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12 JUL 2017
Office of Hon Macindoe

Electric Vehicles - Subordinate Legislation to support Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017

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| Reason for this briefing | This provides you with the necessary material to advance amendments to two land transport rules and a new Road User Charges exemption order to facilitate the use of electric vehicles on New Zealand roads, part of implementing the Electric Vehicles Programme agreed by Cabinet in March 2016. |
| Action required | Consider this briefing and, sign and lodge the accompanying LEG paper and advice sheets with Cabinet Office. |
| Deadline | 10.00am Thursday 20 July 2017. |
| Reason for deadline | This is the latest date to lodge a LEG paper to achieve an in force date of 1 September 2017, while complying with the 28-day rule. |

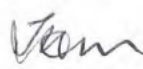
Contact for telephone discussion (if required)

| Name | Position | Telephone | First contact |
|--------------|---------------------|------------|---------------|
| David Bowden | Chief Legal Adviser | [REDACTED] | ✓ |
| [REDACTED] | Adviser | [REDACTED] | |

MINISTER'S COMMENTS: Withheld under section 9(2)(a) of the Official Information Act 1982

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| Date: | 12 July 2017 | Briefing number: | OC05084 |
| Attention: | Hon Tim Macindoe (Associate Minister of Transport) | Security level: | In-Confidence |

Minister of Transport's office actions

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|---------------------------------------|---|--|
| <input type="checkbox"/> Noted | <input type="checkbox"/> Seen | <input checked="" type="checkbox"/> Approved  |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Referred to | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> Withdrawn | <input type="checkbox"/> Not seen by Minister | |

Purpose of report

1. This report provides you with a paper to the Cabinet Legislation Committee asking the committee to authorise the submission to the Executive Council of the following Orders in Council:
 - 1.1. The Land Transport (Road User) Amendment Rule 2017
 - 1.2. Land Transport Rule: Traffic Control Devices Amendment 2017
 - 1.3. The Road User Charges (Exemption Period for Heavy Electric RUC Vehicles) Order 2017.
2. In addition, this report provides you with advice on the matters that you must consider when recommending that the Governor-General make ordinary land transport rules by Order in Council.

Comment

The Government's Electric Vehicles Programme and the Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017

3. Transport makes up around 18 percent of New Zealand's greenhouse gas emissions. In 2015, the Government identified an opportunity to reduce transport emissions by encouraging New Zealanders to switch to electric vehicles (EVs). Because EVs are powered by externally supplied electricity, which in New Zealand is generated from sources which are at least 80 percent renewable, significant emissions reductions can be achieved.
4. A number of barriers were identified which prevented New Zealanders from switching to electric vehicles. The Government's Electric Vehicles Programme (the Programme) agreed to by Cabinet on 21 March 2016, to encourage the uptake of electric vehicles (EVs) [CAB-16-MIN-0108.01 refers],¹ is designed to address these barriers. The Programme contained a wide range of measures, two of which require change to transport legislation:
 - 4.1. to clearly empower road controlling authorities to make bylaws allowing electric vehicles to use special vehicle lanes and make amendments to the Land Transport (Road User) Rule 2004 and related provisions in Land Transport Rule: Traffic Control Devices 2004 to enable road controlling authorities to allow EVs access to special vehicle lanes (including bus and high occupancy vehicle lanes)
 - 4.2. exempting operators of heavy electric vehicles from payment of road user charges until heavy electric vehicles comprise two percent of the heavy vehicle fleet (with this exemption initially set to end on 31 December 2025 subject to a review in 2019).
5. The Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017 (the Act):
 - 5.1. amends the Land Transport Act 1998 (the LTA) to clearly empower road controlling authorities to make bylaws allowing electric vehicles to use bus lanes and high occupancy vehicle lanes

¹ Further information about the entire package can be found at <http://www.transport.govt.nz/ourwork/climatechange/electric-vehicles/>, and the Minister of Transport's press release issued at the launch of the Electric Vehicles Programme is attached as an Appendix to this Briefing Note.

- 5.2. amends the Road User Charges Act 2012 (the RUC Act) to empower the Governor-General, on the recommendation of the Minister of Transport, to make Orders in Council that specify the period during which road user charges are not payable in respect of heavy electric RUC vehicles.

New subordinate legislation required to fully implement the Government's Electric Vehicles Programme

6. The Act came into force on 1 July 2017. However subordinate legislation is required to implement the Electric Vehicles Programme as follows:
 - 6.1. amendments to the Land Transport (Road User) Rule 2004 to make it lawful for drivers of electric vehicles to drive in bus lanes and high occupancy vehicle lanes (when permitted by a road controlling authority bylaw)
 - 6.2. amendments to Land Transport Rule: Traffic Control Devices 2004 to prescribe road signs and road markings applicable to the use of electric vehicles (note: the New Zealand Transport Agency (Transport Agency) are developing, with road controlling authorities, signage to advise drivers of electric vehicles when they are permitted to drive in bus lanes and high occupancy vehicle lanes. Specifications of these signs, which will be *Gazetted* by the Transport Agency when available,² are not available to include in this rule amendment.)
 - 6.3. a new Order under the Road User Charges Act to exempt heavy electric RUC vehicles from payment of road user charges.

Rule amendments

7. The Land Transport (Road User) Rule 2004 (Road User Rule) and Land Transport Rule: Traffic Control Devices 2004 (Traffic Control Devices Rule) are both ordinary land transport rules, made under the LTA:
 - 7.1. although land transport rules are usually drafted by the Transport Agency, the Road User Rule is drafted as a Legislative Instrument by the Parliamentary Counsel Office (PCO)³
 - 7.2. ordinary land transport rules are usually made by the Minister of Transport.⁴ They can, however, also be made by the Governor-General as Orders in Council, on the recommendation of the Minister, under section 152A of the LTA. When a rule is made by Order in Council, statutory requirements concerning public notification and consultation on the proposal do not apply. However, in this instance, the Ministry did seek informal feedback on the proposed rule changes from the general public – and notified key stakeholders of this process.

