

THE ROAD USER CHARGES ACT 2012

Definitions

Distance Licence:

A licence permitting a RUC vehicle to travel a certain distance, recorded on the licence.

Distance Recorder:

A hubodometer, electronic distance recorder, or odometer that records in kilometres or miles and that is of a nature and accuracy sufficient to provide a reliable record of the distance travelled by the vehicle.

Electronic Distance Recorder:

A distance recorder provided by an electronic system provider.

Electronic Licence:

A licence displayed electronically on, or in conjunction with, an electronic distance recorder.

Gross Vehicle Mass:

A vehicle's maximum permitted operating mass.

Maximum/Minimum Reading:

The figure specified on a licence as the maximum or minimum reading.

Operator:

The person who drives or uses the vehicle on a road or causes or permits the vehicle to be on a road or to be driven on a road, whether or not the person is present with the vehicle.

Owner:

Generally, the person legally entitled to possession of the vehicle.

RUC Licence:

a distance or additional licence issued for a RUC vehicle.

RUC Vehicle Type:

the vehicle type prescribed by regulations for RUC purposes.

RUC Weight:

the lesser of the gross vehicle mass for a RUC vehicle or the maximum allowable mass under the VDM Rule.

Road User Charges Act

If your vehicle or trailer's gross vehicle mass is more than 3,500kg, the Road User Charges Act 2012 applies to it. The Act also applies to all diesel-fuelled vehicles or vehicles that use a fuel not taxed at source (such as CNG or LPG). Electric vehicles are currently exempt from paying RUC. Vehicles to which the Road User Charges Act apply are called "RUC Vehicles". The "RUC collector" is the New Zealand Transport Agency, NZTA, or its chief executive.

Distance Recorders

A RUC Vehicle must be fitted with a properly working distance recorder at all times.

It is an offence to operate a RUC Vehicle that does not have a properly fitted and working distance recorder accurately recording the distance travelled. It is also an offence to operate a RUC Vehicle where the operator knows or ought to have known that the distance recorder has been altered, damaged or tampered with, or to wilfully alter, damage or tamper with a distance recorder. This includes repairs if they are not carried out in accordance with the regulations.

Distance Licences

If the Road User Charges Act applies to your vehicle, you cannot operate it on a road unless:

- A distance licence has been issued for the vehicle and is properly displayed; and
- The reading on the distance recorder is within the mileage specified on the distance licence.

Display of Licences

If a RUC licence is in printed format, it must be displayed so that all details on the licence are, or can be made, easily visible from outside the RUC Vehicle, and:

- for a light RUC Vehicle, a licence must be displayed in an upright position inside the wind-

screen, facing outwards on the opposite side to the steering wheel;

- for a heavy RUC Vehicle without a mesh windscreen protector, a licence must be displayed in an upright position either on the inside of the windscreen facing outwards on the opposite side to the steering wheel; or if that is impractical (because it would substantially reduce visibility from outside the vehicle), on the glazing of the front passenger door.
- for a heavy RUC Vehicle with a mesh windscreen protector, a licence must be displayed in an upright position on the glazing of the front passenger door; or if that is impractical, on the inside of the windscreen facing outwards on the opposite side to the steering wheel, so that the licence can be made easily visible immediately on request.
- if a RUC Vehicle does not have a windscreen, a distance licence must be displayed in an upright position as close as possible to the front left-hand side of the vehicle; or on a towing vehicle, next to the RUC licence for the towing vehicle.

If a distance licence has been issued by NZTA but not received by the operator, an identical copy of the licence can be carried and displayed for seven days after issue.

Penalties

If you breach the requirements of the Road User Charges Act, you will be liable to pay a fine. The maximum penalties on conviction for:

- Operating a RUC vehicle without a current distance licence or evidence of registration under an approved alternative payment scheme;
- Operating a RUC vehicle where the distance licence has expired or the reading on the dis-

- tance recorder exceeds the maximum reading on the distance licence by more than 500km;
- Failing to have a properly fitted distance recorder which records accurately;
 - Operating a RUC Vehicle with a permit, without an additional licence or a distance licence specifically for RUC vehicle type H; and
 - Interfering with a distance recorder, are:

For a body corporate: **\$15,000**

For an individual: **\$3,000**

Offences for operating a RUC vehicle in excess of the permissible weight are dealt with under the Land Transport Rule: Vehicle Dimensions and Mass 2016.

