

The Driver Licensing Amendment Rule 2012

Regulatory Impact Statement

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Transport to analyse options to improve the delivery of driver licensing and testing services and provide cost savings to the NZ Transport Agency.

It provides analysis of options to:

Remove prescription in the legislation to enable the development of alternative channels for driver licensing and testing transactions, and the use of more robust forms of identity verification processes.

The amendment Rule will not impair property rights, market competition, incentives on business to innovate or invest, or override any of the fundamental common law principles (as referenced in chapter 3 of the Legislation Advisory Committee's *Guidelines on Process and Content of Legislation*). The proposal is consistent with the Government's August 2009 statement *Better Regulation, Less Regulation*.

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Background

1. The Land Transport Act 1998 and the Land Transport (Driver Licensing) Rule 1999 (the Rule) govern the provision of driver licensing and driver testing services by the NZ Transport Agency. The Rule sets out specific requirements for applicants to gain or renew a driver licence.
2. Up until 2006 the driver licensing and driver testing services provided by the NZ Transport Agency generated a slight operating surplus, with revenue consistently exceeding costs. However, from 2007 a decline in licence volumes and rising costs of administering and maintaining the driver licensing and driver testing systems, and costs of technology changes required to implement legislative changes, led to decreasing revenue and resulted in an operating deficit.
3. The NZ Transport Agency undertook a number of changes to reduce the cost of its driver licensing and testing business and in 2010/11 it commissioned a comprehensive review of its driver licensing and testing business processes¹ in order to identify further changes. The review identified transformational as well as more straight forward changes that would rework how services are delivered to and used by customers, while at the same would deliver cost savings to the NZ Transport Agency.
4. The findings of the review were noted by Cabinet in September 2011 which also noted that a paper would be submitted in mid 2012 seeking Cabinet's agreement to the recommended legislative changes that resulted from the review [EGI (11) 211].
5. Some of the changes recommended in the review of driver licensing and driver testing services will be considered as part of the major review of all components of the Rule planned for 2013. Some changes can be introduced now that will allow the NZ Transport Agency to begin development in the following areas:
 - removing the requirement that transactions must all be in-person, and
 - changing the identity verification requirements for driver licences
6. These changes will not be affected by the 2013 review of the whole Rule.

Status quo and problem definition

Changing the requirement for in-person transactions

7. The requirements prescribed in the Rule dictate the NZ Transport Agency's current driver licensing and testing business model, which is an agent-based delivery model - applicants are required to apply for their licence in-person at a licensing agent counter. Agent based transactions are costly and the agent commission costs are a major part of the annual driver licensing and driver testing operating costs². The necessity of appearing at an agent counter for all transactions can be inconvenient for customers especially for those in remote locations and has been a long standing issue for rural communities in particular.

¹ Driver Licensing and Driver Testing Review: Future State Report. Tenzing Management and Technology Consultants, June 2011

² \$20.7 million of the total \$50.9 million annual driver licensing and driver testing costs. Most of these costs are recovered through fees, but not all.

8. The Rule needs to be changed to enable the development and use of other cost effective methods, such the use of internet based channels.

Improving evidence of identity requirements

9. The Rule is highly prescriptive in terms of the evidence of identity documentation that is acceptable for obtaining a licence. The requirements specified in the Rule are all paper-based and several forms do not include a photographic image, i.e. a birth certificate and a certificate of New Zealand citizenship. The acceptance of non-photographic evidence of identity means that it is impossible for an agent to establish with full confidence that the person presenting the document and the person referred to in it are the same identity. Even those with a photograph, such as a passport, cannot currently be checked against the records of the source agencies. In addition, the Rule prevents the use of electronic identity verification methods developed by the Department of Internal Affairs. The identity-related risk associated with driver licences has been assessed as “high” with an associated possibility of fraud.
10. The Rule needs to be amended to enable the NZ Transport Agency to develop and use other forms of proof of identity.

Objectives

11. Specifically, the objectives are as follows:

Changing the requirement for in-person transactions

- Remove the current prescription in the Rule to enable the development of alternative channels for transactions for driver licensing and driver testing transactions

Improving evidence of identity requirements

- Remove the current prescription in the Rule to enable the development of more robust processes for identity verification for obtaining a driver licence

12. These objectives are part of wider public policy objectives being developed over the next two years to:

- ensure the costs of providing licensing services are minimised, as much as possible, so as to maintain the affordability of driver licensing fees
- improve the security around driver licence applications, to reduce the likelihood of fraudulent use of driver licences, both in driving and non-driving situations

13. The proposals do not involve any change in driver licensing policies.

Regulatory impact analysis

Changing the requirement for in-person transactions

14. Options

- Remove current prescription in the Rule around in-person transactions and allow alternative methods
- Retain the status quo

Option 1 – Remove current prescription in the Rule around in-person transactions and allow alternative measures

(Preferred option)

15. The main purpose of this option is to enable the NZ Transport Agency to develop alternatives to the current in-person requirement. Currently, customers seeking driver licence and testing services must travel to an agent's location. This is a costly option for the NZ Transport Agency and has high compliance costs, particularly for those in remote and rural locations.
16. The 2011 review of the NZ Transport Agency's business processes proposed changes in how transactions may be undertaken to include channels such as on-line service provision and transactions that could be carried out at a kiosk, similar to those used by NZ Customs for its SmartGate service. Adoption of alternatives to the in-person channel such as these would reduce the NZ Transport Agency's operating costs – and prevent future annual accumulation of operating deficits. It would simplify transaction processes and reduce compliance costs by removing the need to visit agent locations. A cost benefit analysis has shown that savings to the NZ Transport Agency from moving to other transaction channels is in the order of \$30 million over 20 years or around \$1.5 million per year.
17. The proposed change would provide the NZ Transport Agency with greater flexibility to design and use channels that would reduce the costs of delivering driver licensing and testing services. As this proposal will initially enable the NZ Transport Agency to develop options, there are no direct costs at this stage. Any decisions that have cost implications will be considered as systems are developed.
18. This option would require an amendment to remove the current prescription in the Rule that requires in-person transactions.

