

EXPLANATORY STATEMENT

Issued by authority of the Minister for Infrastructure, Transport, Regional Development and Local Government

Fuel Tax Act 2006

Road User Charge Determination (No. 1) 2010

Heavy vehicles are charged to recover that part of the road construction and maintenance costs that are attributed to heavy vehicles (cost recovery). Part of the costs are recovered by states and territories through heavy vehicle registration charges and part by the Commonwealth through the fuel based Road User Charge.

The *Fuel Tax Act 2006* (the Act) establishes a mechanism for the collection of the Road User Charge by reducing the fuel tax credit provided to eligible businesses and non-profit bodies.

Divisions 41 and 43 of the Act provide that businesses registered or required to be registered for Goods and Services Tax and non-profit bodies are entitled to a partial fuel tax credit for fuel used on a public road for business purposes in registered vehicles with a gross mass of more than 4.5 tonnes. The fuel tax credit claimable is equal to the amount of the effective fuel tax (excise) that is payable on the fuel *minus* the Road User Charge.

Subsection 43-10(7)(b) of the Act provides that the Minister for Infrastructure, Transport, Regional Development and Local Government (the Transport Minister) may determine the amount of the Road User Charge.

Subsections 43-10(9)(a)(i) and (ii) of the Act require that the Transport Minister must ensure that any proposed increase in the rate of the Road User Charge (and any data relied upon to determine an increase) be made publicly available at least 60 days prior to the making of a legislative instrument by the Transport Minister. Subsection 43-10(9)(b) also requires that the Transport Minister consider any comments received, in the time specified by the Transport Minister, from the public about the proposed increase.

In accordance with subsections 43-10(9)(a) and (b) of the Act, the Transport Minister wrote to the National Transport Commission (NTC) on 6 April 2009 requesting they calculate the rate of the Road User Charge that was needed to ensure full cost recovery and no more. In addition, the Transport Minister requested that the NTC publish the data relied upon to determine the annual adjustment factor and undertake a period of 4 weeks public consultation.

On 26 March 2010, the NTC invited public comment on a consultation document on the proposed heavy vehicle charges annual adjustment to take effect on 1 July 2010. On 30 April 2010, the Chair of the NTC advised the Australian Transport Council (ATC – consisting of the Commonwealth and state and territory Transport Ministers) of the outcomes of the public consultation process for the 2010 heavy vehicle charges annual adjustment.

The NTC work demonstrated that there has been a real 10.7 per cent increase in average road spending requiring an increase to heavy vehicle charges to ensure full cost recovery. However, the consultation process further noted that the fleet mix assumptions agreed as part

of the 2007 heavy vehicle charges determination and built into the annual adjustment formula are not consistent with the latest data estimate of the growth of high productivity heavy vehicles such as B-doubles. Implementation of the formula, without adjustment, would have resulted in an increase in heavy vehicle charges of 9.7 per cent on 1 July 2010, producing an over-recovery of heavy vehicles share of road construction and maintenance costs in 2010-11 by around \$116 million.

As a consequence of this potential over-recovery, ATC approved a technical modification to the heavy vehicle charges annual adjustment formula to ensure that it avoids over or under-recovery of road costs due to changes in road use (including fleet mix).

Accordingly, the Road User Charge Determination (No. 1) 2010 increases the rate of the Road User Charge by 4.2 per cent from 21.7 cents per litre to 22.6 cents per litre to recover heavy vehicles allocated share of increased government road expenditure, ensuring all heavy vehicles continue to pay their fair share of road costs.

The instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.