicles will be eligible for an exemption.
Not jeopardise RUC revenue levels	Anecdotal there is some evidence to indicate there is revenue leakage due to exemptions being granted to vehicles that do regularly travel on public roads	<b>Positive impact</b> – due to tighter scope less potential for revenue leakage	<b>Positive impact</b> – due to tight scope for heavy RUC vehicles less potential for revenue leakage, even allowing for revenue leakage from light RUC vehicles. Extent of leakage for light RUC vehicles dependent on ability to effectively monitor and enforce exemptions
Supports the integrity and credibility of the RUC system as a whole by being fair to all vehicle owners	Undermines the integrity and credibility of the RUC system as no consistent rationale across exemption categories, resulting in some sectors, particularly the agricultural sector, being favoured by the exemption regime	<b>Positive impact</b> – Because vehicle design is a better indicator for on-road / off-road use more likely to result in exemptions being granted to the right vehicles. Removes distinctions based on use and occupation of owner. Enforcement easier as vehicle type is either exempt or not. Far less revenue leakage.	<b>Neutral to positive impact</b> – similar to option one, the issue is the development of regulations regarding light RUC vehicles. There are approximately 500,000 light RUC vehicles most of which are suitable for regular road use. Will be challenging to ensure only legitimate applications are granted.

## **Conclusion**

Both options represent an improvement on the status quo. The main difference between the two options is scope of eligibility for an exemption. On balance the Ministry is of the view that option one – the proposed approach in the RUC Bill – is the more suitable approach to granting exemptions. This is because the new criterion under option two suffers from many of the issues bedevilling the status quo. For instance, equity issues about which light RUC vehicles should be eligible for an exemption under the criterion, ability to abuse exemption status due to the vehicles being suitable for on-road use, and enforcement difficulties. Even though it will be an offence to submit a false application, the deterrence effect of the offence and associated penalty will be undermined if it proves difficult to enforce exemptions under this option. On balance, the Ministry considers these issues to be more costly to address than the potential increase in compliance cost for the owners of these vehicles in having to pay RUC and then applying for a refund for travel done off public roads.

If the decision is taken to insert a new criterion covering light RUC vehicles the Ministry recommend that the regulations providing for the exemption of light RUC vehicles is tightly scoped and the burden of proof be principally placed on the owners of light RUC vehicles seeking an exemption under the new criterion, as the owners of these vehicles are the ones who know the extent of travel on and off public roads.

## **Implementation**

The Ministry intends to consult with key stakeholders on a proposed set of regulations for exemptions once the RUC Bill is passed. If an additional exemption criterion covering light RUC vehicles is included in the RUC Bill this will also be consulted on. Given the difficulty of developing robust regulations for light RUC vehicles the proposed approach is not to develop a final set of regulations for light RUC vehicles but to adopt a principles based approach in consultation to determine what the parameters of the regulations should be.

In parallel the Ministry is working with the RUC Collector (NZTA) and other key agencies like the NZ Police in laying the foundations for the implementation of the new RUC system.

## **Monitoring, evaluation and review**

The Ministry has commenced preparing an evaluation framework for monitoring the new RUC system. The exemption regime will be included in the monitoring regime. If an additional criterion covering light RUC vehicles is included in the RUC Bill consideration will be given to how best to monitor the key risks associated with the new criterion to ensure the new criterion is not having major unintended consequences.

## **Consultation**

Limited consultation has been undertaken with Treasury, Ministry of Justice, Department of Labour, the NZ Transport Agency. and the Accident Compensation Corporation. The Department of Prime Minister and Cabinet have been informed of the proposal.