Option two: Retain the status quo.

19. The status quo does not allow the NZ Transport Agency to introduce other channels such as internet based services nor any other alternative to the current in-person channel. Unless the Rule is amended, the NZ Transport Agency would be limited to using the more costly in-person agent channel for all driver licence and testing transactions. There would be a loss of opportunity to improve services to customers and reduce operating and compliance costs.

Improving evidence of identity requirements

20. Options

- Remove the prescription in the Rule relating to paper-based evidence of identity and allow the use of alternative evidence including the Department of Internal Affairs electronic identity systems
- Retain the status quo

Option 1 – Remove the prescription in the Rule relating to paper-based evidence of identity and allow the use of alternative evidence including the Department of Internal Affairs electronic identity systems
(Preferred option)

21. This option would permit more authoritative verification of identity requirements to be required from licence seekers than is currently possible. Existing evidence of identity requirements and processes prescribed in the Rule do not align with the guidance contained in the Evidence of Identity Standard. The Evidence of Identity Standard is intended to be used by government agencies to establish and confirm the identity of individuals seeking government services. The Standard is not mandatory, but has a “recommended” status. The identity-related risk associated with the issuance of driver licences has been assessed as “high” by the NZ Transport Agency, together with the Ministry of Transport and the Department of Internal Affairs³.
22. Since its introduction, there has been widespread use of photo driver licences as a convenient means of identification by private sector organisations and some government agencies, with several pieces of primary legislation currently authorising their use to indicate the holder’s identity and/or age for non-driving purposes. The changes would be designed to reduce the possibility of anyone fraudulently obtaining a driver licence using a fictitious or assumed identity and will thus enhance the integrity and security of the driver licence as a driver identification document as well as a roadside law enforcement tool.

Option two: Retain the status quo

23. There is no immediate obligation for the NZ Transport Agency to comply with the Evidence of Identity Standard as it is not yet mandatory. However, the Evidence of Identity Standard does have ‘recommended’ status and the good practice guidance it contains is increasingly being implemented by other government agencies.
24. If the current situation is retained, the NZ Transport Agency would not be able to address the identity risks associated with having to accept certain prescribed documents as a sole form of evidence of an individual’s identity that do not provide any visible link to the identity of the person presenting it (e.g. a birth certificate or a New Zealand citizenship certificate). This risk has been rated as “high” under the Department of Internal Affairs’ Identity Risk Assessment. There is an opportunity for individuals to fraudulently obtain driver licences in names other than their own and this has significant flow-on effects for the use of the driver licence as a road safety and traffic enforcement tool. It also has the potential for misuse given the wide use of the driver licence as a form of identification.

Consultation

25. The public will have an opportunity to comment on the proposals as part of the Land Transport Rule development process.
26. Consultation has been underway throughout the development of these proposals. The following agencies have been consulted in the development of this paper: the Treasury, the NZ Transport Agency, the Department of Internal Affairs, NZ Police, the Ministry of

³ Using the Department of Internal Affairs’ Identity Risk Assessment process

Justice, The Ministry of Social Development, the Ministry for Business, Innovation and Employment, the Ministry of Foreign Affairs and Trade, the Accident Compensation Corporation and the Office for Disability Issues.

27. The Department of the Prime Minister and Cabinet were informed of the contents of this paper.

Conclusions and recommendation

28. The recommendation is to implement the preferred options for resolution of the two issues identified and as set out above. Those options are:

- Transaction processes: Remove prescription in the Rule that requires in-person transactions and allow the NZ Transport Agency to develop and use more convenient and cost effective channels, including those using new technology
- Establishing Identity: Remove current prescription in the Rule around evidence of identity to allow other and more robust means of establishing identity such as the Department of Internal Affairs' electronic identity processes.

Implementation

29. The two options are part of a wider project to streamline and update the driver licensing and testing processes managed by the NZ Transport Agency. Cabinet has agreed that the changes in the wider project can be developed [EGI (11) 211]. Most of the changes will be developed as part of a major review of the entire Rule in 2013. Development of these two changes can be started now and they will not be affected by the 2013 review of the Rule.

30. Each option will require legislative amendment to the Land Transport (Driver Licensing) Rule 1999. The proposed changes are expected to come into force 12 months after the Rule is signed.

31. For the service delivery transaction processes, the Rule will be amended to remove the prescription that requires all transactions to be in-person. For example, where a licensing agent must sight a document or take a photographic image of an applicant.

32. For the identity issue, an amendment to the Rule is required to remove the prescribed list of acceptable evidence of identity in the Rule and re-locate acceptable documents in a schedule(s) to the Rule. Acceptable documents will be identified in accordance with the Evidence of Identity Standard, in particular the five objectives for "high" risk-related services. They are: the identity exists; the identity is living; the presenting person links to the identity; the presenter is sole claimant of the identity; and the use of the identity in the community. Documents that are no longer considered acceptable will be removed. In addition, stronger forms of identity verification, in line with those recommended in the Evidence of Identity Standard, will be used to authenticate documents provided by licence applicants.

33. Unless major issues arise during the consultation and the development of the new options, The Associate Minister of Transport will be able to make the changes to the Rule without reference back to Cabinet.

Monitoring, evaluation and review

34. The NZ Transport Agency will monitor and review the impact of these reforms on its business processes and report back to the Minister of Transport by the middle of 2014.