

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 2023

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 2023 (the Determination) sets the new rates of the Road User Charge. For taxable fuels for which duty is payable at a rate per litre of fuel (*liquid fuels*), for the period mentioned in column 1 of **Table A** is the rate mentioned in column 2 of the table, and for taxable fuels for which duty is payable at a rate per kilogram of fuel (*gaseous fuels*), for the period mentioned in column 1 of **Table B** is the rate mentioned in column 2 of the table.

Table A - road user charges for liquid fuels

Rates of road user charge for liquid fuels		
Item	Column 1	Column 2
	For the period:	the rate of road user charge per litre of fuel is:
1	1 July 2023 to 30 June 2024	\$0.288
2	1 July 2024 to 30 June 2025	\$0.305
3	beginning on 1 July 2025	\$0.324

Table B - road user charges for gaseous fuels

Rates of road user charge for gaseous fuels		
Item	Column 1	Column 2
	For the period:	the rate of road user charge per kilogram of fuel is:
1	1 July 2023 to 30 June 2024	\$0.385
2	1 July 2024 to 30 June 2025	\$0.408
3	beginning on 1 July 2025	\$0.432

This determination takes effect on 1 July 2023.

The National Transport Commission consulted on the proposed increase to the Road User Charge on behalf of Infrastructure and Transport Ministers from 21 December 2022 to 20 February 2023. Written submissions did not support the increased rate.

On balance, while acknowledging the merits of assisting heavy vehicle operators recover from the COVID-19 pandemic and cope with cost pressures, the Transport Minister has determined that three annual increases to the rate of the Road User Charge give industry certainty around future charges. The Minister has also determined that the increases are a measured step towards returning to cost recovery while balancing industry's capacity to absorb the increases. 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. This is consistent with the majority decision of Infrastructure and Transport Ministers and their convention to take a group decision on changes to heavy vehicle charges.

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

Fuel Tax (Road User Charge) Determination 2022

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.