

EXPLANATORY STATEMENT

Issued by authority of the Minister for Infrastructure and Transport

Fuel Tax Act 2006

Road User Charge Determination (No. 1) 2013

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 and Transport (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.

In February 2013, the NTC invited public comment on a consultation document which set out the data and calculations used to determine the 2013 heavy vehicle charges annual adjustment factor and the resulting proposed 0.64 cent per litre increase in the Road User Charge from 25.5 cents per litre to 26.14 cents per litre to take effect on 1 July 2013. During the subsequent four week consultation period, the NTC held consultations with a number of key industry stakeholders and received submissions on the consultation document.

On 9 April 2013, the NTC wrote to the Transport Minister advising that the current process should be used until an alternative methodology is approved by Ministers. The NTC recommended that the Transport Minister apply the annual adjustment factor to the Road User Charge to ensure ongoing cost recovery of the heavy vehicles' share of government road construction and maintenance expenditure.

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

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Road User Charge Determination (No. 1) 2013

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Divisions 41 and 43 of the *Fuel Tax Act 2006* 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.

In accordance with Subsection 43 10(7)(b) of the *Fuel Tax Act 2006*, this Legislative Instrument determines the rate of the Road User Charge for each litre of taxable fuel to be applied from 1 July 2013.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Anthony Norman Albanese, Minister for Infrastructure and Transport

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