² As an interim measure, pending a further rule change, under clause 4.4(4) of the Traffic Control Devices Rule.

³ This is pursuant to a standing written direction of the Chief Parliamentary Counsel under section 59(2)(d) of the Legislation Act 2012.

⁴ Alternatively, through Ministerial delegation, the Associate Minister of Transport.

8. The quickest way of amending the Road User Rule and the Traffic Control Devices Rule to implement these legislative changes as soon as possible after the Act comes into force is to do this by Order in Council. The two amendment rules are therefore presented, along with the Road User Charges (Exemption Period for Heavy Electric RUC Vehicles) Order 2017, as a package for the Executive Council.⁵
9. Once made by the Governor-General, the two rules will need to be notified in the *New Zealand Gazette* (the *Gazette*) and laid before the House of Representatives.
10. The legal section of this briefing contains further information about the making of these two rules, including the advice on the matters that you must consider when recommending that the Governor-General make ordinary land transport rules by Order in Council.

RUC Exemption Order

11. The Road User Charges (Exemption Period for Heavy Electric RUC Vehicles) Order 2017 is a new Legislative Instrument. In recommending that this Order be made, you must be satisfied that the purpose of the exemption is to encourage and support the uptake of heavy electric RUC vehicles. Our advice is that a period of exception from road user charges, which can be as high as \$30 per 100 kilometres, would be a means of partially offsetting the capital cost of these vehicles, compared with diesel equivalents.

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⁵ To facilitate this, PCO agreed to also draft Land Transport Rule: Traffic Control Devices Amendment 2017.

Recommendations

12. The recommendations are that you:

- (a) **recommend** that Her Excellency the Governor-General make the Land Transport (Road User) Amendment Rule 2107 Yes/No
- (b) **recommend** that Her Excellency the Governor-General make Land Transport Rule: Traffic Control Devices Amendment 2017 Yes/No
- (c) **sign** and lodge the attached paper to the Cabinet Legislation Committee and the advice sheets no later than 10.00am on 20 July 2017 Yes/No
- (d) **authorise** the notification of the signed rules in the *New Zealand Gazette* Yes/No
- (e) **authorise** the laying of the signed rules before the House of Representatives Yes/No



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Glen-Marie Burns
Manager, People and Environment

Principal Solicitor

MINISTER'S SIGNATURE:

DATE:

17.vii.17

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Principal Solicitor

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Appendix – Minister of Transport's Press Release, 5 May 2016

Simon Bridges

5 MAY, 2016

Govt driving the switch to electric vehicles

Transport Minister Simon Bridges today announced an ambitious and wide ranging package of measures to increase the uptake of electric vehicles in New Zealand.

"It's clear that electric vehicles are the future. A move from petrol and diesel to low emission transport is a natural evolution, and it is our aim to encourage that switch sooner, rather than later," Mr Bridges says.

"The benefits of increasing uptake of electric vehicles are far-reaching. They're cheaper to run than petrol or diesel vehicles, they're powered by our abundant renewable electricity supply, and they'll reduce the amount of emissions that come from the country's vehicle fleet."

The package announced today will tackle and remove barriers that have until now prevented households and business from choosing electric. Current barriers include the limited selection of models available; a lack of widespread public charging infrastructure; and lack of awareness about electric vehicles.

"The Government can't tackle these barriers alone. That's why we've been working closely with the private sector and local government over the last year on what measures we can take that will have the greatest impact.

"What we've come up with together is a strong package of measures that is ambitious and has real substance," Mr Bridges says.

The Government's package includes:

- A target of doubling the number of electric vehicles in New Zealand every year to reach approximately 64,000 by 2021
- Extending the Road User Charges exemption on light electric vehicles until they make up two percent of the light vehicle fleet
- A new Road User Charges exemption for heavy electric vehicles until they make up two percent of the heavy vehicle fleet
- Work across Government and private sector to investigate the bulk purchase of electric vehicles
- Government agencies coordinating activities to support the development and roll-out of public charging infrastructure including providing information and guidance
- \$1 million annually for a nation-wide electric vehicle information and promotion campaign over five years
- A contestable fund of up to \$6 million per year to encourage and support innovative low emission vehicle projects

- Allowing electric vehicles in bus lanes and high-occupancy vehicle lanes on the State Highway network and local roads
- Review of tax depreciation rates and the method for calculating fringe benefit tax to ensure electric vehicles are not being unfairly disadvantaged
- Establishing an electric vehicles leadership group across business, local and central government.

The package also seeks to realise the many benefits that electric vehicles offer up.

“This includes annual savings of Road User Charges of \$600 a year for the average vehicle owner and much cheaper operating costs. On average, charging an electric vehicle at home is equivalent to buying petrol at 30 cents a litre, compared to petrol which is around \$2 a litre.”

Mr Bridges says the package is an important part of the Government’s work to reduce greenhouse gas emissions in the transport sector.

“Electric vehicles will maximise New Zealand’s renewable advantage, with more than 80% of the country’s electricity coming from hydro, geothermal and wind. The increased use of electric vehicles will replace petrol and diesel with clean, green, locally produced energy.

“If we start to replace New Zealand’s fleet with electric vehicles, we can begin to significantly reduce our greenhouse gas emissions.”

Further information on the Government’s Electric Vehicles Programme is available here: www.transport.govt.nz/ev.

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