The penalty for an infringement offence of exceeding the maximum distance on a distance licence by more than 500km is a fine set in relation to the amount the licence is overrun:

Overrun by:	Fine:
501-1,000km	\$300
1,001—2,500km	\$600
2,501—5,000km	\$1,000
5,001 or more	\$1,500

Other Offences

It is also an offence to:

- Fail to display a distance licence in accordance with the regulations.
- Display anything that might be mistaken for a RUC licence or carry or display a licence that is invalid or has been altered or defaced.
- Fail to produce a licence when asked to by an enforcement officer.
- Fail to retain records in relation to each RUC Vehicle for the requisite period and produce the records for inspection, or to knowingly produce false records.

Sale of a RUC Vehicle

If you sell a vehicle to which the Act applies, you must, on delivery, provide the purchaser with a current distance licence for the vehicle.

RUC Rate Increases

If a RUC rate is increased, a distance licence for a heavy RUC vehicle that is issued before the increase comes into force will only remain valid for 1 month from the date of the increase. It will then expire.

Refunds

If you use a RUC vehicle off-road, you can apply for a refund of the amount of a distance licence relating to off-road travel. To get a refund, you must

complete the prescribed form and provide the information required to substantiate the application. You can also apply for a refund where you have purchased two distance licences to cover the same distance.

NZTA may also waive or refund RUC if the RUC collector is satisfied the charge is excessive in the circumstances. This is usually reserved for vehicles of uncommon shape or structure, which do not cause the same amount of wear and tear to roads as a different vehicle of the same weight.

If you apply for a refund or waiver, NZTA are entitled to require you to provide any documents or information that NZTA considers relevant to the application. They may examine and take copies of any such documents. It is an offence to refuse to let NZTA examine these books and records. NZTA can also require you to verify any information contained in the records they examine.

Assessment of Unpaid RUC

If NZTA forms the view that an owner or operator of a RUC vehicle is liable for any unpaid road user charges in respect of the RUC vehicle, they may issue an assessment to the owner or operator for the amount of unpaid RUC. Such an assessment can cover the most recent 6 years.

In forming an opinion on the existence of unpaid RUC, NZTA may consider information provided voluntarily by the owner or operator of the vehicle. They may also consider information disclosed by other means, such as that provided during an inspection of records or business records relating to RUC, such as during an audit of a transport operator. NZTA will commonly issue an assessment for unpaid RUC where a RUC vehicle is issued with multiple infringements for exceeding the permissible weight during roadside inspections over a short period of time.

If you wish to challenge an assessment for unpaid RUC, strict timeframes apply. You must either pay the amount set out in the assessment within 2 months of the date on the assessment, or apply for a review of the assessment within 20 working days of the date specified on the assessment. An application for review must be based on the fact that the assessment is incorrect in a material particular, or that the owner or operator of the RUC vehicle was not responsible for incurring the unpaid RUC.

If an application for review is received by NZTA within the 20-working day limit, NZTA must arrange for an appropriately-qualified independent person to review the assessment. That independent person will confirm, reduce or cancel the assessment. You have a right of appeal to the District Court if you disagree with the outcome of the review.

If you fail to pay the assessment within the required time and have not applied for a review, NZTA will charge a penalty. It is possible to enter into an instalment arrangement with NZTA to pay for unpaid RUC.

Defences

You have a defence to a charge of operating a motor vehicle without a proper working distance recorder if it is proven that there was a distance recorder fitted to the motor vehicle at the time, and that it was not possible to obtain and fit a properly working distance recorder or repair the distance recorder from the time of damage to the recorder and the time when the alleged offence was committed, and you fitted a properly working distance recorder to the motor vehicle immediately after the commission of the alleged offence.

Records

If you operate RUC Vehicles and hold a Transport Service Licence, you are required to keep records in relation to each RUC vehicle you operate, and produce those records for inspection if NZTA requires. The length of time for which you must retain the records varies from 1 year for logbook entries, to 6 years for fuel and maintenance invoices or invoices relating to cartage by, or use of, the RUC Vehicle. The maximum penalty for failing to retain records as required is \$25,000 for an individual and \$100,000 for a body corporate.

NZTA may also access business records held by a third party, if they have reasonable grounds to believe that the records produced to it are false, inaccurate or misleading.

It is also possible for a search warrant to be obtained for the purpose of searching for evidential material of an offence against the Act.

This summary is intended only as a guide. It is not a full summary of the provisions of the Road User Charges Act 2012.

If you have any specific questions, or if you need legal advice on a particular issue, please contact Cathy Fisher or Shafraz Khan at Fortune Manning Lawyers. Cathy and Shafraz have extensive experience in all areas of the law relating to the transport industry.

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We are able to provide a full range of legal services for both your personal and business needs.

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