

EXPLANATORY STATEMENT

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

Fuel Tax Act 2006

Fuel Tax (Road User Charge) Determination 2021

Heavy vehicles with a gross vehicle mass of more than 4.5 tonnes and used on public roads for business purposes are charged to recover that part of the road construction and maintenance costs that are attributable to heavy vehicles (cost recovery). A portion of the costs are recovered by states and territories through heavy vehicle registration charges and a portion 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(8) of the Act provides that the Transport Minister may determine, by legislative instrument, the rates of the Road User Charge. The Fuel Tax (Road User Charge) Determination 2021 (the Determination) sets the new rate of the Road User Charge for taxable fuels for which duty is payable at a rate per litre of fuel at 26.4 cents per litre.

The National Transport Commission consulted on the increased rate of road user charges of 26.4 cents per litre on behalf of Infrastructure and Transport Ministers from 4 January to 12 March 2021. Stakeholders expressed mixed views about the increased rate. On balance, while acknowledging the merits of assisting heavy vehicle operators recover from the COVID-19 pandemic, the Transport Minister has determined that a small increase to the rate of the Road User Charge is a measured step towards returning to cost recovery. That is, beginning to return to a level of Road User Charge that more truly recovers, as intended, the heavy vehicle share of recent government road expenditure.

The Determination revokes all previous road user charge determinations. This is consistent with subsection 33(3) of the *Acts Interpretation Act 1901*, which provides that if an Act confers a power to make any instrument of a legislative or administrative character, the power is construed as including a power exercisable in like manner and subject to the like conditions to repeal, rescind, revoke, amend, or vary any such instrument.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Authority: Subsection 43-10(8) of the
Fuel Tax Act 2006

Statement of Compatibility with Human Rights

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

Fuel Tax Act 2006

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This Disallowable 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 Disallowable Legislative Instrument

Subsection 43-10(8) of the *Fuel Tax Act 2006* provides that the Transport Minister may determine, by legislative instrument, the rates of the Road User Charge.

In accordance with section 43-10(8) of the *Fuel Tax Act 2006*, this Disallowable Instrument determines the rates of the Road User Charge applied to taxable fuel used on a public road for business purposes in registered vehicles with a gross mass of more than 4.5 tonnes.

Heavy vehicle charges are based on a combination of a fuel-based Road User Charge, collected by the Commonwealth, and registration charges, which are collected by the states and territories.

Human rights implications

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

Conclusion

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